

# HOUSE BILL No. 5692

June 12, 2014, Introduced by Rep. Knezek 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 32 and 33 to chapter IX.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER IX

SEC. 32. (1) A SENTENCING COMMISSION IS CREATED IN THE  
LEGISLATIVE COUNCIL. THE LEGISLATIVE COUNCIL SHALL PROVIDE THE  
COMMISSION WITH SUITABLE OFFICE SPACE, STAFF, AND NECESSARY  
EQUIPMENT. THE COMMISSION SHALL CONSIST OF THE FOLLOWING MEMBERS:

(A) THE CHAIRPERSON AND MINORITY VICE-CHAIRPERSON OF THE HOUSE  
OF REPRESENTATIVES STANDING COMMITTEE ON THE JUDICIARY.

(B) THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE SENATE  
STANDING COMMITTEE ON THE JUDICIARY.

(C) THE CHIEF JUSTICE OF THE SUPREME COURT.

1 (D) THE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS.

2 (E) ONE PROBATION OFFICER OR PAROLE OFFICER.

3 (F) TWO INDIVIDUALS WHO ARE CIRCUIT COURT JUDGES.

4 (G) ONE INDIVIDUAL WHO REPRESENTS THE PROSECUTING ATTORNEYS OF  
5 THIS STATE.

6 (H) ONE INDIVIDUAL WHO REPRESENTS CRIMINAL DEFENSE ATTORNEYS.

7 (I) ONE INDIVIDUAL WHO REPRESENTS LAW ENFORCEMENT.

8 (J) ONE INDIVIDUAL WHO REPRESENTS ADVOCATES OF ALTERNATIVES TO  
9 INCARCERATION.

10 (K) ONE INDIVIDUAL WHO REPRESENTS CRIME VICTIMS.

11 (L) THE LEGISLATIVE CORRECTIONS OMBUDSMAN.

12 (M) THE LEGISLATIVE COUNCIL ADMINISTRATOR, WHO SHALL SERVE AS  
13 THE CHAIRPERSON OF THE COMMISSION AND WHO SHALL BE A NONVOTING  
14 MEMBER EXCEPT AS REQUIRED TO BREAK A TIE VOTE.

15 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE  
16 COMMISSION MEMBERS SHALL BE APPOINTED FOR TERMS OF 4 YEARS. OF THE  
17 MEMBERS FIRST APPOINTED UNDER SUBSECTION (1) (E) TO (K), 3 MEMBERS  
18 SHALL SERVE FOR 2 YEARS, 3 MEMBERS SHALL SERVE FOR 3 YEARS, AND 2  
19 MEMBERS SHALL SERVE FOR 4 YEARS, AS DESIGNATED BY THE CHAIRPERSON  
20 AND ALTERNATE CHAIRPERSON OF THE LEGISLATIVE COUNCIL. THE MEMBERS  
21 OF THE COMMISSION DESCRIBED IN SUBSECTION (1) (A) TO (D) AND (L) TO  
22 (M) SHALL CONTINUE TO BE COMMISSION MEMBERS SO LONG AS THEY RETAIN  
23 THE POSITIONS DESCRIBED IN SUBSECTION (1) (A) TO (D) AND (L) TO (M).  
24 THE MEMBERS DESCRIBED IN SUBSECTION (1) (E) TO (K) SHALL BE  
25 APPOINTED BY THE GOVERNOR.

26 (3) A VACANCY ON THE COMMISSION CAUSED BY THE EXPIRATION OF A  
27 TERM OR A RESIGNATION OR DEATH SHALL BE FILLED IN THE SAME MANNER

1 AS THE ORIGINAL APPOINTMENT. A MEMBER APPOINTED TO FILL A VACANCY  
2 CAUSED BY A RESIGNATION OR DEATH SHALL BE APPOINTED FOR THE BALANCE  
3 OF THE UNEXPIRED TERM.

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

8 (5) THE COMMISSION'S BUSINESS SHALL BE CONDUCTED AT PUBLIC  
9 MEETINGS HELD IN COMPLIANCE WITH THE OPEN MEETINGS ACT, 1976 PA  
10 267, MCL 15.261 TO 15.275.

11 (6) A QUORUM CONSISTS OF 3/4 OF THE MEMBERS OF THE SENTENCING  
12 COMMISSION. ALL COMMISSION BUSINESS SHALL BE CONDUCTED BY NOT LESS  
13 THAN A QUORUM.

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

18 SEC. 33. (1) THE SENTENCING COMMISSION CREATED UNDER SECTION  
19 32 SHALL DO ALL OF THE FOLLOWING:

20 (A) COLLECT, PREPARE, ANALYZE, AND DISSEMINATE INFORMATION  
21 REGARDING STATE AND LOCAL SENTENCING PRACTICES FOR FELONIES AND THE  
22 USE OF PRISONS AND JAILS. THE STATE COURT ADMINISTRATOR SHALL  
23 CONTINUE TO COLLECT DATA REGARDING SENTENCING PRACTICES AND SHALL  
24 PROVIDE THE DATA NECESSARY TO THE COMMISSION.

25 (B) CONDUCT ONGOING RESEARCH REGARDING THE IMPACT OF THE  
26 SENTENCING GUIDELINES SET FORTH IN CHAPTER XVII.

27 (C) COLLECT, ANALYZE, AND COMPILE DATA AND MAKE PROJECTIONS

1 REGARDING THE POPULATIONS AND CAPACITIES OF STATE AND LOCAL  
2 CORRECTIONAL FACILITIES AND THE IMPACT OF THE SENTENCING GUIDELINES  
3 ON THOSE POPULATIONS AND CAPACITIES.

4 (D) IN COOPERATION WITH THE STATE COURT ADMINISTRATOR,  
5 COLLECT, ANALYZE, AND COMPILE DATA REGARDING THE EFFECT OF  
6 SENTENCING GUIDELINES ON THE CASELOAD, DOCKET FLOW, AND CASE  
7 BACKLOG OF THE TRIAL AND APPELLATE COURTS OF THIS STATE.

8 (E) DEVELOP MODIFICATIONS TO THE SENTENCING GUIDELINES AS  
9 PROVIDED IN SUBSECTION (4). ANY MODIFICATIONS TO THE SENTENCING  
10 GUIDELINES SHALL ACCOMPLISH ALL OF THE FOLLOWING:

11 (i) PROVIDE FOR PROTECTION OF THE PUBLIC.

12 (ii) CONSIDER AN OFFENSE INVOLVING VIOLENCE AGAINST A PERSON AS  
13 MORE SEVERE THAN OTHER OFFENSES.

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

16 (iv) REDUCE SENTENCING DISPARITIES BASED ON FACTORS OTHER THAN  
17 OFFENSE CHARACTERISTICS AND OFFENDER CHARACTERISTICS AND ENSURE  
18 THAT OFFENDERS WITH SIMILAR OFFENSE AND OFFENDER CHARACTERISTICS  
19 RECEIVE SUBSTANTIALLY SIMILAR SENTENCES.

20 (v) SPECIFY THE CIRCUMSTANCES UNDER WHICH A TERM OF  
21 IMPRISONMENT IS PROPER AND THE CIRCUMSTANCES UNDER WHICH  
22 INTERMEDIATE SANCTIONS ARE PROPER.

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

26 (vii) MAINTAIN SEPARATE SENTENCE RANGES FOR CONVICTIONS UNDER  
27 THE HABITUAL OFFENDER PROVISIONS IN SECTIONS 10, 11, 12, AND 13 OF

1 THIS CHAPTER, WHICH MAY INCLUDE AS AN AGGRAVATING FACTOR, AMONG  
2 OTHER RELEVANT CONSIDERATIONS, THAT THE ACCUSED HAS ENGAGED IN A  
3 PATTERN OF PROVEN OR ADMITTED CRIMINAL BEHAVIOR.

4 (viii) ESTABLISH SENTENCE RANGES THAT THE COMMISSION CONSIDERS  
5 APPROPRIATE.

6 (2) IN DEVELOPING MODIFICATIONS TO THE SENTENCING GUIDELINES,  
7 THE COMMISSION SHALL CONSIDER THE LIKELIHOOD THAT THE CAPACITY OF  
8 STATE AND LOCAL CORRECTIONAL FACILITIES WILL BE EXCEEDED. THE  
9 COMMISSION SHALL SUBMIT TO THE LEGISLATURE A PRISON IMPACT REPORT  
10 RELATING TO ANY MODIFICATIONS TO SENTENCING GUIDELINES. THE REPORT  
11 SHALL INCLUDE THE PROJECTED IMPACT ON TOTAL CAPACITY OF STATE  
12 CORRECTIONAL FACILITIES.

13 (3) MODIFICATIONS TO SENTENCING GUIDELINES SHALL INCLUDE  
14 RECOMMENDED INTERMEDIATE SANCTIONS FOR EACH CASE IN WHICH THE UPPER  
15 LIMIT OF THE RECOMMENDED MINIMUM SENTENCE RANGE IS 18 MONTHS OR  
16 LESS.

17 (4) THE COMMISSION MAY RECOMMEND MODIFICATIONS TO THE  
18 SENTENCING GUIDELINES SET FORTH IN CHAPTER XVII.

19 (5) THE COMMISSION SHALL SUBMIT ANY RECOMMENDED MODIFICATIONS  
20 TO THE SENTENCING GUIDELINES TO THE SECRETARY OF THE SENATE AND THE  
21 CLERK OF THE HOUSE OF REPRESENTATIVES. IF THE LEGISLATURE DOES NOT  
22 ENACT MODIFICATIONS TO THE SENTENCING GUIDELINES WITHIN 60 DAYS  
23 AFTER INTRODUCTION OF A BILL TO ENACT SENTENCING GUIDELINES  
24 MODIFICATIONS BASED ON THE RECOMMENDATIONS, THE COMMISSION SHALL  
25 REVISE THE RECOMMENDED MODIFICATIONS AND SUBMIT THEM TO THE  
26 SECRETARY OF THE SENATE AND THE CLERK OF THE HOUSE OF  
27 REPRESENTATIVES WITHIN 90 DAYS. THE REVISED MODIFICATIONS ARE

1 SUBJECT TO THE REQUIREMENTS OF SUBSECTIONS (1), (2), AND (3). UNTIL  
2 THE LEGISLATURE ENACTS MODIFICATIONS TO THE SENTENCING GUIDELINES  
3 INTO LAW, THE COMMISSION SHALL CONTINUE TO REVISE AND RESUBMIT THE  
4 MODIFICATIONS TO THE LEGISLATURE UNDER THE SCHEDULE PROVIDED IN  
5 THIS SUBSECTION.

6 (6) THE SENTENCING COMMISSION SHALL CONVENE NO LATER THAN  
7 DECEMBER 31, 2014, AND RECONVENE NOT MORE THAN 3 YEARS AFTER THAT  
8 DATE. WHEN THE COMMISSION RECONVENES UNDER THIS SUBSECTION, IT  
9 SHALL DETERMINE AND RECOMMEND TO THE SECRETARY OF THE SENATE AND  
10 THE CLERK OF THE HOUSE OF REPRESENTATIVES THE DATES AND FREQUENCY  
11 OF THE COMMISSION'S FUTURE MEETINGS. THE COMMISSION SHALL CONVENE  
12 NO LESS FREQUENTLY THAN ONCE EVERY 3 YEARS, BUT MAY CONVENE MORE  
13 THAN ONCE EVERY 3 YEARS AS DETERMINED BY THE COMMISSION.