

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4974**

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

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

(2) The prosecuting attorney shall redact the personal
information of a witness required to be kept confidential under
subsection (1) from both of the following:

(a) Any document provided to the defense counsel or the



1 defendant.

2 (b) Any document that the prosecuting attorney submits as an
3 ordinary court document or that will be entered into the court
4 file.

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

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

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

14 (4) The defendant or defense counsel shall redact the personal
15 information of a witness required to be kept confidential under
16 subsection (1) from any document that the defendant or defense
17 counsel submits as an ordinary court document or that will be
18 entered into the court file.

19 (5) The prosecuting attorney is not required to redact the
20 personal information of a witness as provided under subsection
21 (2)(a) if, upon a motion by the prosecutor, the court enters a
22 protective order restricting the defendant and defense counsel from
23 disclosing or using the document for any purpose other than
24 litigation of the case in which the document was provided to the
25 defendant or defense counsel.

26 (6) The prosecuting attorney is not required to redact the
27 personal information of a witness as provided under subsection
28 (2)(b) if, upon a motion by the prosecutor, the court enters a
29 protective order placing the document to be entered into the court



1 record under seal and not accessible to the public.

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

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

10 (9) On motion by the defendant, and subject to subsection
11 (12), the court may order the prosecuting attorney to provide
12 personal information to the defense counsel or the defendant.

13 (10) A motion under subsection (9) must meet the following
14 requirements:

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

17 (b) Explain the limited purpose for which the personal
18 information is sought.

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 to the
22 extent the disclosure is reasonably necessary to provide an
23 adequate defense.

24 (b) Specify the limited purpose for which the personal
25 information may be used.

26 (c) Except as provided in subdivision (d), require the
27 personal information to remain in the exclusive custody of the
28 defense counsel or the defendant if the defendant is not
29 represented by counsel.



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

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

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

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

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

(15) As used in this section:

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

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

(c) "Personal information" means the following information of a witness but does not include the location of a charged crime:

(i) Home address.

(ii) Telephone number and cellular telephone number.

(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.

