

# Legislative Analysis



## CRIMINAL JUSTICE POLICY COMMISSION

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<http://www.house.mi.gov/hfa>

**House Bill 4173 as introduced**  
**Sponsor: Rep. Abraham Aiyash**  
**Committee: Criminal Justice**  
**Complete to 4-11-23**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

House Bill 4173 amend the Code of Criminal Procedure to create the Criminal Justice Policy Commission in the Legislative Council. The commission would, among other things, analyze corrections-related data and develop modifications to the sentencing guidelines.

The commission would consist of the following members:

- The chair and minority vice-chair of the Senate judiciary committee, or members of that committee respectively designated by the chair or minority vice-chair.
- The chair and minority vice-chair of the House judiciary committee, or members of that committee respectively designated by the chair or minority vice-chair.
- The attorney general, or their designee, representing crime victims.
- The following members appointed by the governor before June 1, 2023:
  - One circuit judge, appointed from a list of three names submitted by the Michigan Judges Association.
  - One district court judge, appointed from a list of three names submitted by the Michigan District Judges Association.
  - One individual representing prosecuting attorneys, appointed from a list of three names submitted by the Prosecuting Attorneys Association of Michigan.
  - One individual representing criminal defense attorneys, appointed from a list of three names submitted by the Criminal Defense Attorneys of Michigan.
  - One individual appointed from a list of three names submitted by the Michigan Sheriff's Association.
  - One individual appointed from a list of three names submitted by the director of the Department of Corrections.
  - One individual appointed from a list of three names submitted by the Michigan Association of Counties.
  - One individual who was previously incarcerated.
  - Two individuals who are criminologists.
  - One individual who represents community corrections agencies.

The governor would have to designate as chairperson a member of the commission who has a professional background in criminal law and experience with the legislative process. Except for the chairperson, who also would serve as chief of staff, commission members would not receive a salary but would be reimbursed for reasonable, actual, and necessary expenses.

Members would serve for four years, with the exception of the initial members, who would serve terms of staggered years. Vacancies would be filled in the same manner as the original appointment. A member appointed to fill a vacancy caused by a resignation or death would be appointed for the balance of the unexpired term.

The Legislative Council would have to provide the commission with office space, staff, and necessary equipment.

The commission would be required to conduct its business in accordance with the Open Meetings Act and make written documents used in official commission business available in compliance with the Freedom of Information Act.

The commission could establish subcommittees that may consist of individuals who are not members of the commission, such as experts in matters of interest to the commission.

### **Duties of the commission**

The commission would have to do all of the following:

- Collect, prepare, analyze, and disseminate information regarding state and local sentencing and release policies and practices for felonies and the use of prisons and jails.
- Collect and analyze information concerning how misdemeanor sentences and the detention of defendants pending trial affect local jails.
- 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 would have to include, as applicable, analysis of all of the following:
  - Rearrest rates, resentence rates, and return to prison rates.
  - One-, two-, and three-year intervals after exiting prison or jail and after entering probation.
  - The statewide level, and by locality and discrete program, to the extent practicable.
- 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.
- Conduct ongoing research regarding the effectiveness of the sentencing guidelines in developing modifications to the guidelines as described below.
- Develop modifications to the sentencing guidelines. Any modifications to the sentencing guidelines would have to accomplish all of the following:
  - Provide for the protection of the public.
  - Consider offenses involving violence against a person or serious and substantial pecuniary loss as more severe than other offenses.
  - Be proportionate to the seriousness of the offense and the offender's prior criminal record.
  - Reduce sentencing disparities based on factors other than offense characteristics and offender characteristics and ensure that offenders with similar offense characteristics receive substantially similar sentences.
  - Specify the circumstances under which a term of imprisonment is proper and the circumstances under which intermediate sanctions are proper.
  - Establish sentence ranges for imprisonment that are within the minimum and maximum sentences allowed by law for the offenses to which the ranges apply.
  - Establish sentence ranges that the commission considers appropriate.

- Consider the necessity for local corrections system capacity and maintain funding to ensure that capacity.
- Consider the suitability and impact of offense variable scoring with regard to victims and victims' families and victim input and advice regarding sentences.

### **Commission recommendations and modifications**

In developing recommendations, the commission would have to issue a prison and jail impact report to the legislature relating to any modifications to the sentencing guidelines. The projected impact on total capacity of state and local correctional facilities would have to be included in the report.

Modifications to the sentencing guidelines would have to include recommended intermediate sanctions for each case in which the upper limit of the recommended minimum sentence range is 18 months or less.

The commission could recommend modifications to any law, administrative rule, or policy that affects sentencing or the use and length of incarceration. Recommendations would have to reflect all of the following policies:

- To render sentences in all cases within a range of severity proportionate to the gravity of offenses, victim input, and the blameworthiness of an offender.
- 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.
- To render sentences no more severe than necessary to achieve the applicable purposes described above.
- To preserve judicial discretion to individualize sentences within a framework of law.
- To produce uniform sentencing in accordance with commission duties.
- To eliminate inequities in sentencing and length of incarceration across population groups.
- To encourage the use of intermediate sanctions.
- To ensure that adequate resources are available for carrying out sentences imposed and that rational priorities are established for the use of those resources.
- To promote research on sentencing policy and practices, including assessments of the effectiveness of criminal sanctions as measured against their purposes.
- To increase the transparency of the sentencing and corrections system, its accountability to the public, and the legitimacy of its operations.

Any recommended modifications to the sentencing guidelines or to other laws, administrative rules, or policies would have to be submitted to the Senate Majority Leader, the Speaker of the House, and the governor.

### **Annual report**

By December of each year, the commission would have to submit to the legislature, governor, and the Michigan Supreme Court a report on the implementation of legislative policies adopted in the current (2023-24) legislative session affecting the criminal justice system. The report would have to include at least all of the following:

- Education of practitioners on changes in legislative policy, including changes in criminal statutes and an analysis of the expected impact of those changes on prison and jail populations and the average length of sentences imposed.

- The length of probation supervision terms imposed.
- The number of noncompliance, risk, and major risk sanctions imposed on the probation population.
- Noncompliance and risk sanctions imposed on the parole supervision population.
- Parole guideline decisions.
- Implementation of revisions to the Community Corrections Act.

#### **BACKGROUND:**

The Michigan Sentencing Commission existed from 1994 to 2002. In addition, 2014 PA 465 created an almost identical Criminal Justice Policy Commission that served from 2015 to 2019 but was disbanded when its enabling statute expired.

#### **FISCAL IMPACT:**

House Bill 4173 would increase costs for the Legislative Council by an indeterminate amount and would have no fiscal impact on local units of government. Any increased costs would result from staff salaries, benefits, office space, office supplies, necessary equipment, and any other operating costs that might be incurred by the committee. According to the Legislative Council, in 2018 the annual cost for the operations of the Criminal Justice Policy Commission was approximately \$150,000. In addition, a one-time appropriation of \$500,000 GF/GP was appropriated in 2016 PA 268 for a Criminal Justice Policy Commission study concerning the costs of redirecting 17-year-olds from the adult court and correctional systems into the family court and juvenile justice systems.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.