HOUSE BILL NO. 5464

February 05, 2020, Introduced by Reps. Lightner and Wozniak 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 6e to chapter V.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1   CHAPTER V

2   **Sec. 6e. (1) If the court in making a determination regarding**

3 **admission to bail and any necessary protective conditions for**

4 **admission to bail under this chapter uses a pretrial risk**

5 **assessment tool, the tool must be shown to be valid after peer**

1   testing and to be free of biases. If the pretrial risk assessment
2   tool meets the aforementioned requirements, it still may not be
3   utilized unless all of the following apply to the use of the tool:
4   (a) All documents, data, records, and information used by the
5   builder to build or validate the pretrial risk assessment tool and
6   ongoing documents, data, records, and written policies outlining
7   the usage and validation of the pretrial risk assessment tool are
8   open to public inspection, auditing, and testing.
9   (b) A party to a criminal case in which a court has
10 considered, or an expert witness has relied upon, a pretrial risk
11 assessment tool is entitled to review all calculations and data
12 used to calculate the defendant's own risk score.
13   (c) No builder or user of a pretrial risk assessment tool may
14 assert trade secret or other intellectual property protections in
15 order to quash discovery of the materials described in subdivision
16 (a) in a criminal case.
17   (2) For purposes of this section, "pretrial risk assessment
18 tool" means a pretrial process that creates or scores particular
19 factors in order to estimate a defendant's level of risk to fail to
20 appear in court, risk to commit a new crime, or risk posed to the
21 community in order to make recommendations as to bail or conditions
22 of release based on such risk, whether made on an individualized
23 basis or based on a grid or schedule.