

SUBSTITUTE FOR  
HOUSE BILL NO. 4173

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER IX

Sec. 34a. (1) The Michigan 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 consists of the chairperson appointed by  
the governor under subsection (4) and all of the following members:

(a) Two individuals who are members of the senate, consisting  
of 1 member from each caucus appointed by the leader of that  
caucus.

1 (b) Two individuals who are members of the house of  
2 representatives, consisting of 1 member from each caucus appointed  
3 by the leader of that caucus.

4 (c) The attorney general or the attorney general's designee.

5 (d) One individual who is a circuit court judge, serving in a  
6 county with a population of less than 800,000, appointed from a  
7 list of 3 names submitted by the Michigan Judges Association.

8 (e) One individual who is a circuit court judge, serving in a  
9 county with a population of more than 800,000, appointed from a  
10 list of 3 names submitted by the Michigan Judges Association.

11 (f) One individual who represents law enforcement, appointed  
12 from a list of 6 names, with 3 submitted by the Michigan  
13 Association of Chiefs of Police and 3 names submitted by the  
14 Michigan Sheriffs' Association.

15 (g) One individual who represents the prosecuting attorneys of  
16 this state, appointed from a list of 3 names not all of whom are  
17 affiliated with the same political party, submitted by the  
18 Prosecuting Attorneys Association of Michigan.

19 (h) One individual who is an attorney in good standing  
20 appointed from a list of 3 names submitted by the Criminal Defense  
21 Attorneys of Michigan.

22 (i) One individual who is a member of a nongovernmental  
23 nonprofit that serves victims and represents victim service  
24 providers.

25 (j) One individual who was previously incarcerated.

26 (k) One individual who works in the mental or behavioral  
27 health field.

28 (l) The director of the Michigan department of corrections or  
29 the director's designee.

1           (2) Before January 1, 2024, the speaker of the house of  
2 representatives shall appoint 1 of the commission members described  
3 in subsection (1)(d) and (e) and the minority leader of the house  
4 of representatives shall appoint the remaining commission member.  
5 Before January 1, 2024, the senate majority leader shall appoint 1  
6 of the commission members described in subsection (1)(f) and (g)  
7 and the senate minority leader shall appoint the remaining  
8 commission member. Before January 1, 2024, the speaker of the house  
9 of representatives shall appoint 1 of the commission members  
10 described in subsection (1)(h) and (i) and the minority leader of  
11 the house of representatives shall appoint the remaining commission  
12 member. Before January 1, 2024, the senate majority leader shall  
13 appoint 1 of the members described in subsection (1)(j) and (k) and  
14 the senate minority leader shall appoint the remaining commission  
15 member.

16           (3) The speaker of the house of representatives, the minority  
17 leader of the house of representatives, the senate majority leader,  
18 and the senate minority leader shall appoint the members under  
19 subsection (1)(d) to (k) before January 1, 2024. However, if any  
20 appointment under subsection (1)(d) to (k) is not made by January  
21 1, 2024, the chairperson shall appoint a member meeting the  
22 applicable qualifications under subsection (1)(d) to (k). If a  
23 vacancy for 1 or more of the members under subsection (1)(d) to (k)  
24 occurs, the vacancy must be filled in the same manner as the  
25 original appointment not more than 30 days after it occurs. If the  
26 vacancy is not filled within 30 days, the chairperson shall appoint  
27 a member to the fill the vacancy. A member appointed to fill a  
28 vacancy caused by a resignation or death must be appointed for the  
29 balance of the unexpired term. Each member described in subsection

(1) (h) to (k) must attest either that the member affiliates with 1 of the 2 political parties with the largest representation in the 2 legislature, and if so, identify the political party with which the 3 member affiliates, or that the member does not affiliate with 4 either of the major political parties. Not less than 1 of the 5 appointments made under subsection (1) must be from a different 6 affiliation than the other appointments. 7

(4) Before January 1, 2024, the governor shall appoint, with 8 advice and consent of the senate, 1 member to the Michigan 9 sentencing commission who must serve as chairperson. The 10 chairperson must be appointed for a term of 4 years. The 11 chairperson shall serve as a nonvoting member of the commission. 12 The individual appointed as chairperson must have a professional 13 background in criminal law. 14

(5) Except as otherwise provided in this subsection, the 15 commission members must be appointed for terms of 4 years. The 16 members of the commission appointed under subsection (1) (a) and (b) 17 must be appointed for terms of 2 years. The members first serving 18 under subsection (1) (d), (e), (f), and (g) shall serve for 4 years. 19 The members first serving under subsection (1) (h), (i), (j), and 20 (k) shall serve for 3 years. The members first serving under 21 subsection (1) (c) and (l) shall serve for 2 years. 22

(6) Except as provided in subsection (3) for a member under 23 subsection (1) (d) to (k), a vacancy on the commission caused by the 24 expiration of a term or a resignation or death must be filled in 25 the same manner as the original appointment. A member appointed to 26 fill a vacancy caused by a resignation or death must be appointed 27 for the balance of the unexpired term. 28

(7) Except for the chairperson, a commission member must not 29

1 receive a salary for being a commission member but must be  
2 reimbursed for the member's reasonable, actual, and necessary  
3 expenses incurred in the performance of the member's duties as a  
4 commission member.

5 (8) The commission may establish subcommittees that may  
6 consist of individuals who are not members of the commission,  
7 including, but not limited to, experts in matters of interest to  
8 the commission. A subcommittee member, who is not a member of the  
9 commission, shall not vote on any recommendations made by the  
10 commission. A subcommittee member shall not receive a salary for  
11 the subcommittee member's service on a subcommittee.

12 (9) The commission's business must be conducted at public  
13 meetings held in compliance with the open meetings act, 1976 PA  
14 267, MCL 15.261 to 15.275.

15 (10) A quorum consists of a majority of the members of the  
16 commission. All commission business must be conducted by not less  
17 than a quorum.

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

22 Enacting section 1. This amendatory act does not take effect  
23 unless House Bill No. 4384 of the 102nd Legislature is enacted into  
24 law.