

# HOUSE BILL NO. 4738

June 13, 2023, Introduced by Reps. Breen, Mentzer, Hope, Tyrone Carter, Scott, Byrnes, Pohutsky, McFall, Paiz, Tsernoglou, Liberati, Farhat, Conlin, Shannon, Arbit, Rogers, Morse, Hoskins, Andrews, Coffia, Hill and Young and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled  
"The code of criminal procedure,"  
(MCL 760.1 to 777.69) by adding section 40b to chapter VII.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

CHAPTER VII

1  
2           **Sec. 40b. (1) Except as otherwise provided under this section,**  
3 **the prosecuting attorney shall keep the personal information of a**  
4 **witness confidential unless the personal information is a part of**  
5 **the res gestae of the charged crime.**

6           **(2) The prosecuting attorney shall redact the personal**

1 information of a witness required to be kept confidential under  
2 subsection (1) from both of the following:

3 (a) A document provided to the defendant's counsel or the  
4 defendant.

5 (b) A document that the prosecuting attorney submits as an  
6 ordinary court document or that will be entered into the court  
7 file.

8 (3) This section does not alleviate the obligation otherwise  
9 required under law to make a witness available for interview by the  
10 other party.

11 (4) On motion by the defendant, and subject to subsection (7),  
12 the court may order the prosecuting attorney to provide personal  
13 information of a witness to the defendant's counsel or the  
14 defendant.

15 (5) A motion under subsection (4) must meet the following  
16 requirements:

17 (a) Demonstrate that the personal information requested is  
18 reasonably necessary to provide an adequate defense.

19 (b) Explain the limited purpose for which the personal  
20 information is sought.

21 (6) If the court grants a motion under subsection (4), the  
22 order must do all of the following:

23 (a) Limit the disclosure of the personal information to the  
24 extent the disclosure is reasonably necessary to provide an  
25 adequate defense.

26 (b) Specify the limited purpose for which the personal  
27 information may be used.

28 (c) Except as provided in subdivision (d), require the  
29 personal information to remain in the exclusive custody of the

1 defendant's counsel or the defendant if the defendant is not  
2 represented by counsel.

3 (d) Include conditions and terms for the defendant's counsel  
4 or, if the defendant is not represented by counsel, the defendant,  
5 to provide the personal information to the counsel's or the  
6 defendant's agent, employee, or expert witness if it is necessary  
7 for a limited purpose that is approved by the court.

8 (e) Prohibit the reproduction, copying, or dissemination of  
9 the personal information unless authorized in the order.

10 (7) This section does not authorize the disclosure of the  
11 confidential address of a program participant.

12 (8) This section does not preclude the release of information  
13 to a victim advocacy organization or agency for the purpose of  
14 providing victim services.

15 (9) A person who is required to keep confidential or redact  
16 personal information under this section and who intentionally and  
17 willfully discloses that personal information in violation of this  
18 section is guilty of a misdemeanor punishable by imprisonment for  
19 not more than 93 days or a fine of not more than \$500.00, or both.

20 (10) As used in this section:

21 (a) "Confidential address" means that term as defined in  
22 section 3 of the address confidentiality program act, 2020 PA 301,  
23 MCL 780.853.

24 (b) "Internet identifier" means a designation used for self-  
25 identification or routing used in posting on the internet or in  
26 other internet communications.

27 (c) "Personal information" means the following information of  
28 an individual but does not include the location of a charged crime:

29 (i) Home address.

- 1           (ii) Telephone number and cellular telephone number.  
2           (iii) Driver license number or official state personal  
3 identification card number.  
4           (iv) Social Security number.  
5           (v) Date of birth.  
6           (vi) Place and address of employment.  
7           (vii) Employee identification number.  
8           (viii) Mother's maiden name.  
9           (ix) Demand deposit account, savings account, or checking  
10 account number, or other financial identification information.  
11           (x) Credit card number.  
12           (xi) Email address.  
13           (xii) Internet identifier.  
14           (xiii) Home address, telephone number, and cellular telephone  
15 number of a family member.  
16           (d) "Program participant" means that term as defined in  
17 section 3 of the address confidentiality program act, 2020 PA 301,  
18 MCL 780.853.