



SENATE BILL No. 711

June 22, 1993, Introduced by Senators DINGELL, WELBORN
and GEAKE and referred to the Committee on Family Law,
Criminal Law, and Corrections.

A bill to amend Act No. 175 of the Public Acts of 1927,
entitled as amended

"The code of criminal procedure,"

as amended, being sections 760.1 to 776.21 of the Michigan
Compiled Laws, by adding section 29 to chapter IX.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 175 of the Public Acts of 1927, as
2 amended, being sections 760.1 to 776.21 of the Michigan Compiled
3 Laws, is amended by adding section 29 to chapter IX to read as
4 follows:

5 CHAPTER IX

6 SEC. 29. (1) EXCEPT AS PROVIDED IN SUBSECTION (4), A PERSON
7 WHO IS CONVICTED OF A FELONY SHALL NOT BE COMMITTED TO A STATE
8 CORRECTIONAL FACILITY IF THE PERSON'S SENTENCING GUIDELINES SCORE

1 HAS AN UPPER LIMIT FOR THE RECOMMENDED MINIMUM SENTENCE OF 12
2 MONTHS OR LESS.

3 (2) EXCEPT AS PROVIDED IN SUBSECTION (4), A PERSON WHO IS
4 CONVICTED OF A FELONY AND WHO IS WITHIN EITHER OF THE FOLLOWING
5 CATEGORIES MAY BE COMMITTED TO A STATE CORRECTIONAL FACILITY ONLY
6 IF THE COUNTY IN WHICH THE OFFENSE THAT RESULTED IN CONVICTION
7 OCCURRED REIMBURSES THE STATE \$60.00 FOR EACH DAY DURING WHICH
8 THE PERSON IS INCARCERATED IN A STATE CORRECTIONAL FACILITY, UP
9 TO A MAXIMUM OF 365 DAYS FOR THAT COMMITMENT:

10 (A) THE PERSON'S SENTENCING GUIDELINES SCORE HAS AN UPPER
11 LIMIT FOR THE RECOMMENDED MINIMUM SENTENCE OF AT LEAST 13 MONTHS
12 BUT NOT MORE THAN 24 MONTHS.

13 (B) THE CONVICTION IS FOR THE VIOLATION OR ATTEMPTED VIOLA-
14 TION OF EITHER OF THE FOLLOWING:

15 (i) SECTION 356C OF THE MICHIGAN PENAL CODE, ACT NO. 328 OF
16 THE PUBLIC ACTS OF 1931, BEING SECTION 750.356C OF THE MICHIGAN
17 COMPILED LAWS, CONCERNING RETAIL FRAUD IN THE FIRST DEGREE.

18 (ii) SECTION 625 OF THE MICHIGAN VEHICLE CODE, ACT NO. 300
19 OF THE PUBLIC ACTS OF 1949, BEING SECTION 257.625 OF THE MICHIGAN
20 COMPILED LAWS, CONCERNING OPERATING A MOTOR VEHICLE WHILE UNDER
21 THE INFLUENCE OF INTOXICATING LIQUOR OR CONTROLLED SUBSTANCE.

22 (3) THE DEPARTMENT MAY VERIFY THE DETERMINATION OF A SEN-
23 TENCING GUIDELINES SCORE FOR ANY PERSON WHOSE SENTENCING GUIDE-
24 LINES SCORE IS WITHIN THE CATEGORIES DESCRIBED IN SUBSECTION (1)
25 OR (2).

26 (4) NOTWITHSTANDING SUBSECTION (1) OR (2), A PERSON WHO IS
27 CONVICTED OF ANY OF THE FOLLOWING FELONIES MAY BE COMMITTED TO A

1 STATE CORRECTIONAL FACILITY AND IS NOT SUBJECT TO THE REQUIREMENT
2 THAT THE COUNTY REIMBURSE THE STATE:

3 (A) A FELONY COMMITTED BY A PERSON WHILE HE OR SHE IS INCAR-
4 CERATED IN A STATE CORRECTIONAL FACILITY OR IS ON PAROLE.

5 (B) A FELONY FOR WHICH A CONSECUTIVE SENTENCE IS REQUIRED BY
6 LAW.

7 (C) A VIOLATION OF SECTION 193 OF THE MICHIGAN PENAL CODE,
8 ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTION 750.193 OF
9 THE MICHIGAN COMPILED LAWS, CONCERNING BREAKING PRISON.

10 (D) A VIOLATION OF SECTION 227B OF THE MICHIGAN PENAL CODE,
11 ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTION 750.227B OF
12 THE MICHIGAN COMPILED LAWS, CONCERNING CARRYING A FIREARM WHEN
13 COMMITTING OR ATTEMPTING TO COMMIT A FELONY.

14 (5) FOR PURPOSES OF SUBSECTIONS (1) AND (2), BOTH OF THE
15 FOLLOWING APPLY:

16 (A) THE SENTENCING GUIDELINES SCORE APPLICABLE TO THE UNDER-
17 LYING FELONY SHALL BE USED IN THE CASE OF A PERSON TO BE SEN-
18 TENCED AS A REPEAT OFFENDER UNDER SECTION 10, 11, OR 12 OF THIS
19 CHAPTER.

20 (B) THE SENTENCING GUIDELINES SCORE APPLICABLE TO THE FELONY
21 HAVING THE LONGEST MAXIMUM SENTENCE SHALL BE USED IN THE CASE OF
22 A PERSON CONVICTED OF MULTIPLE OFFENSES.

23 (6) THE AMOUNT DESCRIBED IN SUBSECTION (2) SHALL BE ADJUSTED
24 EFFECTIVE OCTOBER 1 OF EACH YEAR, IN THE STATE APPROPRIATIONS
25 PROCESS, IN ACCORDANCE WITH THE PERCENTAGE INCREASE OR DECREASE
26 IN THE DETROIT CONSUMER PRICE INDEX--ALL ITEMS FOR THE
27 IMMEDIATELY PRECEDING 12 MONTHS.

1 (7) SUBSECTIONS (1) AND (2) DO NOT APPLY UNLESS FUNDS ARE
2 APPROPRIATED BY THIS STATE FOR THE PURPOSE OF REIMBURSING COUN-
3 TIES UNDER THE PROVISIONS OF THE STATE AND LOCAL PARTNERSHIP ON
4 CORRECTIONS ACT.

5 (8) SUBSECTIONS (1) AND (2) DO NOT APPLY IF EITHER OF THE
6 FOLLOWING OCCURS:

7 (A) SENTENCING GUIDELINES ARE ENACTED INTO LAW BY THE LEGIS-
8 LATURE AND THOSE SENTENCING GUIDELINES TAKE EFFECT.

9 (B) THE SUPREME COURT ISSUES AN ADMINISTRATIVE ORDER SUB-
10 STANTIALLY REVISING THE SENTENCING GUIDELINES THAT ARE IN EFFECT
11 ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
12 SECTION.

13 (9) THIS SECTION APPLIES TO PERSONS CONVICTED FOR CRIMES
14 THAT WERE COMMITTED AFTER THE EFFECTIVE DATE OF THE AMENDATORY
15 ACT THAT ADDED THIS SECTION.

16 (10) THIS SECTION DOES NOT APPLY TO A JUVENILE PLACED ON
17 PROBATION AND COMMITTED TO A STATE INSTITUTION OR AGENCY
18 DESCRIBED IN THE YOUTH REHABILITATION SERVICES ACT, ACT NO. 150
19 OF THE PUBLIC ACTS OF 1974, BEING SECTIONS 803.301 TO 803.309 OF
20 THE MICHIGAN COMPILED LAWS, UNDER SECTION 1(3) OR (4) OF THIS
21 CHAPTER.

22 (11) AS USED IN THIS SECTION, "SENTENCING GUIDELINES" MEANS
23 THE GUIDELINES USED FOR SENTENCING PURPOSES THAT ARE IN EFFECT
24 PURSUANT TO SUPREME COURT ORDER ON THE DATE OF SENTENCING, EXCEPT
25 AS THAT TERM IS OTHERWISE USED IN SUBSECTION (8).

26 Section 2. This amendatory act shall take effect October 1,
27 1993.

1 Section 3. This amendatory act shall not take effect unless
2 Senate Bill No. 710
3 is enacted into law.