

SENATE BILL No. 1416

July 21, 2010, Introduced by Senator NOFS and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
(MCL 760.1 to 777.69) by adding section 32 to chapter V.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER V

SEC. 32. (1) AS USED IN THIS SECTION:

(A) "NONSECURED RELEASE" MEANS THE RELEASE OF A DEFENDANT FROM
PRETRIAL CUSTODY WITHOUT A CONDITION OF FINANCIAL GUARANTEE.

(B) "PRETRIAL RELEASE AGENCY" OR "PRA" MEANS A PROGRAM FUNDED
IN WHOLE OR IN PART BY THIS STATE OR A POLITICAL SUBDIVISION OF
THIS STATE WHOSE FUNCTION INCLUDES, BUT IS NOT LIMITED TO,
RECOMMENDATIONS FOR THE SECURED OR NONSECURED RELEASE OF DEFENDANTS
IN CRIMINAL CASES.

1 (C) "SECURED RELEASE" MEANS THE RELEASE OF A DEFENDANT FROM
2 PRETRIAL CUSTODY WITH A CONDITION OF A FINANCIAL GUARANTEE,
3 INCLUDING, BUT NOT LIMITED TO, CASH OR SURETY BOND.

4 (2) A PRETRIAL RELEASE AGENCY SHALL PREPARE A REGISTER
5 CONTAINING INFORMATION REGARDING DEFENDANTS IN CRIMINAL CASES WHO
6 ARE RECOMMENDED FOR NONSECURED RELEASE BY THE PRA. THIS REGISTER
7 SHALL BE LOCATED IN THE OFFICE OF THE CLERK OF THE COURT IN WHICH
8 THE PRA IS LOCATED, BE READILY AVAILABLE FOR PUBLIC VIEWING, AND
9 CONTAIN ALL OF THE FOLLOWING INFORMATION ABOUT THE DEFENDANT
10 UPDATED EACH WEEK:

11 (A) A LIST OF ALL CHARGES.

12 (B) A LIST OF PRIOR CRIMINAL CONVICTIONS, IF ANY.

13 (C) THE DATE OF REQUIRED COURT APPEARANCES AND ANY REQUIRED
14 COURT APPEARANCES AT WHICH THE DEFENDANT FAILED TO APPEAR.

15 (D) STATUS OF THE ISSUANCE OF A BENCH WARRANT.

16 (E) A LIST OF INSTANCES OF THE PRETRIAL RELEASE AGENCY'S
17 FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION.

18 (3) BEFORE THE END OF THE FIRST QUARTER OF EACH CALENDAR YEAR,
19 A PRETRIAL RELEASE AGENCY SHALL SUBMIT AN ANNUAL REPORT TO THE
20 CHIEF JUDGE OF THE CIRCUIT COURT IN EACH JUDICIAL CIRCUIT IN WHICH
21 THE PRA OPERATES. THIS ANNUAL REPORT SHALL CONTAIN ALL OF THE
22 FOLLOWING INFORMATION FOR THE IMMEDIATELY PREVIOUS CALENDAR YEAR:

23 (A) THE PRA'S COMPLETE OPERATING BUDGET.

24 (B) THE NUMBER OF PERSONNEL EMPLOYED BY THE PRA.

25 (C) THE TOTAL NUMBER OF PRETRIAL RELEASE RECOMMENDATIONS MADE
26 BY THE PRA.

27 (D) THE TOTAL NUMBER OF CASES THE PRA REVIEWED FOR PRETRIAL

1 RELEASE RECOMMENDATIONS.

2 (E) THE NUMBER OF CASES IN WHICH THE PRA DID NOT RECOMMEND
3 NONSECURED RELEASE.

4 (F) THE NUMBER OF DEFENDANTS GRANTED NONSECURED RELEASE UPON
5 THE PRA'S POSITIVE RECOMMENDATION.

6 (G) THE AVERAGE PERIOD OF TIME EACH DEFENDANT WAS INCARCERATED
7 BEFORE BEING GRANTED NONSECURED RELEASE UPON THE PRA'S
8 RECOMMENDATION.

9 (H) THE TOTAL NUMBER OF CASES IN WHICH A DEFENDANT WAS GRANTED
10 NONSECURED RELEASE UPON THE PRA'S POSITIVE RECOMMENDATION AND THE
11 DEFENDANT MISSED 1 OR MORE REQUIRED COURTS DATES WITHIN 1 YEAR OF
12 THAT RELEASE.

13 (I) THE TOTAL NUMBER OF CASES IN WHICH A DEFENDANT WAS GRANTED
14 NONSECURED RELEASE UPON THE PRA'S POSITIVE RECOMMENDATION AND THE
15 COURT ISSUED A BENCH WARRANT FOR THE ARREST OF THE DEFENDANT.

16 (J) THE TOTAL NUMBER OF CASES IN WHICH A DEFENDANT WAS GRANTED
17 NONSECURED RELEASE UPON THE PRA'S POSITIVE RECOMMENDATION, THE
18 COURT ISSUED A BENCH WARRANT FOR THE ARREST OF THE DEFENDANT, AND
19 THE BENCH WARRANT WAS NOT SERVED ON THE DEFENDANT 1 YEAR AFTER THE
20 DATE IT WAS ISSUED.

21 (K) THE TOTAL NUMBER OF CASES IN WHICH A DEFENDANT WAS GRANTED
22 NONSECURED RELEASE UPON THE PRA'S POSITIVE RECOMMENDATION AND A
23 WARRANT WAS ISSUED FOR THE DEFENDANT FOR ADDITIONAL CRIMINAL
24 CHARGES NOT MORE THAN 1 YEAR AFTER THE NONSECURED RELEASE.

25 (l) THE TOTAL NUMBER OF CASES IN WHICH A DEFENDANT WAS GRANTED
26 NONSECURED RELEASE UPON THE PRA'S POSITIVE RECOMMENDATION AND THE
27 DEFENDANT WAS ARRESTED FOR A NEW OFFENSE WHILE ON NONSECURED

1 RELEASE.

2 (M) AN ACCOUNTING OF THE PERCENTAGE OF THE PRA'S ANNUAL BUDGET
3 ALLOCATED TO ASSISTING DEFENDANTS ELIGIBLE FOR SECURED RELEASE IN
4 OBTAINING THEIR OWN RELEASE THROUGH A PROGRAM NOT FUNDED IN WHOLE
5 OR IN PART BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE.

6 (4) A PRETRIAL RELEASE AGENCY SHALL NOT USE THE FUNDS OF THIS
7 STATE OR A POLITICAL SUBDIVISION OF THIS STATE TO COMPLY WITH THE
8 REQUIREMENTS OF THIS SECTION.

9 (5) IF THE CHIEF JUDGE OF A COURT OF THIS STATE DETERMINES
10 THAT A PRETRIAL RELEASE AGENCY HAS VIOLATED THIS SECTION, THE CHIEF
11 JUDGE SHALL ORDER SANCTIONS AS FOLLOWS:

12 (A) FOR A FIRST VIOLATION, THE PRA SHALL IMMEDIATELY PREPARE A
13 WRITTEN REPORT EXPLAINING THE PRA'S FAILURE TO COMPLY WITH THE
14 REQUIREMENTS OF THIS SECTION, THE MEASURES THE PRA WILL TAKE TO
15 ACHIEVE COMPLIANCE, AND THE DATE BY WHICH COMPLIANCE WILL BE
16 ACHIEVED.

17 (B) FOR A SECOND OR SUBSEQUENT VIOLATION, THE PRA SHALL BE
18 ORDERED TO SHOW CAUSE WHY IT SHOULD NOT BE SANCTIONED. IF THE PRA
19 FAILS TO SHOW CAUSE UNDER THIS SUBDIVISION, THE CHIEF JUDGE MAY
20 ORDER THE PRA TO REDUCE ITS BUDGET BY 25% FOR THE BUDGET YEAR IN
21 WHICH THE SANCTION IS APPLIED.