



# SENATE BILL No. 401

March 16, 1995, Introduced by Senators SHUGARS, MC MANUS  
and EMMONS and referred to the Committee on Judiciary.

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 (3), A PERSON  
7 WHO IS CONVICTED OF A FELONY SHALL NOT BE COMMITTED TO A STATE  
8 CORRECTIONAL FACILITY IF EITHER OF THE FOLLOWING APPLIES:

1 (A) THE PERSON'S SENTENCING GUIDELINES SCORE HAS AN UPPER  
2 LIMIT FOR THE RECOMMENDED MINIMUM SENTENCE OF 24 MONTHS OR LESS.

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

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

8 (ii) SECTION 625(1) OF THE MICHIGAN VEHICLE CODE, ACT  
9 NO. 300 OF THE PUBLIC ACTS OF 1949, BEING SECTION 257.625 OF THE  
10 MICHIGAN COMPILED LAWS, CONCERNING OPERATING A MOTOR VEHICLE  
11 WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR CONTROLLED  
12 SUBSTANCE.

13 (2) THE DEPARTMENT OF CORRECTIONS MAY VERIFY THE DETERMINA-  
14 TION OF A SENTENCING GUIDELINES SCORE FOR ANY PERSON COMMITTED TO  
15 A STATE CORRECTIONAL FACILITY.

16 (3) NOTWITHSTANDING SUBSECTION (1), A PERSON WHO IS CON-  
17 VICTED OF ANY OF THE FOLLOWING FELONIES MAY BE COMMITTED TO A  
18 STATE CORRECTIONAL FACILITY:

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

21 (B) A FELONY FOR WHICH A CONSECUTIVE SENTENCE IS REQUIRED BY  
22 LAW.

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

26 (D) A VIOLATION OF SECTION 227B OF THE MICHIGAN PENAL CODE,  
27 ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTION 750.227B OF

1 THE MICHIGAN COMPILED LAWS, CONCERNING CARRYING A FIREARM WHEN  
2 COMMITTING OR ATTEMPTING TO COMMIT A FELONY.

3 (4) FOR PURPOSES OF SUBSECTION (1), BOTH OF THE FOLLOWING  
4 APPLY:

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

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

12 (5) SUBSECTION (1) DOES NOT APPLY UNLESS FUNDS ARE APPROPRI-  
13 ATED BY THIS STATE FOR THE PURPOSE OF REIMBURSING COUNTIES UNDER  
14 THE PROVISIONS OF THE STATE AND LOCAL PARTNERSHIP ON CORRECTIONS  
15 ACT.

16 (6) SUBSECTION (1) DOES NOT APPLY IF EITHER OF THE FOLLOWING  
17 OCCURS:

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

20 (B) THE SUPREME COURT ISSUES AN ADMINISTRATIVE ORDER SUB-  
21 STANTIALLY REVISING THE SENTENCING GUIDELINES THAT ARE IN EFFECT  
22 ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS  
23 SECTION.

24 (7) THIS SECTION APPLIES TO PERSONS CONVICTED FOR CRIMES  
25 THAT WERE COMMITTED AFTER THE EFFECTIVE DATE OF THE AMENDATORY  
26 ACT THAT ADDED THIS SECTION.

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

7           (9) AS USED IN THIS SECTION, "SENTENCING GUIDELINES" MEANS  
8 THE GUIDELINES USED FOR SENTENCING PURPOSES THAT ARE IN EFFECT  
9 PURSUANT TO SUPREME COURT ORDER ON THE DATE OF SENTENCING, EXCEPT  
10 AS THAT TERM IS OTHERWISE USED IN SUBSECTION (6).

11           Section 2. This amendatory act shall not take effect unless  
12 House Bill No. \_\_\_\_\_ or Senate Bill No. \_\_\_\_\_ (request  
13 no. 02405'95) of the 88th Legislature is enacted into law.