

# HOUSE BILL No. 5348

December 3, 1991, Introduced by Reps. Bandstra, Dalman, Strand, McNutt, Horton, Fitzgerald, Willis Bullard, Jamian, Profit and Palamara and referred to the Committee on Judiciary.

A bill to amend section 14 of chapter XI of Act No. 175 of the Public Acts of 1927, entitled as amended  
"The code of criminal procedure,"  
as amended by Act No. 88 of the Public Acts of 1985, being section 771.14 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 14 of chapter XI of Act No. 175 of the  
2 Public Acts of 1927, as amended by Act No. 88 of the Public Acts  
3 of 1985, being section 771.14 of the Michigan Compiled Laws, is  
4 amended to read as follows:

### 5 CHAPTER XI

6 Sec. 14. (1) ~~Before~~ EXCEPT AS PROVIDED IN SUBSECTION (9),  
7 BEFORE sentencing any person charged with a felony, and, if  
8 directed by the court, in any other case in which any person is  
9 charged with a misdemeanor within the jurisdiction of the court,

1 the probation officer shall inquire into the antecedents,  
2 character, and circumstances of the person, and shall report in  
3 writing to the court.

4 (2) A presentence investigation report prepared pursuant to  
5 subsection (1) shall include all of the following:

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

9 (b) A written statement, if provided by the victim, of any  
10 physical or emotional injury or economic loss suffered by any  
11 victim of the course of conduct giving rise to the conviction for  
12 which the person is being sentenced.

13 (c) If requested by a victim, any written impact statement  
14 submitted by the victim pursuant to the crime victim's rights  
15 act.

16 (d) A specific written recommendation for disposition based  
17 on the evaluation and other information as prescribed by the  
18 assistant director of the department of corrections in charge of  
19 probation.

20 (e) A statement prepared by the prosecuting attorney on the  
21 applicability of any consecutive sentencing provision.

22 (3) The court may exempt from disclosure in the presentence  
23 investigation report information or a diagnostic opinion which  
24 might seriously disrupt a program of rehabilitation or sources of  
25 information obtained on a promise of confidentiality. If a part  
26 of the presentence investigation report is not disclosed, the  
27 court shall state on the record the reasons for its action and

1 inform the defendant and his or her attorney that information has  
2 not been disclosed. The action of the court in exempting infor-  
3 mation from disclosure shall be subject to appellate review.

4 Information or a diagnostic opinion exempted from disclosure pur-  
5 suant to this subsection shall be specifically noted in the pre-  
6 sentence investigation report.

7 (4) The court shall permit the prosecutor, the defendant's  
8 attorney, and the defendant to review the presentence investiga-  
9 tion report prior to sentencing.

10 (5) At the time of sentencing, either party may challenge,  
11 on the record, the accuracy or relevancy of any information con-  
12 tained in the presentence investigation report. The court may  
13 order an adjournment to permit the parties to prepare a challenge  
14 or a response to a challenge. If the court finds that the chal-  
15 lenged information is inaccurate or irrelevant, that finding  
16 shall be made a part of the record and the presentence investiga-  
17 tion report shall be amended and the inaccurate or irrelevant  
18 information shall be stricken accordingly before the report is  
19 transmitted to the department of corrections.

20 (6) On appeal, the defendant's attorney, or the defendant if  
21 proceeding pro se, shall be provided with a copy of the presen-  
22 tence investigation report and any attachments ~~thereto~~ TO THE  
23 REPORT with the exception of any information exempted from dis-  
24 closure, on the record, by the court pursuant to subsection (3).

25 (7) If the person is committed to a state penal institution,  
26 a copy or amended copy of the presentence investigation report  
27 and, if a psychiatric examination of the person has been made for

1 the court, a copy of the psychiatric report shall accompany the  
2 commitment papers. If the person is sentenced by fine or impris-  
3 onment or placed on probation or other disposition of his or her  
4 case is made by the court, a copy or amended copy of the presen-  
5 tence investigation report, including a psychiatric examination  
6 report made in the case, shall be filed with the department of  
7 corrections.

8 (8) A prisoner under the jurisdiction of the department of  
9 corrections shall be provided with a copy of any presentence  
10 investigation report in the department's possession about that  
11 prisoner, except for information exempted from disclosure pursu-  
12 ant to subsection (3), not less than 30 days before a parole  
13 hearing is held pursuant to section 35 of Act No. 232 of the  
14 Public Acts of 1953, being section 791.235 of the Michigan  
15 Compiled Laws.

16 (9) A PRESENTENCE INVESTIGATION REPORT IS NOT REQUIRED TO BE  
17 PREPARED UNDER THIS SECTION IF THE DEFENDANT AND THE PROSECUTING  
18 ATTORNEY, WITH THE CONSENT OF THE COURT, WAIVE PREPARATION OF THE  
19 REPORT.