

SUBSTITUTE FOR
HOUSE BILL NO. 4738

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:

1
2 CHAPTER VII
3
4 Sec. 40b. (1) Except as otherwise provided under this section,
5 the prosecuting attorney shall keep personal information of a
6 witness confidential unless the personal information is a part of
7 the res gestae of the charged crime.
8 (2) Except as otherwise provided under this section, the
9 prosecuting attorney shall redact personal information of a witness
required to be kept confidential under subsection (1) from both of
the following documents:

1 (a) Subject to subsections (3), (4), and (9), a document
2 provided to the defendant's counsel or the defendant.

3 (b) Subject to subsection (5), a document that the prosecuting
4 attorney submits as an ordinary court document or that will be
5 entered into the court file.

6 (3) The prosecuting attorney is not required to redact the
7 personal information of a witness under subsection (2)(a) if either
8 of the following applies:

9 (a) The document was obtained from the defendant or
10 defendant's counsel, or was obtained from the defendant's or
11 defendant's counsel's possession.

12 (b) The personal information was obtained from the defendant
13 or defendant's counsel, or was obtained from the defendant's or
14 defendant's counsel's possession.

15 (4) The prosecuting attorney is not required to redact
16 personal information of a witness as provided under subsection
17 (2)(a) if, on a motion by the prosecutor, the court enters a
18 protective order restricting the defendant and defendant's counsel
19 from disclosing or using the document for any purpose other than
20 the litigation of the case in which the document was provided to
21 the defendant or defendant's counsel.

22 (5) The prosecuting attorney is not required to redact
23 personal information of a witness as provided under subsection
24 (2)(b) if, on a motion by the prosecutor, the court enters a
25 protective order placing the document to be entered into the court
26 record under seal and not accessible to the public.

27 (6) Subject to subsection (7), the defendant or defendant's
28 counsel shall redact personal information of a witness from any
29 document that the defendant or defendant's counsel submits as an

1 ordinary court document or that will be entered into the court
2 file.

3 (7) The defendant or defendant's counsel is not required to
4 redact personal information of a witness as provided under
5 subsection (6) if, on a motion by the defendant or defendant's
6 counsel, the court enters a protective order placing the document
7 to be entered into the court record under seal and not accessible
8 to the public.

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

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

16 (10) A motion under subsection (9) must demonstrate that the
17 requested personal information of a witness is reasonably necessary
18 to provide an adequate defense.

19 (11) If the court grants a motion under subsection (9), the
20 order must do all of the following:

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

24 (b) Except as provided in subdivision (c), require the
25 personal information of a witness to remain in the exclusive
26 custody of the defendant's counsel or the defendant if the
27 defendant is not represented by counsel.

28 (c) Include conditions and terms for the defendant's counsel
29 or, if the defendant is not represented by counsel, the defendant,

1 to provide the personal information of a witness to the counsel's
2 or the defendant's agent, employee, or expert witness if it is
3 necessary for a limited purpose that is approved by the court.

4 (d) Prohibit the reproduction, copying, or dissemination of
5 the personal information of a witness unless authorized in the
6 order.

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

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

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

18 (15) As used in this section:

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

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

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

27 (i) Home address.

28 (ii) Telephone number and cellular telephone number.

29 (iii) Driver license number or official state personal

1 identification card number.

2 (iv) Social Security number.

3 (v) Date of birth.

4 (vi) Place and address of employment.

5 (vii) Employee identification number.

6 (viii) Mother's maiden name.

7 (ix) Demand deposit account, savings account, or checking
8 account number, or other financial identification information.

9 (x) Credit card number.

10 (xi) Email address.

11 (xii) Internet identifier.

12 (xiii) Home address, telephone number, and cellular telephone
13 number of a family member.

14 (d) "Program participant" means that term as defined in
15 section 3 of the address confidentiality program act, 2020 PA 301,
16 MCL 780.853.