

**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:

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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 (5) 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 who shall serve as a nonvoting member.

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

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

12 (f) One individual who represents law enforcement, appointed
13 from a list of 3 names not all of whom are affiliated with the same
14 political party, submitted by the Michigan's 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 practicing criminal defense law and who is a member of the Criminal
21 Defense Attorneys of Michigan appointed by the governor from a list
22 of 3 names submitted under subsection (3).

23 (i) One individual who is a member of a nongovernmental
24 nonprofit that serves victims and represents victim service
25 providers appointed by the governor from a list of 3 names
26 submitted under subsection (3).

27 (j) One individual who was previously incarcerated, who shall
28 serve as a nonvoting member.

29 (k) One individual who works in the mental or behavioral



1 health field, who shall serve as a nonvoting member.

2 (l) The director of the Michigan department of corrections or
3 the director's designee, who shall serve as a nonvoting member.

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

12 (3) Before January 1, 2024 the governor shall appoint the
13 members described in subsection (1)(h) and (i) from a list of 3
14 names submitted by the senate majority leader and the senate
15 minority leader. The senate majority leader shall submit a list of
16 3 names for 1 of the members described in subsection (1)(h) and (i)
17 and the senate minority leader shall submit a list of 3 names for
18 the remaining commission member. After the terms for the members
19 first appointed under this subsection expire, the governor shall
20 appoint the members described under subsection (1)(h) and (i) from
21 a list of 3 names submitted by the speaker of the house of
22 representatives and the minority leader of the house of
23 representatives in the same manner as the original appointments.
24 For each appointment made under this subsection after the first 2
25 appointments, the governor shall appoint the members from lists
26 submitted in an alternating manner such that the appointments must
27 be made every 4 years from a list of 3 names submitted by the
28 leadership members from the other chamber of the legislature.

29 (4) Before January 1, 2024, the speaker of the house of



1 representatives and the senate majority leader shall, in
2 consultation with one another, appoint the members described in
3 subsection (1) (j) and (k). If the speaker of the house of
4 representatives and the senate majority leader are unable to agree
5 on an appointment, the chairperson shall appoint a member from
6 among the individuals who are the expressed choices of the speaker
7 of the house of representatives and the senate majority leader. If
8 neither the speaker of the house of representatives nor the senate
9 majority leader express a choice within 30 days of a vacancy on the
10 commission, the chairperson shall appoint the commission member.
11 Each member described in subsection (1) (h) to (k) must attest
12 either that the member affiliates with 1 of the 2 political parties
13 with the largest representation in the legislature, and if so,
14 identify the political party with which the member affiliates, or
15 that the member does not affiliate with either of the major
16 political parties. Not less than 1 of the appointments made under
17 subsection (1) must be from a different affiliation than the other
18 appointments.

19 (5) Before January 1, 2024, the governor shall appoint, with
20 advice and consent of the senate, 1 member to the Michigan
21 sentencing commission who must serve as chairperson. The
22 chairperson must be appointed for a term of 4 years. The
23 chairperson shall serve as a nonvoting member of the commission.
24 The individual appointed as chairperson must have a professional
25 background in criminal law.

26 (6) Except as otherwise provided in this subsection, the
27 commission members must be appointed for terms of 4 years. Of the
28 members first serving under subsection (1) (c) to (l), 3 members
29 shall serve for 2 years, 4 members shall serve for 3 years, and 3



1 members shall serve for 4 years. The members of the commission
2 appointed under subsection (1)(a) and (b) must be appointed for
3 terms of 2 years.

4 (7) A vacancy on the commission caused by the expiration of a
5 term or a resignation or death must be filled in the same manner as
6 the original appointment. A member appointed to fill a vacancy
7 caused by a resignation or death must be appointed for the balance
8 of the unexpired term.

9 (8) Except for the chairperson, a commission member must not
10 receive a salary for being a commission member but must be
11 reimbursed for the member's reasonable, actual, and necessary
12 expenses incurred in the performance of the member's duties as a
13 commission member.

14 (9) The commission may establish subcommittees that may
15 consist of individuals who are not members of the commission,
16 including, but not limited to, experts in matters of interest to
17 the commission. A subcommittee member, who is not a member of the
18 commission, shall not vote on any recommendations made by the
19 commission. A subcommittee member shall not receive a salary for
20 the subcommittee member's service on a subcommittee.

21 (10) The commission's business must be conducted at public
22 meetings held in compliance with the open meetings act, 1976 PA
23 267, MCL 15.261 to 15.275.

24 (11) A quorum consists of a majority of the members of the
25 commission. All commission business must be conducted by not less
26 than a quorum.

27 (12) A writing prepared, owned, used, in the possession of, or
28 retained by the commission in the performance of an official
29 function must be made available to the public in compliance with



1 **the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.**

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

