

# SENATE BILL NO. 376

June 07, 2023, Introduced by Senators CHANG, MCBROOM, IRWIN, SHINK, SANTANA, WOJNO, BAYER, VICTORY, BELLINO and HUIZENGA and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

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

1  
2       **Sec. 34a. (1) The Michigan sentencing commission is created in**  
3 **the legislative council. The legislative council shall provide the**  
4 **commission with suitable office space, staff, and necessary**  
5 **equipment. The commission consists of the chairperson appointed by**

1 the governor under subsection (4) and all of the following members:

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

5 (b) Two individuals who are members of the house of  
6 representatives, consisting of 1 member from each caucus appointed  
7 by the leader of their caucus.

8 (c) The attorney general or the attorney general's designee,  
9 who shall serve as a nonvoting member.

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

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

16 (f) One individual who represents law enforcement, appointed  
17 from a list of 3 names not all of whom are affiliated with the same  
18 political party, submitted by the Michigan Sheriffs' Association.

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

23 (h) One individual who represents criminal defense attorneys,  
24 appointed from a list of 3 names not all of whom are affiliated  
25 with the same political party, submitted by the Criminal Defense  
26 Attorneys of Michigan.

27 (i) One individual who is a member of a nongovernmental  
28 nonprofit that serves victims and represents victim service  
29 providers.

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

3 (k) One individual who works in the mental or behavioral  
4 health field, who shall serve as a nonvoting member.

5 (l) One individual appointed from a list of 3 names submitted  
6 by the director of the Michigan department of corrections.

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

18 (3) Before January 1, 2024, the speaker of the house of  
19 representatives and the senate majority leader shall, in  
20 consultation with one another, appoint the members described in  
21 subsection (1)(h) to (l). If the speaker of the house of  
22 representatives and the senate majority leader are unable to agree  
23 on an appointment, the chairperson shall appoint a member from  
24 among the individuals who are the expressed choices of the speaker  
25 of the house of representatives and the senate majority leader. If  
26 neither the speaker of the house of representatives nor the senate  
27 majority leader express a choice within 30 days of a vacancy on the  
28 commission, the chairperson shall appoint the commission member.  
29 Members described in subsection (1)(h) to (l) must attest either

1 that they affiliate with 1 of the 2 political parties with the  
2 largest representation in the legislature, and if so, identify the  
3 party with which they affiliate, or that they do not affiliate with  
4 either of the major parties. Not less than 1 of the appointments  
5 made under subsection (1) must be from a different affiliation than  
6 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. Of the  
16 members first serving under subsection (1)(c) to (l), 3 members  
17 shall serve for 2 years, 4 members shall serve for 3 years, and 3  
18 members shall serve for 4 years. The members of the commission  
19 appointed under subsection (1)(a) and (b) must be appointed for  
20 terms of 2 years.

21 (6) A vacancy on the commission caused by the expiration of a  
22 term or a resignation or death must be filled in the same manner as  
23 the original appointment. A member appointed to fill a vacancy  
24 caused by a resignation or death must be appointed for the balance  
25 of the unexpired term.

26 (7) Except for the chairperson, a commission member must not  
27 receive a salary for being a commission member but must be  
28 reimbursed for the member's reasonable, actual, and necessary  
29 expenses incurred in the performance of the member's duties as a

1 commission member.

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

9 (9) The commission's business must be conducted at public  
10 meetings held in compliance with the open meetings act, 1976 PA  
11 267, MCL 15.261 to 15.275.

12 (10) A quorum consists of a majority of the members of the  
13 commission. All commission business must be conducted by not less  
14 than a quorum.

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

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