

SUBSTITUTE FOR
SENATE BILL NO. 1141

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
(MCL 760.1 to 777.69) by adding sections 32a and 33a to chapter IX.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER IX

1
2 SEC. 32A. (1) A CRIMINAL JUSTICE POLICY COMMISSION IS CREATED
3 IN THE LEGISLATIVE COUNCIL. BEFORE MARCH 1, 2015, THE GOVERNOR
4 SHALL APPOINT THE COMMISSION MEMBERS DESCRIBED IN SUBDIVISIONS (D)
5 TO (O). THE COMMISSION CONSISTS OF THE ALL OF THE FOLLOWING
6 MEMBERS:

7 (A) TWO INDIVIDUALS WHO ARE MEMBERS OF THE SENATE SUBMITTED BY
8 THE SENATE MAJORITY LEADER, 1 INDIVIDUAL FROM EACH CAUCUS.

9 (B) TWO INDIVIDUALS WHO ARE MEMBERS OF THE HOUSE OF
10 REPRESENTATIVES SUBMITTED BY THE SPEAKER OF THE HOUSE OF

1 REPRESENTATIVES, 1 INDIVIDUAL FROM EACH CAUCUS.

2 (C) THE ATTORNEY GENERAL, OR HIS OR HER DESIGNEE.

3 (D) ONE INDIVIDUAL WHO IS A CIRCUIT COURT JUDGE, APPOINTED
4 FROM A LIST OF 3 NAMES SUBMITTED BY THE MICHIGAN JUDGES
5 ASSOCIATION.

6 (E) ONE INDIVIDUAL WHO IS A DISTRICT COURT JUDGE, APPOINTED
7 FROM A LIST OF 3 NAMES SUBMITTED BY THE MICHIGAN DISTRICT JUDGES
8 ASSOCIATION.

9 (F) ONE INDIVIDUAL WHO REPRESENTS THE PROSECUTING ATTORNEYS OF
10 THIS STATE, APPOINTED FROM A LIST OF 3 NAMES SUBMITTED BY THE
11 PROSECUTING ATTORNEYS ASSOCIATION OF MICHIGAN.

12 (G) ONE INDIVIDUAL WHO REPRESENTS CRIMINAL DEFENSE ATTORNEYS,
13 APPOINTED FROM A LIST OF 3 NAMES SUBMITTED BY THE CRIMINAL DEFENSE
14 ATTORNEYS OF MICHIGAN.

15 (H) ONE INDIVIDUAL APPOINTED FROM A LIST OF 3 NAMES SUBMITTED
16 BY THE MICHIGAN SHERIFF'S ASSOCIATION.

17 (I) ONE INDIVIDUAL APPOINTED FROM A LIST OF 3 NAMES SUBMITTED
18 BY THE DIRECTOR OF THE MICHIGAN DEPARTMENT OF CORRECTIONS.

19 (J) ONE INDIVIDUAL WHO REPRESENTS ADVOCATES OF ALTERNATIVES TO
20 INCARCERATION.

21 (K) ONE INDIVIDUAL WHO IS A MEMBER OF THE MICHIGAN BOARD OF
22 PSYCHOLOGY.

23 (L) ONE INDIVIDUAL APPOINTED FROM A LIST OF 3 NAMES SUBMITTED
24 BY THE MICHIGAN ASSOCIATION OF COUNTIES.

25 (M) ONE INDIVIDUAL WHO REPRESENTS MICHIGAN ASSOCIATION OF
26 COMMUNITY CORRECTIONS ADVISORY BOARDS.

27 (N) ONE INDIVIDUAL APPOINTED FROM A LIST OF 3 NAMES SUBMITTED

1 BY THE MICHIGAN COALITION TO END DOMESTIC AND SEXUAL VIOLENCE.

2 (O) ONE MEMBER OF THE PUBLIC WHO IS NEITHER AFFILIATED WITH
3 NOR EMPLOYED BY A DEPARTMENT, OFFICE, OR ENTITY DESCRIBED IN THIS
4 SUBSECTION, BY THE COMMISSION CREATED UNDER THIS SUBSECTION, OR BY
5 ANY ENTITY EMPLOYED OR HIRED BY THE COMMISSION CREATED UNDER THIS
6 SUBSECTION.

7 (2) THE MEMBER OF THE PUBLIC APPOINTED BY THE GOVERNOR UNDER
8 SUBSECTION (1) (O) SHALL SERVE AS THE CHAIRPERSON OF THE CRIMINAL
9 JUSTICE POLICY COMMISSION.

10 (3) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE
11 COMMISSION MEMBERS SHALL BE APPOINTED FOR TERMS OF 4 YEARS. OF THE
12 MEMBERS FIRST APPOINTED UNDER SUBSECTION (1) (D) TO (O), 4 MEMBERS
13 SHALL SERVE FOR 2 YEARS, 4 MEMBERS SHALL SERVE FOR 3 YEARS, AND 4
14 MEMBERS SHALL SERVE FOR 3 YEARS. THE MEMBERS OF THE COMMISSION
15 APPOINTED UNDER SUBSECTION (1) (A) AND (B) SHALL 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 SHALL BE FILLED IN THE SAME MANNER
19 AS THE ORIGINAL APPOINTMENT. A MEMBER APPOINTED TO FILL A VACANCY
20 CAUSED BY A RESIGNATION OR DEATH SHALL BE APPOINTED FOR THE BALANCE
21 OF THE UNEXPIRED TERM.

22 (5) A COMMISSION MEMBER SHALL NOT RECEIVE A SALARY FOR BEING A
23 COMMISSION MEMBER BUT SHALL BE REIMBURSED FOR HIS OR HER
24 REASONABLE, ACTUAL, AND NECESSARY EXPENSES INCURRED IN THE
25 PERFORMANCE OF HIS OR HER DUTIES AS A COMMISSION MEMBER.

26 (6) THE COMMISSION MAY ESTABLISH SUBCOMMITTEES THAT MAY
27 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 SHALL 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 SHALL BE CONDUCTED
8 BY NOT LESS THAN A QUORUM. A VOTE OF THE MAJORITY OF THE MEMBERS OF
9 THE COMMISSION PRESENT AND SERVING IS REQUIRED FOR THE OFFICIAL
10 ACTION OF THE COMMISSION.

11 (9) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF, OR
12 RETAINED BY THE COMMISSION IN THE PERFORMANCE OF AN OFFICIAL
13 FUNCTION SHALL BE MADE AVAILABLE TO THE PUBLIC IN COMPLIANCE WITH
14 THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.

15 (10) THE LEGISLATIVE COUNCIL SHALL PROVIDE THE COMMISSION WITH
16 SUITABLE OFFICE SPACE, STAFF, AND NECESSARY EQUIPMENT.

17 SEC. 33A. (1) THE CRIMINAL JUSTICE POLICY COMMISSION SHALL DO
18 ALL OF THE FOLLOWING:

19 (A) COLLECT, PREPARE, ANALYZE, AND DISSEMINATE INFORMATION
20 REGARDING STATE AND LOCAL SENTENCING AND PROPOSED RELEASE POLICIES
21 AND PRACTICES FOR FELONIES AND THE USE OF PRISONS AND JAILS.

22 (B) COLLECT AND ANALYZE INFORMATION CONCERNING HOW MISDEMEANOR
23 SENTENCES AND THE DETENTION OF DEFENDANTS PENDING TRIAL AFFECT
24 LOCAL JAILS.

25 (C) CONDUCT ONGOING RESEARCH REGARDING THE EFFECTIVENESS OF
26 THE SENTENCING GUIDELINES IN ACHIEVING THE PURPOSES SET FORTH IN
27 SUBDIVISION (F).

1 (D) IN COOPERATION WITH THE DEPARTMENT OF CORRECTIONS,
2 COLLECT, ANALYZE, AND COMPILE DATA AND MAKE PROJECTIONS REGARDING
3 THE POPULATIONS AND CAPACITIES OF STATE AND LOCAL CORRECTIONAL
4 FACILITIES, THE IMPACT OF THE SENTENCING GUIDELINES AND OTHER LAWS,
5 RULES, AND POLICIES ON THOSE POPULATIONS AND CAPACITIES, AND THE
6 EFFECTIVENESS OF EFFORTS TO REDUCE RECIDIVISM. MEASUREMENT OF
7 RECIDIVISM SHALL INCLUDE, AS APPLICABLE, ANALYSIS OF ALL OF THE
8 FOLLOWING:

9 (i) REARREST RATES, RESENTENCE RATES, AND RETURN TO PRISON
10 RATES.

11 (ii) ONE-, 2-, AND 3-YEAR INTERVALS AFTER EXITING PRISON OR
12 JAIL AND AFTER ENTERING PROBATION.

13 (iii) THE STATEWIDE LEVEL, AND BY LOCALITY AND DISCRETE PROGRAM,
14 TO THE EXTENT PRACTICABLE.

15 (E) IN COOPERATION WITH THE STATE COURT ADMINISTRATOR,
16 COLLECT, ANALYZE, AND COMPILE DATA REGARDING THE EFFECT OF
17 SENTENCING GUIDELINES ON THE CASELOAD, DOCKET FLOW, AND CASE
18 BACKLOG OF THE TRIAL AND APPELLATE COURTS OF THIS STATE.

19 (F) DEVELOP MODIFICATIONS TO THE SENTENCING GUIDELINES FOR
20 RECOMMENDATION TO THE LEGISLATURE. ANY MODIFICATIONS TO THE
21 SENTENCING GUIDELINES SHALL ACCOMPLISH ALL OF THE FOLLOWING:

22 (i) PROVIDE FOR THE PROTECTION OF THE PUBLIC.

23 (ii) CONSIDER OFFENSES INVOLVING VIOLENCE AGAINST A PERSON OR
24 SERIOUS AND SUBSTANTIAL PECUNIARY LOSS AS MORE SEVERE THAN OTHER
25 OFFENSES.

26 (iii) BE PROPORTIONATE TO THE SERIOUSNESS OF THE OFFENSE AND THE
27 OFFENDER'S PRIOR CRIMINAL RECORD.

1 (iv) REDUCE SENTENCING DISPARITIES BASED ON FACTORS OTHER THAN
2 OFFENSE CHARACTERISTICS AND OFFENDER CHARACTERISTICS AND ENSURE
3 THAT OFFENDERS WITH SIMILAR OFFENSE AND OFFENDER CHARACTERISTICS
4 RECEIVE SUBSTANTIALLY SIMILAR SENTENCES.

5 (v) SPECIFY THE CIRCUMSTANCES UNDER WHICH A TERM OF
6 IMPRISONMENT IS PROPER AND THE CIRCUMSTANCES UNDER WHICH
7 INTERMEDIATE SANCTIONS ARE PROPER.

8 (vi) ESTABLISH SENTENCE RANGES FOR IMPRISONMENT THAT ARE WITHIN
9 THE MINIMUM AND MAXIMUM SENTENCES ALLOWED BY LAW FOR THE OFFENSES
10 TO WHICH THE RANGES APPLY.

11 (vii) MAINTAIN SEPARATE SENTENCE RANGES FOR CONVICTIONS UNDER
12 THE HABITUAL OFFENDER PROVISIONS IN SECTIONS 10, 11, 12, AND 13 OF
13 THIS CHAPTER, WHICH MAY INCLUDE AS AN AGGRAVATING FACTOR, AMONG
14 OTHER RELEVANT CONSIDERATIONS, THAT THE ACCUSED HAS ENGAGED IN A
15 PATTERN OF PROVEN OR ADMITTED CRIMINAL BEHAVIOR.

16 (viii) ESTABLISH SENTENCE RANGES THAT THE COMMISSION CONSIDERS
17 APPROPRIATE.

18 (ix) RECOGNIZE THE AVAILABILITY OF BEDS IN THE LOCAL
19 CORRECTIONS SYSTEM AND THAT THE LOCAL CORRECTIONS SYSTEM IS AN
20 EQUAL PARTNER IN CORRECTIONS POLICY, AND PRESERVE ITS FUNDING
21 MECHANISMS.

22 (g) CONSIDER THE SUITABILITY AND IMPACT OF OFFENSE VARIABLE
23 SCORING WITH REGARD TO PHYSICAL AND PSYCHOLOGICAL INJURY TO VICTIMS
24 AND VICTIMS' FAMILIES.

25 (2) IN DEVELOPING PROPOSED MODIFICATIONS TO THE SENTENCING
26 GUIDELINES, THE COMMISSION SHALL SUBMIT TO THE LEGISLATURE A PRISON
27 AND JAIL IMPACT REPORT RELATING TO ANY MODIFICATIONS TO THE

1 SENTENCING GUIDELINES. THE REPORT SHALL INCLUDE THE PROJECTED
2 IMPACT ON TOTAL CAPACITY OF STATE AND LOCAL CORRECTIONAL
3 FACILITIES.

4 (3) PROPOSED MODIFICATIONS TO SENTENCING GUIDELINES SHALL
5 INCLUDE RECOMMENDED INTERMEDIATE SANCTIONS FOR EACH CASE IN WHICH
6 THE UPPER LIMIT OF THE RECOMMENDED MINIMUM SENTENCE RANGE IS 18
7 MONTHS OR LESS.

8 (4) THE COMMISSION MAY RECOMMEND MODIFICATIONS FOR SUBMISSION
9 TO THE LEGISLATURE TO ANY LAW, ADMINISTRATIVE RULE, OR POLICY THAT
10 AFFECTS SENTENCING OR THE USE AND LENGTH OF INCARCERATION. THE
11 RECOMMENDATIONS SHALL REFLECT ALL OF THE FOLLOWING POLICIES:

12 (A) TO RENDER SENTENCES IN ALL CASES WITHIN A RANGE OF
13 SEVERITY PROPORTIONATE TO THE GRAVITY OF OFFENSES, THE HARMS DONE
14 TO CRIME VICTIMS, AND THE BLAMEWORTHINESS OF OFFENDERS.

15 (B) WHEN REASONABLY FEASIBLE, TO ACHIEVE OFFENDER
16 REHABILITATION, GENERAL DETERRENCE, INCAPACITATION OF DANGEROUS
17 OFFENDERS, RESTORATION OF CRIME VICTIMS AND COMMUNITIES, AND
18 REINTEGRATION OF OFFENDERS INTO THE LAW-ABIDING COMMUNITY.

19 (C) TO RENDER SENTENCES NO MORE SEVERE THAN NECESSARY TO
20 ACHIEVE THE APPLICABLE PURPOSES IN SUBDIVISIONS (A) AND (B).

21 (D) TO PRESERVE JUDICIAL DISCRETION TO INDIVIDUALIZE SENTENCES
22 WITHIN A FRAMEWORK OF LAW.

23 (E) TO PRODUCE SENTENCES THAT ARE UNIFORM IN THEIR REASONED
24 PURSUIT OF THE PURPOSES IN SUBSECTION (1).

25 (F) TO ELIMINATE INEQUITIES IN SENTENCING AND LENGTH OF
26 INCARCERATION ACROSS POPULATION GROUPS.

27 (G) TO ENCOURAGE THE USE OF INTERMEDIATE SANCTIONS.

1 (H) TO ENSURE THAT ADEQUATE RESOURCES ARE AVAILABLE FOR
2 CARRYING OUT SENTENCES IMPOSED AND THAT RATIONAL PRIORITIES ARE
3 ESTABLISHED FOR THE USE OF THOSE RESOURCES.

4 (I) TO PROMOTE RESEARCH ON SENTENCING POLICY AND PRACTICES,
5 INCLUDING ASSESSMENTS OF THE EFFECTIVENESS OF CRIMINAL SANCTIONS AS
6 MEASURED AGAINST THEIR PURPOSES.

7 (J) TO INCREASE THE TRANSPARENCY OF THE SENTENCING AND
8 CORRECTIONS SYSTEM, ITS ACCOUNTABILITY TO THE PUBLIC, AND THE
9 LEGITIMACY OF ITS OPERATIONS.

10 (5) THE COMMISSION SHALL SUBMIT ANY RECOMMENDED MODIFICATIONS
11 TO THE SENTENCING GUIDELINES OR TO OTHER LAWS, ADMINISTRATIVE
12 RULES, OR POLICIES TO THE SENATE MAJORITY LEADER, THE SPEAKER OF
13 THE HOUSE OF REPRESENTATIVES, AND THE GOVERNOR.

14 (6) BY DECEMBER 1, 2015, THE COMMISSION SHALL SUBMIT TO THE
15 LEGISLATURE, THE GOVERNOR, AND THE MICHIGAN SUPREME COURT A REPORT
16 ON THE IMPLEMENTATION OF LEGISLATIVE POLICIES ADOPTED IN 2014
17 AFFECTING THE CRIMINAL JUSTICE SYSTEM. THE REPORT SHALL INCLUDE,
18 BUT NOT BE LIMITED TO, ALL OF THE FOLLOWING:

19 (A) EDUCATION OF PRACTITIONERS ON CHANGES IN LEGISLATIVE
20 POLICY.

21 (B) THE LENGTH OF PROBATION SUPERVISION TERMS IMPOSED.

22 (C) THE NUMBER OF PROBATIONERS SUBJECT TO SWIFT AND SURE
23 SANCTIONS PROBATION.

24 (D) THE NUMBER OF NONCOMPLIANCE, RISK, AND MAJOR RISK
25 SANCTIONS IMPOSED ON THE PROBATION POPULATION.

26 (E) NONCOMPLIANCE AND RISK SANCTIONS IMPOSED ON THE PAROLE
27 SUPERVISION POPULATION.

1 (F) PAROLE GUIDELINE DECISIONS.

2 (G) VICTIM RESTITUTION COLLECTION DATA IN THE COURTS AND THE
3 DEPARTMENT OF CORRECTIONS.

4 (H) IMPLEMENTATION OF REVISIONS TO THE COMMUNITY CORRECTIONS
5 ACT, 1988 PA 511, MCL 791.401 TO 791.414.