

SENATE BILL No. 1492

September 14, 2010, Introduced by Senator KUIPERS and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 14 of chapter XI (MCL 771.14), as amended by
2000 PA 279.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER XI

Sec. 14. (1) Before the court sentences a person charged with
a felony or a person who is a licensee or registrant under article
15 of the public health code, 1978 PA 368, MCL 333.16101 to
333.18838, as described in section ~~1(11)~~ 1(14) of chapter IX, and,
if directed by the court, in any other case in which a person is
charged with a misdemeanor within the jurisdiction of the court,
the probation officer shall inquire into the antecedents,

1 character, and circumstances of the person, and shall report in
2 writing to the court.

3 (2) A presentence investigation report prepared under
4 subsection (1) shall include all of the following:

5 (a) An evaluation of and a prognosis for the person's
6 adjustment in the community based on factual information contained
7 in the report.

8 (b) If requested by a victim, any written impact statement
9 submitted by the victim under the **WILLIAM VAN REGENMORTER** crime
10 victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.

11 (c) A specific written recommendation for disposition based on
12 the evaluation and other information as prescribed by the assistant
13 director of the department of corrections in charge of probation.

14 (d) A statement prepared by the prosecuting attorney as to
15 whether consecutive sentencing is required or authorized by law.

16 (e) For a person to be sentenced under the sentencing
17 guidelines set forth in chapter XVII, all of the following:

18 (i) For each conviction for which a consecutive sentence is
19 authorized or required, the sentence grid in part 6 of chapter XVII
20 that contains the recommended minimum sentence range.

21 (ii) Unless otherwise provided in subparagraph (i), for each
22 crime having the highest crime class, the sentence grid in part 6
23 of chapter XVII that contains the recommended minimum sentence
24 range.

25 (iii) Unless otherwise provided in subparagraph (i), the
26 computation that determines the recommended minimum sentence range
27 for the crime having the highest crime class.

1 (iv) A specific statement as to the applicability of
2 intermediate sanctions, as defined in section 31 of chapter IX.

3 (v) The recommended sentence.

4 (f) If a person is to be sentenced for a felony or for a
5 misdemeanor involving the illegal delivery, possession, or use of
6 alcohol or a controlled substance, a statement that the person is
7 licensed or registered under article 15 of the public health code,
8 1978 PA 368, MCL 333.16101 to 333.18838, if applicable.

9 (g) Diagnostic opinions that are available and not exempted
10 from disclosure under subsection (3).

11 (3) The court may exempt from disclosure in the presentence
12 investigation report information or a diagnostic opinion that might
13 seriously disrupt a program of rehabilitation or sources of
14 information obtained on a promise of confidentiality. If a part of
15 the presentence investigation report is not disclosed, the court
16 shall state on the record the reasons for its action and inform the
17 defendant and his or her attorney that information has not been
18 disclosed. The action of the court in exempting information from
19 disclosure is subject to appellate review. Information or a
20 diagnostic opinion exempted from disclosure pursuant to this
21 subsection shall be specifically noted in the presentence
22 investigation report.

23 (4) If a prepared presentence investigation report is amended
24 or altered before sentencing by the supervisor of the probation
25 officer who prepared the report or by any other person who has the
26 authority to amend or alter a presentence investigation report, the
27 probation officer may request that the court strike his or her name

1 from the report and the court shall comply with that request.

2 (5) The court shall permit the prosecutor, the defendant's
3 attorney, and the defendant to review the presentence investigation
4 report before sentencing **AND TO RECEIVE A COPY OF THE REPORT AS**
5 **PROVIDED IN SUBSECTION (7)**.

6 (6) At the time of sentencing, either party may challenge, on
7 the record, the accuracy or relevancy of any information contained
8 in the presentence investigation report. The court may order an
9 adjournment to permit the parties to prepare a challenge or a
10 response to a challenge. If the court finds on the record that the
11 challenged information is inaccurate or irrelevant, that finding
12 shall be made a part of the record, the presentence investigation
13 report shall be amended, and the inaccurate or irrelevant
14 information shall be stricken accordingly before the report is
15 transmitted to the department of corrections.

16 **(7) A COPY OF THE REPORT DESCRIBED UNDER SUBSECTION (5) AND**
17 **THE AMENDED REPORT DESCRIBED UNDER SUBSECTION (6) SHALL BE PROVIDED**
18 **TO THE PROSECUTOR, THE DEFENDANT, AND THE DEFENDANT'S ATTORNEY. THE**
19 **COPY OF THE REPORT DESCRIBED UNDER SUBSECTION (5) SHALL BE PROVIDED**
20 **AT LEAST 2 DAYS BEFORE SENTENCING UNLESS THE 2-DAY PERIOD IS WAIVED**
21 **BY THE DEFENDANT. THE PROSECUTOR, THE DEFENDANT, AND THE**
22 **DEFENDANT'S ATTORNEY HAVE THE RIGHT TO RETAIN THE COPY OF THE**
23 **REPORT AND THE AMENDED REPORT PROVIDED UNDER THIS SUBSECTION.**

24 (8) ~~(7)~~—On appeal, the defendant's attorney, or the defendant
25 if proceeding pro se, shall be provided with a copy of the
26 presentence investigation report and any attachments to the report
27 with the exception of any information exempted from disclosure by

1 the court under subsection (3).

2 (9) ~~(8)~~—If the person is committed to a state penal
3 institution, a copy or amended copy of the presentence
4 investigation report and, if a psychiatric examination of the
5 person has been made for the court, a copy of the psychiatric
6 report shall accompany the commitment papers. If the person is
7 sentenced by fine or imprisonment or placed on probation or other
8 disposition of his or her case is made by the court, a copy or
9 amended copy of the presentence investigation report, including a
10 psychiatric examination report made in the case, shall be filed
11 with the department of corrections.

12 (10) ~~(9)~~—A prisoner under the jurisdiction of the department
13 of corrections shall be provided with a copy of any presentence
14 investigation report in the department's possession about that
15 prisoner, except for information exempted from disclosure under
16 subsection (3), not less than 30 days before a parole interview is
17 conducted under section 35 of **THE CORRECTIONS CODE OF 1953**, 1953 PA
18 232, MCL 791.235.

19 Enacting section 1. This amendatory act does not take effect
20 unless Senate Bill No. 1491

21 of the 95th Legislature is enacted into law.