

# HOUSE BILL NO. 4173

March 02, 2023, Introduced by Reps. Aiyash, Hope, McKinney, Young, McFall, Brabec, Breen, Wilson and Meerman and referred to the Committee on Criminal Justice.

A bill to amend 1927 PA 175, entitled  
"The code of criminal procedure,"  
(MCL 760.1 to 777.69) by adding sections 34a and 34b to chapter IX.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### CHAPTER IX

1  
2       **Sec. 34a. (1) The criminal justice policy commission is**  
3 **created in the legislative council. Before June 1, 2023, the**  
4 **governor shall appoint the commission members described in**  
5 **subdivisions (d) to (m). The commission consists of all of the**

1 following members:

2 (a) Two individuals who are members of the senate, consisting  
3 of the chairperson and the minority vice-chairperson of the senate  
4 judiciary committee or the chairperson's or minority vice-  
5 chairperson's designee, who must be members of that committee.

6 (b) Two individuals who are members of the house of  
7 representatives, consisting of the chairperson and the minority  
8 vice-chairperson of the house of representatives judiciary  
9 committee or the chairperson's or minority vice-chairperson's  
10 designee, who must be members of that committee.

11 (c) The attorney general, or the attorney general's designee,  
12 representing crime victims.

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

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

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

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

25 (h) One individual appointed from a list of 3 names submitted  
26 by the Michigan sheriffs' association.

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

29 (j) One individual who was previously incarcerated.

1 (k) Two individuals who are criminologists.

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

4 (m) One individual who represents community corrections  
5 agencies.

6 (2) The governor shall designate 1 member of the criminal  
7 justice policy commission as chairperson. The individual selected  
8 as chairperson must have a professional background in criminal law  
9 and experience with the legislative process.

10 (3) Except as otherwise provided in this subsection, the  
11 commission members must be appointed for terms of 4 years. Of the  
12 members first appointed under subsection (1)(c) to (m), 5 members  
13 shall serve for 2 years, 4 members shall serve for 3 years, and 3  
14 members shall serve for 4 years. The members of the commission  
15 appointed under subsection (1)(a) and (b) must be appointed for  
16 terms of 2 years.

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

22 (5) Except for the chairperson, who shall also serve as chief  
23 of staff under subsection (10), a commission member must not  
24 receive a salary for being a commission member but must be  
25 reimbursed for the member's reasonable, actual, and necessary  
26 expenses incurred in the performance of the member's duties as a  
27 commission member.

28 (6) The commission may establish subcommittees that may  
29 consist of individuals who are not members of the commission,

1 including, but not limited to, experts in matters of interest to  
2 the commission.

3 (7) The commission's business must be conducted at public  
4 meetings held in compliance with the open meetings act, 1976 PA  
5 267, MCL 15.261 to 15.275.

6 (8) A quorum consists of a majority of the members of the  
7 sentencing commission. All commission business must be conducted by  
8 not less than a quorum.

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

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

15 Sec. 34b. (1) The criminal justice policy commission shall do  
16 all of the following:

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

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

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

26 (d) In cooperation with the department of corrections,  
27 collect, analyze, and compile data and make projections regarding  
28 the populations and capacities of state and local correctional  
29 facilities, the impact of the sentencing guidelines and other laws,

1 rules, and policies on those populations and capacities, and the  
2 effectiveness of efforts to reduce recidivism. Measurement of  
3 recidivism must include, as applicable, analysis of all of the  
4 following:

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

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

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

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

15 (f) Develop modifications to the sentencing guidelines. Any  
16 modifications to the sentencing guidelines must accomplish all of  
17 the following:

18 (i) Provide for the protection of the public.

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

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

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

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

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

4           (vii) Establish sentence ranges that the commission considers  
5 appropriate.

6           (viii) Consider the necessity for local corrections system  
7 capacity and maintain funding to ensure that capacity.

8           (g) Consider the suitability and impact of offense variable  
9 scoring with regard to victims and victims' families and victim  
10 input and advice regarding sentences.

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

16           (3) Modifications to sentencing guidelines must include  
17 recommended intermediate sanctions for each case in which the upper  
18 limit of the recommended minimum sentence range is 18 months or  
19 less.

20           (4) The commission may recommend modifications to any law,  
21 administrative rule, or policy that affects sentencing or the use  
22 and length of incarceration. The recommendations must reflect all  
23 of the following policies:

24           (a) To render sentences in all cases within a range of  
25 severity proportionate to the gravity of offenses, victim input,  
26 and the blameworthiness of an offender.

27           (b) When reasonably feasible, to achieve offender  
28 rehabilitation, general deterrence, incapacitation of dangerous  
29 offenders, restoration of crime victims and communities, and

1 reintegration of offenders into the law-abiding community.

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

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

6 (e) To produce sentences that are uniform in their reasoned  
7 pursuit of the purposes in subsection (1).

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

10 (g) To encourage the use of intermediate sanctions.

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

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

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

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

24 (6) By December of each year, the commission shall submit to  
25 the legislature, the governor, and the Michigan supreme court a  
26 report on the implementation of legislative policies adopted in the  
27 current legislative session affecting the criminal justice system.  
28 The report must include, but need not be limited to, all of the  
29 following:

1           (a) Education of practitioners on changes in legislative  
2 policy, including changes in criminal statutes and an analysis of  
3 the expected impact of those changes on prison and jail populations  
4 and the average length of the sentences imposed.

5           (b) The length of probation supervision terms imposed.

6           (c) The number of noncompliance, risk, and major risk  
7 sanctions imposed on the probation population.

8           (d) Noncompliance and risk sanctions imposed on the parole  
9 supervision population.

10          (e) Parole guideline decisions.

11          (f) Implementation of revisions to the community corrections  
12 act, 1988 PA 511, MCL 791.401 to 791.414.