

Act No. 465
Public Acts of 2014
Approved by the Governor
January 10, 2015
Filed with the Secretary of State
January 12, 2015
EFFECTIVE DATE: January 12, 2015

**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2014**

Introduced by Rep. Haveman

ENROLLED HOUSE BILL No. 5928

AN ACT to amend 1927 PA 175, entitled “An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act,” (MCL 760.1 to 777.69) by adding sections 32a and 33a to chapter IX; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

CHAPTER IX

Sec. 32a. (1) A criminal justice policy commission is created in the legislative council. Before March 1, 2015, the governor shall appoint the commission members described in subdivisions (d) to (o). The commission consists of all of the following members:

(a) Two individuals who are members of the senate submitted by the senate majority leader, 1 individual from each caucus.

(b) Two individuals who are members of the house of representatives submitted by the speaker of the house of representatives, 1 individual from each caucus.

(c) The attorney general, or his or her designee.

(d) One individual who is a circuit court judge, appointed from a list of 3 names submitted by the Michigan judges association.

(e) One individual who is a district court judge, appointed from a list of 3 names submitted by the Michigan district judges association.

(f) One individual who represents the prosecuting attorneys of this state, appointed from a list of 3 names submitted by the prosecuting attorneys association of Michigan.

(g) One individual who represents criminal defense attorneys, appointed from a list of 3 names submitted by the criminal defense attorneys of Michigan.

(h) One individual appointed from a list of 3 names submitted by the Michigan sheriff's association.

(i) One individual appointed from a list of 3 names submitted by the director of the Michigan department of corrections.

(j) One individual who represents advocates of alternatives to incarceration.

(k) One individual who works in the mental or behavioral health care field.

(l) One individual appointed from a list of 3 names submitted by the Michigan association of counties.

(m) One individual who represents Michigan association of community corrections advisory boards.

(n) One individual appointed from a list of 3 names submitted by the Michigan coalition to end domestic and sexual violence.

(o) One member of the public who is neither affiliated with nor employed by a department, office, or entity described in this subsection, by the commission created under this subsection, or by any entity employed or hired by the commission created under this subsection.

(2) The member of the public appointed by the governor under subsection (1)(o) shall serve as the chairperson of the criminal justice policy commission.

(3) Except as otherwise provided in this subsection, the commission members shall be appointed for terms of 4 years. Of the members first appointed under subsection (1)(d) to (o), 4 members shall serve for 2 years, 4 members shall serve for 3 years, and 4 members shall serve for 4 years. The members of the commission appointed under subsection (1)(a) and (b) shall be appointed for terms of 2 years.

(4) A vacancy on the commission caused by the expiration of a term or a resignation or death shall be filled in the same manner as the original appointment. A member appointed to fill a vacancy caused by a resignation or death shall be appointed for the balance of the unexpired term.

(5) A commission member shall not receive a salary for being a commission member but shall be reimbursed for his or her reasonable, actual, and necessary expenses incurred in the performance of his or her duties as a commission member.

(6) The commission may establish subcommittees that may consist of individuals who are not members of the commission, including, but not limited to, experts in matters of interest to the commission.

(7) The commission's business shall be conducted at public meetings held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(8) A quorum consists of a majority of the members of the sentencing commission. All commission business shall be conducted by not less than a quorum. A vote of the majority of the members of the commission present and serving is required for the official action of the commission.

(9) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(10) The legislative council shall provide the commission with suitable office space, staff, and necessary equipment.

Sec. 33a. (1) The criminal justice policy commission shall do all of the following:

(a) Collect, prepare, analyze, and disseminate information regarding state and local sentencing and proposed release policies and practices for felonies and the use of prisons and jails.

(b) Collect and analyze information concerning how misdemeanor sentences and the detention of defendants pending trial affect local jails.

(c) Conduct ongoing research regarding the effectiveness of the sentencing guidelines in achieving the purposes set forth in subdivision (f).

(d) In cooperation with the department of corrections, collect, analyze, and compile data and make projections regarding the populations and capacities of state and local correctional facilities, the impact of the sentencing guidelines and other laws, rules, and policies on those populations and capacities, and the effectiveness of efforts to reduce recidivism. Measurement of recidivism shall include, as applicable, analysis of all of the following:

(i) Rearrest rates, resentence rates, and return to prison rates.

(ii) One-, 2-, and 3-year intervals after exiting prison or jail and after entering probation.

(iii) The statewide level, and by locality and discrete program, to the extent practicable.

(e) In cooperation with the state court administrator, collect, analyze, and compile data regarding the effect of sentencing guidelines on the caseload, docket flow, and case backlog of the trial and appellate courts of this state.

(f) Develop modifications to the sentencing guidelines for recommendation to the legislature. Any modifications to the sentencing guidelines shall accomplish all of the following:

(i) Provide for the protection of the public.

(ii) Consider offenses involving violence against a person or serious and substantial pecuniary loss as more severe than other offenses.

(iii) Be proportionate to the seriousness of the offense and the offender's prior criminal record.

(iv) Reduce sentencing disparities based on factors other than offense characteristics and offender characteristics and ensure that offenders with similar offense and offender characteristics receive substantially similar sentences.

(v) Specify the circumstances under which a term of imprisonment is proper and the circumstances under which intermediate sanctions are proper.

(vi) Establish sentence ranges for imprisonment that are within the minimum and maximum sentences allowed by law for the offenses to which the ranges apply.

(vii) Maintain separate sentence ranges for convictions under the habitual offender provisions in sections 10, 11, 12, and 13 of this chapter, which may include as an aggravating factor, among other relevant considerations, that the accused has engaged in a pattern of proven or admitted criminal behavior.

(viii) Establish sentence ranges that the commission considers appropriate.

(ix) Recognize the availability of beds in the local corrections system and that the local corrections system is an equal partner in corrections policy, and preserve its funding mechanisms.

(g) Consider the suitability and impact of offense variable scoring with regard to physical and psychological injury to victims and victims' families.

(2) In developing proposed modifications to the sentencing guidelines, the commission shall submit to the legislature a prison and jail impact report relating to any modifications to the sentencing guidelines. The report shall include the projected impact on total capacity of state and local correctional facilities.

(3) Proposed modifications to sentencing guidelines shall include recommended intermediate sanctions for each case in which the upper limit of the recommended minimum sentence range is 18 months or less.

(4) The commission may recommend modifications for submission to the legislature to any law, administrative rule, or policy that affects sentencing or the use and length of incarceration. The recommendations shall reflect all of the following policies:

(a) To render sentences in all cases within a range of severity proportionate to the gravity of offenses, the harms done to crime victims, and the blameworthiness of offenders.

(b) When reasonably feasible, to achieve offender rehabilitation, general deterrence, incapacitation of dangerous offenders, restoration of crime victims and communities, and reintegration of offenders into the law-abiding community.

(c) To render sentences no more severe than necessary to achieve the applicable purposes in subdivisions (a) and (b).

(d) To preserve judicial discretion to individualize sentences within a framework of law.

(e) To produce sentences that are uniform in their reasoned pursuit of the objectives described in subsection (1).

(f) To eliminate inequities in sentencing and length of incarceration across population groups.

(g) To encourage the use of intermediate sanctions.

(h) To ensure that adequate resources are available for carrying out sentences imposed and that rational priorities are established for the use of those resources.

(i) To promote research on sentencing policy and practices, including assessments of the effectiveness of criminal sanctions as measured against their purposes.

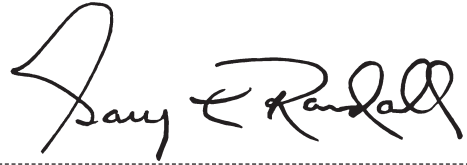
(j) To increase the transparency of the sentencing and corrections system, its accountability to the public, and the legitimacy of its operations.

(5) The commission shall submit any recommended modifications to the sentencing guidelines or to other laws, administrative rules, or policies to the senate majority leader, the speaker of the house of representatives, and the governor.

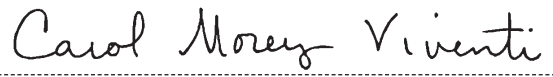
(6) This section and section 32a of this chapter are repealed 4 years after the effective date of the amendatory act that added this section.

Enacting section 1. This amendatory act takes effect December 31, 2014.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor