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SENTENCING RULES: CODE OF CRIMINAL PROCEDURE CHAPTER IX

1 769.1a Order of restitution.

2 Sec. 1a.

3 (1) As used in this section:

4 (a) "Crime victim services commission" means that term as described in section 2 of
5 1976 PA 223, MCL 18.352.

6 (b) "Victim" means an individual who suffers direct or threatened physical, financial, or
7 emotional harm as a result of the commission of a felony, misdemeanor, or ordinance
8 violation. For purposes of subsections (2), (3), (6), (8), (9), and (13), victim includes a
9 sole proprietorship, partnership, corporation, association, governmental entity, or any
10 other legal entity that suffers direct physical or financial harm as a result of a felony,
11 misdemeanor, or ordinance violation.

12 (2) Except as provided in subsection (8), when sentencing a defendant convicted of a
13 felony, misdemeanor, or ordinance violation, the court shall order, in addition to or in lieu
14 of any other penalty authorized by law or in addition to any other penalty required by
15 law, that the defendant make full restitution to any victim of the defendant's course of
16 conduct that gives rise to the conviction or to the victim's estate.

17 (3) If a felony, misdemeanor, or ordinance violation results in damage to or loss or
18 destruction of property of a victim of the felony, misdemeanor, or ordinance violation or
19 results in the seizure or impoundment of property of a victim of the felony, misdemeanor,
20 or ordinance violation, the order of restitution may require that the defendant do 1 or
21 more of the following, as applicable:

22 (a) Return the property to the owner of the property or to a person designated by the
23 owner.

24 (b) If return of the property under subdivision (a) is impossible, impractical, or
25 inadequate, pay an amount equal to the greater of subparagraph (i) or (ii), less the value,
26 determined as of the date the property is returned, of that property or any part of the
27 property that is returned:

28 (i) The fair market value of the property on the date of the damage, loss, or destruction.
29 However, if the fair market value of the property cannot be determined or is impractical
30 to ascertain, then the replacement value of the property shall be utilized in lieu of the fair
31 market value.

32 (ii) The fair market value of the property on the date of sentencing. However, if the fair
33 market value of the property cannot be determined or is impractical to ascertain, then the
34 replacement value of the property shall be utilized in lieu of the fair market value.

35 (c) Pay the cost of the seizure or impoundment, or both.

36 (4) If a felony, misdemeanor, or ordinance violation results in physical or psychological
37 injury to a victim, the order of restitution may require that the defendant do 1 or more of
38 the following, as applicable:

39 (a) Pay an amount equal to the cost of actual medical and related professional services
40 and devices relating to physical and psychological care.

41 (b) Pay an amount equal to the cost of actual physical and occupational therapy and
42 rehabilitation.

43 (c) Reimburse the victim or the victim's estate for after-tax income loss suffered by the
44 victim as a result of the felony, misdemeanor, or ordinance violation.

1 (d) Pay an amount equal to the cost of psychological and medical treatment for members
2 of the victim's family that has been incurred as a result of the felony, misdemeanor, or
3 ordinance violation.

4 (e) Pay an amount equal to the cost of actual homemaking and child care expenses
5 incurred as a result of the felony, misdemeanor, or ordinance violation.

6 (5) If a felony, misdemeanor, or ordinance violation resulting in bodily injury also results
7 in the death of a victim, the order of restitution may require that the defendant pay an
8 amount equal to the cost of actual funeral and related services.

9 (6) If the victim or the victim's estate consents, the order of restitution may require that
10 the defendant make restitution in services in lieu of money.

11 (7) If the victim is deceased, the court shall order that the restitution be made to the
12 victim's estate.

13 (8) The court shall order restitution to the crime victim services commission or to any
14 individuals, partnerships, corporations, associations, governmental entities, or other legal
15 entities that have compensated the victim or the victim's estate for a loss incurred by the
16 victim to the extent of the compensation paid for that loss. The court shall also order
17 restitution for the costs of services provided to persons or entities that have provided
18 services to the victim as a result of the felony, misdemeanor, or ordinance violation.
19 Services that are subject to restitution under this subsection include, but are not limited
20 to, shelter, food, clothing, and transportation. However, an order of restitution shall
21 require that all restitution to a victim or a victim's estate under the order be made before
22 any restitution to any other person or entity under that order is made. The court shall not
23 order restitution to be paid to a victim or victim's estate if the victim or victim's estate has
24 received or is to receive compensation for that loss, and the court shall state on the record
25 with specificity the reasons for its action. If an entity entitled to restitution under this
26 subsection for compensating the victim or the victim's estate cannot or refuses to be
27 reimbursed for that compensation, the restitution paid for that entity shall be deposited by
28 the state treasurer in the crime victim's rights fund created under section 4 of 1989 PA
29 196, MCL 780.904, or its successor fund.

30 (9) Any amount paid to a victim or a victim's estate under an order of restitution shall be
31 set off against any amount later recovered as compensatory damages by the victim or the
32 victim's estate in any federal or state civil proceeding and shall reduce the amount
33 payable to a victim or a victim's estate by an award from the crime victim services
34 commission made after an order of restitution under this section.

35 (10) If not otherwise provided by the court under this subsection, restitution shall be
36 made immediately. However, the court may require that the defendant make restitution
37 under this section within a specified period or in specified installments.

38 (11) If the defendant is placed on probation or paroled or the court imposes a conditional
39 sentence under section 3 of this chapter, any restitution ordered under this section shall be
40 a condition of that probation, parole, or sentence. The court may revoke probation or
41 impose imprisonment under the conditional sentence and the parole board may revoke
42 parole if the defendant fails to comply with the order and if the defendant has not made a
43 good faith effort to comply with the order. In determining whether to revoke probation or
44 parole or impose imprisonment, the court or parole board shall consider the defendant's
45 employment status, earning ability, and financial resources, the willfulness of the

1 defendant's failure to pay, and any other special circumstances that may have a bearing
2 on the defendant's ability to pay.

3 (12) A defendant who is required to pay restitution and who is not in willful default of the
4 payment of the restitution may at any time petition the sentencing judge or his or her
5 successor to modify the method of payment. If the court determines that payment under
6 the order will impose a manifest hardship on the defendant or his or her immediate
7 family, the court may modify the method of payment.

8 (13) An order of restitution entered under this section remains effective until it is satisfied
9 in full. An order of restitution is a judgment and lien against all property of the defendant
10 for the amount specified in the order of restitution. The lien may be recorded as provided
11 by law. An order of restitution may be enforced by the prosecuting attorney, a victim, a
12 victim's estate, or any other person or entity named in the order to receive the restitution
13 in the same manner as a judgment in a civil action or a lien.

14 (14) Notwithstanding any other provision of this section, a defendant shall not be
15 imprisoned, jailed, or incarcerated for a violation of probation or parole or otherwise for
16 failure to pay restitution as ordered under this section unless the court or parole board
17 determines that the defendant has the resources to pay the ordered restitution and has not
18 made a good faith effort to do so.

19 (15) In each case in which payment of restitution is ordered as a condition of probation,
20 the probation officer assigned to the case shall review the case not less than twice yearly
21 to ensure that restitution is being paid as ordered. The final review shall be conducted not
22 less than 60 days before the probationary period expires. If the probation officer
23 determines that restitution is not being paid as ordered, the probation officer shall file a
24 written report of the violation with the court on a form prescribed by the state court
25 administrative office. The report shall include a statement of the amount of the arrearage
26 and any reasons for the arrearage known by the probation officer. The probation officer
27 shall immediately provide a copy of the report to the prosecuting attorney. If a motion is
28 filed or other proceedings are initiated to enforce payment of restitution and the court
29 determines that restitution is not being paid or has not been paid as ordered by the court,
30 the court shall promptly take action necessary to compel compliance.

31 (16) If a defendant who is ordered to pay restitution under this section is remanded to the
32 jurisdiction of the department of corrections, the court shall provide a copy of the order of
33 restitution to the department of corrections when the defendant is ordered remanded to
34 the department's jurisdiction.

35 **(17) THE STATE COURT ADMINISTRATIVE OFFICE SHALL ENSURE THAT**
36 **COURT CASE MANAGEMENT SYSTEMS ALLOW FOR THE**
37 **MEASUREMENT OF RESTITUTION ASSESSMENT AND COLLECTION AS A**
38 **COURT PERFORMANCE MEASURE FOR DISTRICT AND CIRCUIT**
39 **COURTS.**

40
41 769.11 Order of restitution; deduction; payment to court; priority.

42 Sec. 11.

43 If a prisoner under the jurisdiction of the department of corrections has been ordered to
44 pay any sum of money as described in section 1k and the department of corrections
45 receives an order from the court on a form prescribed by the state court administrative
46 office, the department of corrections shall deduct 50% of the funds received by the

1 prisoner in a month over \$50.00 and promptly forward a payment to the court as provided
2 in the order when the amount exceeds \$100.00, or the entire amount if the prisoner is
3 paroled, is transferred to community programs, or is discharged on the maximum
4 sentence. The department of corrections shall give an order of restitution under section
5 20h of the corrections code of 1953, 1953 PA 232, MCL 791.220h, or the crime victim's
6 rights act, 1985 PA 87, MCL 780.751 to 780.834, priority over an order received under
7 this section. **THE DEPARTMENT SHALL TRACK AND REPORT**
8 **RESTITUTION COLLECTION AS A PERFORMANCE MEASURE.**

9
10 ~~769.8 Definite term prohibited for conviction for first time for felony; fixing~~ **FIXING**
11 ~~minimum AND MAXIMUM term; stating maximum term; examination of convict;~~
12 ~~entering facts in minutes of court~~

13 Sec. 8. (1) When a person is convicted ~~for the first time~~ for committing a felony and the
14 punishment prescribed by law for that offense may be imprisonment in a state prison, the
15 court imposing sentence shall ~~not~~ fix a definite **MINIMUM AND MAXIMUM** term of
16 imprisonment **UNDER SECTION 34, WHICH,** but shall fix a minimum term, except as
17 ~~otherwise provided in this chapter. The maximum penalty provided by law shall be the~~
18 ~~maximum sentence in all cases except as provided in this chapter and shall be stated by~~
19 the judge in imposing the sentence. **THIS SECTION DOES NOT APPLY TO**
20 **SENTENCES IMPOSED OUTSIDE THE GUIDELINES SET FORTH IN**
21 **CHAPTER XVII.**

22 ~~(2) Before or at the time of imposing sentence, the judge shall ascertain by examining the~~
23 ~~defendant under oath, or otherwise, and by other evidence as can be obtained tending to~~
24 ~~indicate briefly the causes of the defendant's criminal character or conduct, which facts~~
25 ~~and other facts that appear to be pertinent in the case the judge shall cause to be entered~~
26 ~~upon the minutes of the court.~~

27
28 769.10 Punishment for subsequent felony; sentence imposed for term of years considered
29 indeterminate sentence; use of conviction to enhance sentence prohibited.

30 Sec. 10. (1) If a person has **A PRIOR CONVICTION** ~~been convicted of a felony or an~~
31 ~~attempt to commit a felony,~~ whether the **PRIOR** conviction occurred in this state or
32 would have been for a felony or attempt to commit a felony in this state if obtained in this
33 state, and that person commits a subsequent felony within this state, the person shall be
34 punished upon conviction of the subsequent felony and sentencing under section 13 of
35 this chapter as follows:

36 (a) If the subsequent felony is punishable upon a first conviction by imprisonment
37 for a term less than life, the court, except as otherwise provided in this section or section
38 1 of chapter XI, may place the person on probation or sentence the person to
39 imprisonment for a maximum term that is not more than 1-1/2 times the longest term
40 prescribed for a first conviction of that offense or for a lesser term.

41 (b) If the subsequent felony is punishable upon a first conviction by imprisonment
42 for life, the court, except as otherwise provided in this section or section 1 of chapter XI,
43 may place the person on probation or sentence the person to imprisonment for life or for a
44 lesser term.

1 (c) If the subsequent felony is a major controlled substance offense, the person
2 shall be punished as provided by part 74 of the public health code, 1978 PA 368, MCL
3 333.7401 to 333.7461.

4 (2) If the court pursuant to this section imposes a sentence of imprisonment for any term
5 of years, the court shall fix the length of both the minimum and maximum sentence
6 within any specified limits in terms of years or a fraction of a year and the sentence so
7 imposed shall be considered an indeterminate sentence. The court shall not fix a
8 maximum sentence that is less than the maximum term for a first conviction.

9 (3) A **PRIOR** conviction shall not be used to enhance a sentence under this section if that
10 **PRIOR** conviction is used **TO SCORE PRIOR RECORD VARIABLES UNDER**
11 **PART V OF CHAPTER XVII OR** to enhance a sentence under a statute that prohibits
12 use of the **PRIOR** conviction for further enhancement under this section.

13 (4) **AS USED IN THIS SECTION, "PRIOR CONVICTION" MEANS A**
14 **CONVICTION FOR A FELONY OR AN ATTEMPTED FELONY THAT**
15 **OCCURRED BEFORE THE COMMISSION OF THE SUBSEQUENT FELONY.**
16 **ANY FELONY OR ATTEMPTED FELONY ARISING FROM THE SAME**
17 **CRIMINAL INCIDENT OR TRANSACTION, OR JOINED WITH ANOTHER**
18 **FELONY FOR PROSECUTION UNDER MCR 6.120(A) OR (B), SHALL BE**
19 **CONSIDERED A SINGLE FELONY OR ATTEMPTED FELONY FOR**
20 **PURPOSES OF ESTABLISHING THE NUMBER OF PRIOR CONVICTIONS**
21 **UNDER THIS SECTION.**

22
23 769.11 Punishment for subsequent felony following conviction of 2 or more felonies;
24 sentence for term of years considered indeterminate sentence; use of conviction to
25 enhance sentence prohibited.

26 Sec. 11. (1) If a person has ~~been convicted of~~ any combination of 2 or more **PRIOR**
27 **CONVICTIONS** ~~felonies or attempts to commit felonies~~, whether the **PRIOR**
28 convictions occurred in this state or would have been for felonies or attempts to commit
29 felonies in this state if obtained in this state and that person commits a subsequent felony
30 within this state, the person shall be punished upon conviction of the subsequent felony
31 and sentencing under section 13 of this chapter as follows:

32 (a) If the subsequent felony is punishable upon a first conviction by imprisonment
33 for a term less than life, the court, except as otherwise provided in this section or section
34 1 of chapter XI, may sentence the person to imprisonment for a maximum term that is not
35 more than twice the longest term prescribed by law for a first conviction of that offense
36 or for a lesser term.

37 (b) If the subsequent felony is punishable upon a first conviction by imprisonment
38 for life, the court, except as otherwise provided in this section or section 1 of chapter XI,
39 may sentence the person to imprisonment for life or for a lesser term.

40 (c) If the subsequent felony is a major controlled substance offense, the person
41 shall be punished as provided by part 74 of the public health code, 1978 PA 368, MCL
42 333.7401 to 333.7461.

43 (2) If the court pursuant to this section imposes a sentence of imprisonment for any term
44 of years, the court shall fix the length of both the minimum and maximum sentence
45 within any specified limits in terms of years or a fraction of a year, and the sentence so

1 imposed shall be considered an indeterminate sentence. The court shall not fix a
2 maximum sentence that is less than the maximum term for a first conviction.

3 (3) A **PRIOR** conviction shall not be used to enhance a sentence under this section if that
4 **PRIOR** conviction is used **TO SCORE PRIOR RECORD VARIABLES UNDER**
5 **PART V OF CHAPTER XVII OR** to enhance a sentence under a statute that prohibits
6 use of the conviction for further enhancement under this section.

7 **(4) AS USED IN THIS SECTION, "PRIOR CONVICTION" MEANS A**
8 **CONVICTION FOR A FELONY OR AN ATTEMPTED FELONY THAT**
9 **OCCURRED BEFORE THE COMMISSION OF THE SUBSEQUENT FELONY.**
10 **ANY FELONY OR ATTEMPTED FELONY ARISING FROM THE SAME**
11 **CRIMINAL INCIDENT OR TRANSACTION, OR JOINED WITH ANOTHER**
12 **FELONY FOR PROSECUTION UNDER MCR 6.120(A) OR (B), SHALL BE**
13 **CONSIDERED A SINGLE FELONY OR ATTEMPTED FELONY FOR**
14 **PURPOSES OF ESTABLISHING THE NUMBER OF PRIOR CONVICTIONS**
15 **UNDER THIS SECTION.**

16
17 769.12 Punishment for subsequent felony following conviction of 3 or more felonies;
18 sentence for term of years considered indeterminate sentence; use of conviction to
19 enhance sentence prohibited; eligibility for parole; provisions not in derogation of
20 consecutive sentence; definitions.

21 Sec. 12. (1) If a person has been convicted of any combination of 3 or more felonies or
22 attempts to commit felonies, whether the convictions occurred in this state or would have
23 been for felonies or attempts to commit felonies in this state if obtained in this state,
24 **AND EACH FELONY CONVICTION IS FOR AN OFFENSE THAT OCCURRED**
25 **SUBSEQUENT TO THE PREVIOUS CONVICTION HAVING BECOME FINAL,**
26 and that person commits a subsequent felony within this state, the person shall be
27 punished upon conviction of the subsequent felony and sentencing under section 13 of
28 this chapter as follows:

29 (a) If the subsequent felony is a serious crime or a conspiracy to commit a serious
30 crime, and 1 or more of the prior felony convictions are listed prior felonies, the court
31 shall sentence the person to imprisonment for not less than 25 years. Not more than 1
32 conviction arising out of the same transaction shall be considered a prior felony
33 conviction for the purposes of this subsection only.

34 (b) If the subsequent felony is punishable upon a first conviction by imprisonment
35 for a maximum term of 5 years or more or for life, the court, except as otherwise
36 provided in this section or section 1 of chapter XI, may sentence the person to
37 imprisonment for life or for a lesser term.

38 (c) If the subsequent felony is punishable upon a first conviction by imprisonment
39 for a maximum term that is less than 5 years, the court, except as otherwise provided in
40 this section or section 1 of chapter XI, may sentence the person to imprisonment for a
41 maximum term of not more than 15 years.

42 (d) If the subsequent felony is a major controlled substance offense, the person
43 shall be punished as provided by part 74 of the public health code, 1978 PA 368, MCL
44 333.7401 to 333.7461.

45 (2) If the court imposes a sentence of imprisonment for any term of years under this
46 section, the court shall fix the length of both the minimum and maximum sentence within

1 any specified limits in terms of years or a fraction of a year, and the sentence so imposed
2 shall be considered an indeterminate sentence. The court shall not fix a maximum
3 sentence that is less than the maximum term for a first conviction.

4 (3) A conviction shall not be used to enhance a sentence under this section if that
5 conviction is used **TO SCORE PRIOR RECORD VARIABLES UNDER PART V**
6 **OF CHAPTER XVII OR** to enhance a sentence under a statute that prohibits use of the
7 conviction for further enhancement under this section.

8 (4) **AS USED IN THIS SECTION, "PRIOR CONVICTION" MEANS A**
9 **CONVICTION FOR A FELONY OR AN ATTEMPTED FELONY THAT**
10 **OCCURRED BEFORE THE COMMISSION OF THE SUBSEQUENT FELONY.**
11 **ANY FELONY OR ATTEMPTED FELONY ARISING FROM THE SAME**
12 **CRIMINAL INCIDENT OR TRANSACTION, OR JOINED WITH ANOTHER**
13 **FELONY FOR PROSECUTION UNDER MCR 6.120(A) OR (B), SHALL BE**
14 **CONSIDERED A SINGLE FELONY OR ATTEMPTED FELONY FOR**
15 **PURPOSES OF ESTABLISHING THE NUMBER OF PRIOR CONVICTIONS**
16 **UNDER THIS SECTION.**

17 (5) An offender sentenced under this section or section 10 or 11 of this chapter for an
18 offense other than a major controlled substance offense is not eligible for parole until
19 expiration of the following:

20 (a) For a prisoner other than a prisoner subject to disciplinary time, the minimum
21 term fixed by the sentencing judge at the time of sentence unless the sentencing judge or
22 a successor gives written approval for parole at an earlier date authorized by law.

23 (b) For a prisoner subject to disciplinary time, the minimum term fixed by the
24 sentencing judge.

25 ~~(6)(5)~~ This section and sections 10 and 11 of this chapter are not in derogation of other
26 provisions of law that permit or direct the imposition of a consecutive sentence for a
27 subsequent felony.

28 ~~(7)(6)~~ As used in this section:

29 (a) "Listed prior felony" means a violation or attempted violation of any of the following:

30 (i) Section 602a(4) or (5) or 625(4) of the Michigan vehicle code, 1949 PA 300, MCL
31 257.602a and 257.625.

32 (ii) Article 7 of the public health code, 1978 PA 368, MCL 333.7101 to 333.7545, that is
33 punishable by imprisonment for more than 4 years.

34 (iii) Section 72, 82, 83, 84, 85, 86, 87, 88, 89, 91, 110a(2) or (3), 136b(2) or (3), 145n(1)
35 or (2), 157b, 197c, 226, 227, 234a, 234b, 234c, 317, 321, 329, 349, 349a, 350, 397,
36 411h(2)(b), 411i, 479a(4) or (5), 520b, 520c, 520d, 520g, 529, 529a, or 530 of the
37 Michigan penal code, 1931 PA 328, MCL 750.72, 750.82, 750.83, 750.84, 750.85,
38 750.86, 750.87, 750.88, 750.89, 750.91, 750.110a, 750.136b, 750.145n, 750.157b,
39 750.197c, 750.226, 750.227, 750.234a, 750.234b, 750.234c, 750.317, 750.321, 750.329,
40 750.349, 750.349a, 750.350, 750.397, 750.411h, 750.411i, 750.479a, 750.520b,
41 750.520c, 750.520d, 750.520g, 750.529, 750.529a, and 750.530.

42 (iv) A second or subsequent violation or attempted violation of section 227b of the
43 Michigan penal code, 1931 PA 328, MCL 750.227b.

44 (v) Section 2a of 1968 PA 302, MCL 752.542a.

45 (b) "Prisoner subject to disciplinary time" means that term as defined in section 34 of
46 1893 PA 118, MCL 800.34.

1 (c) "Serious crime" means an offense against a person in violation of section 83, 84, 86,
2 88, 89, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d, 520g(1), 529, or 529a of the
3 Michigan penal code, 1931 PA 328, MCL 750.83, 750.84, 750.86, 750.88, 750.89,
4 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b, 750.520c, 750.520d,
5 750.520g, 750.529, and 750.529a.

6
7 769.31 Definitions.

8 Sec. 31. As used in this section and section 34 of this chapter:

9 (a) "Departure" means a sentence imposed that is not within the appropriate minimum
10 sentence range **OR PRESUMPTIVE DISPOSITION** established under **SECTION 34**
11 **OF THIS CHAPTER OR** the sentencing guidelines set forth in chapter XVII.

12 (b) "**INITIAL JAIL TERM**" **MEANS A PERIOD OF IMPRISONMENT IN THE**
13 **COUNTY JAIL, TO BE FOLLOWED BY A SUPERVISION TERM AND A**
14 **SANCTION TERM.**

15 (c) "**INITIAL PRISON TERM**" **MEANS A PERIOD OF IMPRISONMENT**
16 **UNDER THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS, TO BE**
17 **FOLLOWED BY A SUPERVISION TERM AND A SANCTION TERM.**

18 (d) "Intermediate sanction" means probation or any sanction, other than imprisonment in
19 a state prison or state reformatory, that may lawfully be imposed. Intermediate sanction
20 includes, but is not limited to, 1 or more of the following, **WITH OR WITHOUT**
21 **PROBATION:**

22 (i) Inpatient or outpatient drug treatment or participation in a drug treatment court
23 under chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL
24 600.1060 to 600.1082.

25 ~~(ii) Probation with any probation conditions required or authorized by law.~~

26 ~~(iii) Residential probation.~~

27 ~~(iv) Probation with jail.~~

28 ~~(v) Probation with special~~ Special alternative incarceration.

29 ~~(iii)~~ ~~(vi)~~ Mental health treatment.

30 ~~(iv)~~ ~~(vii)~~ Mental health or substance abuse counseling.

31 ~~(v)~~ **COGNITIVE BEHAVIORAL TREATMENT.**

32 ~~(vi)~~ ~~(viii)~~ Jail, **ONLY AS AUTHORIZED BY SECTION 34 OF THIS**
33 **CHAPTER.**

34 ~~(ix) Jail with work or school release.~~

35 ~~(x) Jail with or without authorization for day parole under 1962 PA 60, MCL~~
36 ~~801.251 to 801.258.~~

37 ~~(vii)~~ ~~(xi)~~ Participation in a community corrections program.

38 ~~(viii)~~ ~~(xii)~~ Community service.

39 ~~(ix)~~ ~~(xiii)~~ Payment of a fine.

40 ~~(xi)~~ ~~(xiv)~~ House arrest.

41 ~~(xii)~~ ~~(xv)~~ Electronic monitoring.

42 ~~(e)~~ ~~(e)~~ "Offender characteristics" means only the prior criminal record of an offender.

43 ~~(f)~~ ~~(d)~~ "Offense characteristics" means the elements of the crime and the aggravating and
44 mitigating factors relating to the offense that the legislature determines are appropriate.

45 For purposes of this subdivision, an offense described in section 33b of the corrections
46 code of 1953, 1953 PA 232, MCL 791.233b, that resulted in a conviction and that arose

1 out of the same transaction as the offense for which the sentencing guidelines are being
2 scored shall be considered as an aggravating factor.

3 **(g)(e) “SUPERVISION TERM” MEANS PROBATION SUPERVISION AS AN**
4 **INITIAL SENTENCE OR FOLLOWING AN INITIAL JAIL TERM, OR**
5 **PAROLE SUPERVISION FOLLOWING AN INITIAL PRISON TERM, FOR A**
6 **PERIOD OF TIME GUIDED BY PRIOR RECORD VARIABLE LEVEL IN THE**
7 **APPLICABLE SENTENCING GRID IN CHAPTER XVII. A SUPERVISION**
8 **TERM MAY DEVIATE FROM THE GUIDED AMOUNT WITHOUT A**
9 **DEPARTURE.**

10 **(h) “PRESUMPTIVE DISPOSITION” MEANS INTERMEDIATE SANCTION,**
11 **JAIL, OR PRISON, AS DETERMINED BY SUBSECTIONS (4) AND (5) OF**
12 **SECTION 34 OF THIS CHAPTER AND THE APPLICABLE SENTENCING**
13 **GRID SET FORTH IN CHAPTER XVII.**

14 **(i) “Prior criminal record” means all of the following:**

15 (i) Misdemeanor and felony convictions.

16 (ii) Probation and parole violations involving criminal activity.

17 (iii) Dispositions entered under section 18 of chapter XIA of 1939 PA 288, MCL
18 712A.18, for acts that would have been crimes if committed by an adult.

19 (iv) Assignment to youthful trainee status under sections 11 to 15 of chapter II.

20 (v) A conviction set aside under 1965 PA 213, MCL 780.621 to 780.624.

21 (vi) Dispositions described in subparagraph (iii) that have been set aside under
22 section 18e of chapter XIA of 1939 PA 288, MCL 712A.18e, or expunged.

23 **(j) “SANCTION TERM” MEANS A POTENTIAL PERIOD OF IMPRISONMENT**
24 **THAT IS ESTABLISHED AT SENTENCING UNDER SECTION 34 OF THIS**
25 **CHAPTER, TO BE USED FOR IMPOSING SANCTIONS BY THE**
26 **SENTENCING JUDGE UNDER SECTION .4 OF THE CODE OF CRIMINAL**
27 **PROCEDURE, ACT 175 OF 1927, MCL 771.4, OR THE PAROLE BOARD**
28 **UNDER SECTION 40a OF THE CORRECTIONS CODE OF 1953, ACT 232 OF**
29 **1953, MCL 791.240A.**

30 **769.32 CRIMINAL JUSTICE POLICY COMMISSION**

31 **(1) A CRIMINAL JUSTICE POLICY COMMISSION IS CREATED IN THE**
32 **LEGISLATIVE COUNCIL. THE LEGISLATIVE COUNCIL SHALL PROVIDE**
33 **THE COMMISSION WITH SUITABLE OFFICE SPACE, STAFF, AND**
34 **NECESSARY EQUIPMENT, AND SHALL ESTABLISH PROCEDURES FOR**
35 **APPROVING THE BUDGET OF THE OFFICE. THE COMMISSION SHALL**
36 **CONSIST OF 15 VOTING MEMBERS. THE GOVERNOR SHALL APPOINT**
37 **MEMBERS UNDER THIS SUBSECTION AS FOLLOWS:**

38 **(A) TWO INDIVIDUALS WHO ARE MEMBERS OF THE SENATE,**
39 **CONSISTING OF 1 MEMBER FROM EACH CAUCUS.**

40 **(B) TWO INDIVIDUALS WHO ARE MEMBERS OF THE HOUSE OF**
41 **REPRESENTATIVES, CONSISTING OF 1 MEMBER FROM EACH CAUCUS.**

42 **(C) TWO INDIVIDUALS WHO ARE SITTING CIRCUIT COURT JUDGES.**

43 **(D) ONE INDIVIDUAL WHO REPRESENTS THE PROSECUTING**
44 **ATTORNEYS OF THIS STATE.**

45 **(E) ONE INDIVIDUAL WHO REPRESENTS CRIMINAL DEFENSE**
46

1 **ATTORNEYS.**

2 **(F) ONE INDIVIDUAL WHO REPRESENTS SHERIFFS.**

3 **(G) ONE INDIVIDUAL WHO REPRESENTS THE OFFICE OF COMMUNITY**
4 **CORRECTIONS.**

5 **(H) ONE INDIVIDUAL WHO REPRESENTS ADVOCATES OF**
6 **ALTERNATIVES TO INCARCERATION.**

7 **(I) ONE INDIVIDUAL WHO REPRESENTS CRIME VICTIMS.**

8 **(J) ONE INDIVIDUAL WHO REPRESENTS THE STATE COURT**
9 **ADMINISTRATIVE OFFICE.**

10 **(K) TWO INDIVIDUALS WHO REPRESENT THE GENERAL PUBLIC.**

11 **(2) THE GOVERNOR SHALL APPOINT THE COMMISSION MEMBERS BY**
12 **MARCH 1, 2015. THE GOVERNOR SHALL DESIGNATE 1 OF THE MEMBERS**
13 **REPRESENTING THE GENERAL PUBLIC AS COMMISSION CHAIRPERSON.**

14 **(3) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE**
15 **COMMISSION MEMBERS SHALL BE APPOINTED FOR TERMS OF 4**
16 **YEARS. OF THE MEMBERS FIRST APPOINTED UNDER SUBSECTION (1)(C)**
17 **TO (K), 4 MEMBERS SHALL SERVE FOR 2 YEARS, 4 MEMBERS SHALL**
18 **SERVE FOR 3 YEARS, AND 3 MEMBERS SHALL SERVE FOR 4 YEARS, AS**
19 **DESIGNATED BY THE CHAIRPERSON OF THE LEGISLATIVE COUNCIL.**
20 **THE MEMBERS OF THE COMMISSION APPOINTED UNDER SUBSECTION**
21 **(1)(A) AND (B) SHALL BE APPOINTED FOR TERMS OF 2 YEARS.**

22 **(4) A VACANCY ON THE COMMISSION CAUSED BY THE EXPIRATION OF**
23 **A TERM OR A RESIGNATION OR DEATH SHALL BE FILLED IN THE SAME**
24 **MANNER AS THE ORIGINAL APPOINTMENT. A MEMBER APPOINTED TO**
25 **FILL A VACANCY CAUSED BY A RESIGNATION OR DEATH SHALL BE**
26 **APPOINTED FOR THE BALANCE OF THE UNEXPIRED TERM.**

27 **(5) A COMMISSION MEMBER SHALL NOT RECEIVE A SALARY FOR**
28 **BEING A COMMISSION MEMBER, BUT SHALL BE REIMBURSED FOR HIS**
29 **OR HER REASONABLE, ACTUAL, AND NECESSARY EXPENSES INCURRED**
30 **IN THE PERFORMANCE OF HIS OR HER DUTIES AS A COMMISSION**
31 **MEMBER.**

32 **(6) THE COMMISSION'S BUSINESS SHALL BE CONDUCTED AT PUBLIC**
33 **MEETINGS HELD IN COMPLIANCE WITH THE OPEN MEETINGS ACT,**
34 **1976 PA 267, MCL 15.261 TO 15.275.**

35 **(7) A QUORUM CONSISTS OF A MAJORITY OF THE MEMBERS OF THE**
36 **SENTENCING COMMISSION. ALL COMMISSION BUSINESS SHALL BE**
37 **CONDUCTED BY NOT LESS THAN A QUORUM.**

38 **(8) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF, OR**
39 **RETAINED BY THE COMMISSION IN THE PERFORMANCE OF AN**
40 **OFFICIAL FUNCTION SHALL BE MADE AVAILABLE TO THE PUBLIC IN**
41 **COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT, 1976 PA 442,**
42 **MCL 15.231 TO 15.246.**

43
44

1 **769.33 DUTIES OF THE COMMISSION AND OTHER AGENCIES; PURPOSES**
2 **OF SENTENCING**

3 **SEC. 33. (1) THE COMMISSION SHALL:**

4 **(a) COLLECT, PREPARE, ANALYZE, AND DISSEMINATE INFORMATION**
5 **REGARDING STATE PAROLE AND LOCAL SENTENCING PRACTICES FOR**
6 **FELONIES, INCLUDING RESEARCH REGARDING CRIME REDUCTION,**
7 **ACCOUNTABILITY, VICTIM SATISFACTION, AND RESOURCE IMPACTS.**

8 **(b) IN COOPERATION WITH THE DEPARTMENT OF CORRECTIONS,**
9 **COLLECT, ANALYZE, AND COMPILE DATA AND PROJECTIONS**
10 **REGARDING THE POPULATIONS AND CAPACITIES OF STATE AND**
11 **LOCAL CORRECTIONAL FACILITIES, THE IMPACT OF THE SENTENCING**
12 **GUIDELINES AND PAROLE ON THOSE POPULATIONS AND CAPACITIES,**
13 **AND THE EFFECTIVENESS OF EFFORTS TO REDUCE RECIDIVISM.**
14 **MEASUREMENT OF RECIDIVISM SHALL INCLUDE, AS APPLICABLE,**
15 **ANALYSIS:**

16 **(i) OF REARREST RATES, RE-SENTENCE RATES, AND RETURN TO**
17 **PRISON RATES;**

18 **(ii) AT ONE, TWO AND THREE YEAR INTERVALS AFTER EXITING**
19 **PRISON OR JAIL AND AFTER ENTERING PROBATION;**

20 **(iii) AT THE STATEWIDE LEVEL, AND BY LOCALITY AND**
21 **DISCRETE PROGRAM, TO THE EXTENT PRACTICABLE.**

22 **(c) IN COOPERATION WITH THE STATE COURT ADMINISTRATOR,**
23 **COLLECT, ANALYZE, AND COMPILE CASE LEVEL DATA REGARDING**
24 **THE EFFECT OF SENTENCING GUIDELINES ON THE CASELOAD,**
25 **DOCKET FLOW, AND CASE BACKLOG OF THE TRIAL AND APPELLATE**
26 **COURTS OF THIS STATE.**

27 **(d) RECOMMEND, IF NEEDED, MODIFICATIONS TO CRIMINAL**
28 **OFFENSES, SENTENCING LAWS, SENTENCING GUIDELINES, PROBATION**
29 **LAWS, PAROLE AND RELEASE LAWS, OR OTHER STATUTES OR**
30 **APPROPRIATIONS FOR CRIMINAL JUSTICE PURPOSES.**

31 **(e) THE COMMISSION SHALL SUBMIT ANY RECOMMENDED**
32 **MODIFICATIONS TO STATUTES TO THE SECRETARY OF THE SENATE**
33 **AND THE CLERK OF THE HOUSE OF REPRESENTATIVES.**

34 **(f) THE DEPARTMENT OF CORRECTIONS SHALL COLLECT CASE LEVEL**
35 **DATA REGARDING SENTENCING PRACTICES AND SHALL PROVIDE THE**
36 **DATA NECESSARY TO THE COMMISSION. THE COMMISSION IS**
37 **ENTITLED TO ACCESS TO THE DATA BASES OF THE STATE POLICE,**
38 **JUVENILE JUSTICE BUREAU OF THE DEPARTMENT OF HUMAN**
39 **SERVICES, AND THE DEPARTMENT OF CORRECTIONS IN ACCORDANCE**
40 **WITH APPLICABLE STATE OR FEDERAL LAW OR REGULATIONS. THE**
41 **ACCESS GRANTED BY THIS SUBSECTION DOES NOT GRANT THE**
42 **COMMISSION THE RIGHT TO ADD, DELETE, OR ALTER DATA**
43 **MAINTAINED BY ANOTHER AGENCY.**

44

1 (2) IN DECISIONS AFFECTING THE SENTENCING OF INDIVIDUAL
2 OFFENDERS IT IS THE POLICY OF THE STATE OF MICHIGAN:
3 (a) TO RENDER SENTENCES IN ALL CASES WITHIN A RANGE OF
4 SEVERITY PROPORTIONATE TO THE GRAVITY OF OFFENSES, THE
5 HARMS DONE TO CRIME VICTIMS, AND THE BLAMEWORTHINESS OF
6 OFFENDERS;
7 (b) WHEN REASONABLY FEASIBLE, TO ACHIEVE OFFENDER
8 REHABILITATION, GENERAL DETERRENCE, INCAPACITATION OF
9 DANGEROUS OFFENDERS, RESTORATION OF CRIME VICTIMS AND
10 COMMUNITIES, AND REINTEGRATION OF OFFENDERS INTO THE LAW-
11 ABIDING COMMUNITY AND
12 (c) TO RENDER SENTENCES NO MORE SEVERE THAN NECESSARY TO
13 ACHIEVE THE APPLICABLE PURPOSES IN SUBSECTIONS (2)(a) AND (2)(b);
14 (3) IN MATTERS AFFECTING THE ADMINISTRATION OF THE
15 SENTENCING SYSTEM IT IS THE POLICY OF THE STATE OF MICHIGAN:
16 (a) TO PRESERVE JUDICIAL DISCRETION TO INDIVIDUALIZE
17 SENTENCES WITHIN A FRAMEWORK OF LAW;
18 (b) TO PRODUCE SENTENCES THAT ARE UNIFORM IN THEIR REASONED
19 PURSUIT OF THE PURPOSES IN SUBSECTION (1);
20 (c) TO ELIMINATE INEQUITIES IN SENTENCING ACROSS POPULATION
21 GROUPS;
22 (d) TO ENCOURAGE THE USE OF INTERMEDIATE SANCTIONS;
23 (e) TO ENSURE THAT ADEQUATE RESOURCES ARE AVAILABLE FOR
24 CARRYING OUT SENTENCES IMPOSED AND THAT RATIONAL
25 PRIORITIES ARE ESTABLISHED FOR THE USE OF THOSE RESOURCES;
26 (f) TO ENSURE THAT ALL CRIMINAL SANCTIONS ARE ADMINISTERED IN
27 A HUMANE FASHION AND THAT INCARCERATED OFFENDERS ARE
28 PROVIDED REASONABLE BENEFITS OF SUBSISTENCE, PERSONAL
29 SAFETY, MEDICAL AND MENTAL HEALTH CARE, AND OPPORTUNITIES
30 TO REHABILITATE THEMSELVES;
31 (g) TO PROMOTE RESEARCH ON SENTENCING POLICY AND PRACTICES,
32 INCLUDING ASSESSMENTS OF THE EFFECTIVENESS OF CRIMINAL
33 SANCTIONS AS MEASURED AGAINST THEIR PURPOSES; AND
34 (h) TO INCREASE THE TRANSPARENCY OF THE SENTENCING AND
35 CORRECTIONS SYSTEM, ITS ACCOUNTABILITY TO THE PUBLIC, AND
36 THE LEGITIMACY OF ITS OPERATIONS.

1 769.34 Sentencing guidelines; duties of court.
2 Sec. 34. (1) The sentencing guidelines promulgated by order of the Michigan supreme
3 court do not apply to felonies enumerated in part 2 of chapter XVII committed on or after
4 January 1, 1999.

5 (2) Except as otherwise provided in this subsection or for a departure from the
6 appropriate minimum sentence range provided for under subsection (3), the minimum
7 sentence imposed by a court of this state for a felony enumerated in part 2 of chapter
8 XVII committed on or after January 1, 1999 shall be within the appropriate sentence
9 range under the version of those sentencing guidelines in effect on the date the crime was
10 committed. Both of the following apply to minimum sentences under this subsection:

11 (a) If a statute mandates a minimum sentence for an individual sentenced to the
12 jurisdiction of the department of corrections, the court shall impose sentence in
13 accordance with that statute. Imposing a mandatory minimum sentence is not a departure
14 under this section. If a statute mandates a minimum sentence for an individual sentenced
15 to the jurisdiction of the department of corrections and the statute authorizes the
16 sentencing judge to depart from that minimum sentence, imposing a sentence that
17 exceeds the recommended sentence range but is less than the mandatory minimum
18 sentence is not a departure under this section. If the Michigan vehicle code, 1949 PA 300,
19 MCL 257.1 to 257.923, mandates a minimum sentence for an individual sentenced to the
20 jurisdiction of the department of corrections and the Michigan vehicle code, 1949 PA
21 300, MCL 257.1 to 257.923, authorizes the sentencing judge to impose a sentence that is
22 less than that minimum sentence, imposing a sentence that exceeds the recommended
23 sentence range but is less than the mandatory minimum sentence is not a departure under
24 this section.

25 **(b) IF THE LOWER LIMIT OF THE RECOMMENDED MINIMUM SENTENCE**
26 **RANGE FOR A DEFENDANT DETERMINED UNDER THE GUIDELINES SET**
27 **FORTH IN CHAPTER XVII IS EQUAL TO 12 MONTHS THE COURT MAY**
28 **IMPOSE A SENTENCE TO JAIL. IMPOSING SUCH A SENTENCE IS NOT A**
29 **DEPARTURE UNDER THIS SECTION. THE INITIAL JAIL TERM SHALL BE**
30 **FOR NO MORE THAN TWELVE MONTHS, AND WHEN ADDED TO THE**
31 **SANCTION TERM SHALL BE FOR NO MORE THAN SIXTEEN MONTHS.** ~~The~~
32 ~~court shall not impose a minimum sentence, including a departure, that exceeds 2/3 of the~~
33 ~~statutory maximum sentence.~~

34 (3) A court may depart from the appropriate sentence range **OR PRESUMPTIVE**
35 **DISPOSITION** established under **THIS SECTION OR** the sentencing guidelines set
36 forth in chapter XVII if the court has a substantial and compelling reason for that
37 departure and states on the record the reasons for departure. All of the following apply to
38 a departure:

39 (a) The court shall not use an individual's gender, race, ethnicity, alienage, national
40 origin, legal occupation, lack of employment, representation by appointed legal counsel,
41 representation by retained legal counsel, appearance in propria persona, or religion to
42 depart from the appropriate sentence range **OR PRESUMPTIVE DISPOSITION.**

43 (b) The court shall not base a departure on an offense characteristic or offender
44 characteristic already taken into account in determining the appropriate sentence range
45 **OR PRESUMPTIVE DISPOSITION** unless the court finds from the facts contained in

1 the court record, including the presentence investigation report, that the characteristic has
2 been given inadequate or disproportionate weight.

3 **(c) THE COURT MAY DEPART DOWNWARD FROM THE APPROPRIATE**
4 **SENTENCE RANGE OR PRESUMPTIVE DISPOSITION IF IT FINDS THAT**
5 **MITIGATING CIRCUMSTANCES JUSTIFYING THAT DEPARTURE ARE**
6 **ESTABLISHED BY A PREPONDERANCE OF THE EVIDENCE AND STATES**
7 **ON THE RECORD THE CIRCUMSTANCES JUSTIFYING THE DEPARTURE.**
8 **MITIGATING CIRCUMSTANCES SHALL INCLUDE, BUT ARE NOT**
9 **LIMITED TO, WHETHER ANY OF THE FOLLOWING CIRCUMSTANCES**
10 **EXIST.**

11 **(i) TO A SIGNIFICANT DEGREE, THE VICTIM WAS AN INITIATOR,**
12 **WILLING PARTICIPANT, AGGRESSOR, OR PROVOKER OF THE**
13 **INCIDENT.**

14 **(ii) BEFORE DETECTION, THE DEFENDANT COMPENSATED, OR**
15 **MADE A GOOD FAITH EFFORT TO COMPENSATE, THE VICTIM OF**
16 **THE CRIMINAL CONDUCT FOR ANY DAMAGE OR INJURY**
17 **SUSTAINED.**

18 **(iii) THE DEFENDANT COMMITTED THE CRIME UNDER DURESS,**
19 **COERCION, THREAT, OR COMPULSION INSUFFICIENT TO**
20 **CONSTITUTE A COMPLETE DEFENSE BUT WHICH SIGNIFICANTLY**
21 **AFFECTED HIS OR HER CONDUCT.**

22 **(iv) THE DEFENDANT, WITH NO APPARENT PREDISPOSITION TO**
23 **DO SO, WAS INDUCED BY OTHERS TO PARTICIPATE IN THE**
24 **CRIME.**

25 **(v) THE DEFENDANT'S CAPACITY TO APPRECIATE THE**
26 **WRONGFULNESS OF HIS OR HER CONDUCT, OR TO CONFORM HIS**
27 **OR HER CONDUCT TO THE REQUIREMENTS OF THE LAW, WAS**
28 **SIGNIFICANTLY IMPAIRED.**

29 **(vi) THE OFFENSE WAS PRINCIPALLY ACCOMPLISHED BY**
30 **ANOTHER PERSON AND THE DEFENDANT MANIFESTED EXTREME**
31 **CAUTION OR SINCERE CONCERN FOR THE SAFETY OR WELL-**
32 **BEING OF THE VICTIM.**

33 **(vii) THE DEFENDANT IS MENTALLY ILL.**

34 **(viii) THE DEFENDANT OR THE DEFENDANT'S CHILDREN**
35 **SUFFERED A CONTINUING PATTERN OF PHYSICAL OR SEXUAL**
36 **ABUSE BY THE VICTIM OF THE OFFENSE AND THE OFFENSE IS A**
37 **RESPONSE TO THAT ABUSE.**

38 **(ix) THE DEFENDANT WAS MAKING A GOOD FAITH EFFORT TO**
39 **OBTAIN OR PROVIDE MEDICAL ASSISTANCE FOR SOMEONE WHO**
40 **IS EXPERIENCING A DRUG-RELATED OVERDOSE.**

41 **(x) THE CURRENT OFFENSE INVOLVED DOMESTIC VIOLENCE AND**
42 **THE DEFENDANT SUFFERED A CONTINUING PATTERN OF**
43 **COERCION, CONTROL, OR ABUSE BY THE VICTIM OF THE**
44 **OFFENSE AND THE OFFENSE IS A RESPONSE TO THAT COERCION,**
45 **CONTROL, OR ABUSE.**

1 **(xi) THE DEFENDANT’S CONDUCT IS CAUSALLY RELATED TO THE**
2 **DEFENDANT’S POVERTY, LACK OF EDUCATION, LACK OF**
3 **MEANINGFUL ECONOMIC OPPORTUNITIES, UPBRINGING OR**
4 **SOCIAL SURROUNDINGS.**

5 (4) Intermediate sanctions shall be imposed under this chapter as follows:

6 (a) If the ~~upper limit of the recommended~~ minimum sentence range for a defendant
7 determined under the sentencing guidelines set forth in chapter XVII is **DESIGNATED**
8 **“I.S.” 18 months or less**, the court shall impose an intermediate sanction unless the court
9 states on the record a substantial and compelling reason to sentence the individual to
10 **IMPRISONMENT IN THE COUNTY JAIL OR TO** the jurisdiction of the department
11 of corrections. **WHEN AN INTERMEDIATE SANCTION IS IMPOSED WITHOUT**
12 **AN INITIAL JAIL TERM AND INCLUDES PROBATION, THE SENTENCE**
13 **SHALL INCLUDE UP TO ONE YEAR OF IMPRISONMENT IN THE COUNTY**
14 **JAIL AS A SANCTION TERM.**

15 (b) ~~ABSENT A DEPARTURE, AN~~ intermediate sanction may include a ~~AN~~
16 ~~INITIAL~~ jail term that does not exceed the ~~upper limit of the recommended minimum~~
17 ~~sentence range or 12 months, whichever is less~~ **ONLY IF THE UPPER LIMIT OF**
18 **THE RECOMMENDED MINIMUM SENTENCE RANGE IS EQUAL TO 12**
19 **MONTHS AND THE CELL IS DESIGNATED WITH A “J.”**

20 (c) ~~WHEN AN INTIAL JAIL TERM IS IMPOSED, THE COURT SHALL ALSO~~
21 ~~IMPOSE A SUPERVISION TERM, AND UP TO ONE YEAR OF~~
22 ~~IMPRISONMENT IN THE COUNTY JAIL AS A SANCTION TERM.~~

23 (d) ~~(b)~~ If an attempt to commit a felony designated in offense class H in part 2 of chapter
24 XVII is punishable by imprisonment for more than 1 year, the court shall impose an
25 intermediate sanction **AS THOUGH THE UPPER LIMIT OF THE**
26 **RECOMMENDED MINIMUM SENTENCE RANGE IS EQUAL TO 12 MONTHS**
27 upon conviction of that offense absent a departure.

28 (5)(a) ~~(e)~~ If the upper limit of the recommended minimum sentence exceeds 12 ~~18~~
29 months and the lower limit of the recommended minimum sentence is 12 months or less,
30 the court shall sentence the offender, ~~as follows~~ absent a departure, **TO :**

31 ~~(i)~~ ~~To~~ imprisonment with a minimum term within that range.

32 (b) **A SENTENCE TO IMPRISONMENT SHALL INCLUDE:**

33 **(i) AN INITIAL PRISON TERM DEFINED BY A MINIMUM AND**
34 **MAXIMUM SENTENCE;**

35 **(ii) A SUPERVISION TERM; AND**

36 **(iii) A SANCTION TERM.**

37 (c) **ABSENT A DEPARTURE, THE MAXIMIUM SENTENCE OF THE INITIAL**
38 **PRISON TERM MAY NOT BE LESS THAN 1-1/2 TIMES THE MINIMUM**
39 **INITIAL PRISON TERM IMPOSED, AND MAY NOT EXCEED TWICE THE**
40 **MINIMUM INITIAL PRISON TERM IMPOSED.**

41 (d) **THE SANCTION TERM MAY NOT EXCEED:**

42 **(i) ONE YEAR OF IMPRISONMENT IN THE COUNTY JAIL FOR A**
43 **SENTENCE UNDER GRIDS F, G AND H;**

44 **(ii) TWO YEARS IMPRISONMENT IN THE CUSTODY OF THE**
45 **DEPARTMENT OF CORRECTIONS FOR A SENTENCE UNDER GRIDS**
46 **C, D, AND E; AND**

1 **(iii) FIVE YEARS IMPRISONMENT IN THE CUSTODY OF THE**
2 **DEPARTMENT OF CORRECTIONS FOR A SENTENCE UNDER GRIDS**
3 **M2, A, AND B.**

4 ~~(ii) To an intermediate sanction that may include a term of imprisonment of not more~~
5 ~~than 12 months.~~

6 ~~(6)(5)~~ If a crime has a mandatory determinant penalty or a mandatory penalty of life
7 imprisonment, the court shall impose that penalty. This section does not apply to
8 sentencing for that crime.

9 ~~(7)(6)~~ As part of the sentence, the court may also order the defendant to pay any
10 combination of a fine, costs, or applicable assessments. The court shall order payment of
11 restitution as provided by law.

12 ~~(8)(7)~~ If the trial court imposes on a defendant a minimum sentence that is longer or more
13 severe than the appropriate sentence range, as part of the court's advice of the defendant's
14 rights concerning appeal, the court shall advise the defendant orally and in writing that he
15 or she may appeal the sentence as provided by law on grounds that it is longer or more
16 severe than the appropriate sentence range.

17 ~~(9)(8)~~ All of the following shall be part of the record filed for an appeal of a sentence
18 under this section:

19 (a) An entire record of the sentencing proceedings.

20 (b) The presentence investigation report. Any portion of the presentence investigation
21 report exempt from disclosure by law shall not be a public record.

22 (c) Any other reports or documents the sentencing court used in imposing sentence.

23 ~~(10)(9)~~ An appeal of a sentence under this section does not stay execution of the
24 sentence.

25 ~~(11)(10)~~ If a minimum sentence is within the appropriate guidelines sentence range, the
26 court of appeals shall affirm that sentence and shall not remand for resentencing absent
27 an error in scoring the sentencing guidelines or inaccurate information relied upon in
28 determining the defendant's sentence. A party shall not raise on appeal an issue
29 challenging the scoring of the sentencing guidelines or challenging the accuracy of
30 information relied upon in determining a sentence that is within the appropriate
31 guidelines sentence range unless the party has raised the issue at sentencing, in a proper
32 motion for resentencing, or in a proper motion to remand filed in the court of appeals.

33 ~~(12)(11)~~ If, upon a review of the record, the court of appeals finds the trial court did not
34 have a substantial and compelling reason for departing from the appropriate sentence
35 range, the court shall remand the matter to the sentencing judge or another trial court
36 judge for resentencing under this chapter.

37 ~~(13)(12)~~ Time served on the sentence appealed under this section is considered time
38 served on any sentence imposed after remand.

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40
41

- 1 SENTENCING GRIDS: CODE OF CRIMINAL PROCEDURE CHAPTER XVII
 2 777.61 Minimum sentence ranges for class M2.
 3 Sec. 61.
 4 The following are the minimum sentence ranges for class M2:

PRIOR RECORD VARIABLE LEVEL

Offense Variable Level	A	B	C	D	E	F
	0 points	1-9 points	10-24 points	25-49 points	50-74 points	75+ points

SUPERVISION GUIDE

I						
0-49 points	90-150	144-240	162-270	180-300 or life	225-375 or life	270-450 or life
II						
50-99 points	144-240	162-270	180-300 or life	225-375 or life	270-450 or life	315-525 or life
III						
100+ points	162-270 or life	180-300 or life	225-375 or life	270-450 or life	315-525 or life	365-600 or life

5

- 1 777.62 Minimum sentence ranges for class A.
- 2 Sec. 62.
- 3 The following are the minimum sentence ranges for class A:

PRIOR RECORD VARIABLE LEVEL

Offense Variable Level	A	B	C	D	E	F
	0 points	1-9 points	10-24 points	25-49 points	50-74 points	75+ points

SUPERVISION GUIDE

I						
0-19 points	21-35	27-45	42-70	51-85	81-135	108-180
II						
20-39 points	27-45	42-70	51-85	81-135	108-180	126-210
III						
40-59 points	42-70	51-85	81-135	108-180	126-210	135-225
IV						
60-79 points	51-85	81-135	108-180	126-210	135-225	171-285
V						
80-99 points	81-135	108-180	126-210	135-225	171-285	225-375 or life
VI						
100+ points	108-180	126-210	135-225	171-285	225-375 or life	270-450 or life

4

- 1 777.63 Minimum sentence ranges for class B.
 2 Sec. 63. The following are the minimum sentence ranges for class B:

PRIOR RECORD VARIABLE LEVEL

Offense Variable Level	A	B	C	D	E	F
	0 points	1-9 points	10-24 points	25-49 points	50-74 points	75+ points

SUPERVISION GUIDE

I						
0-9 points	0-12 18	12-18 18	18-36 24	36-60 24	48-72 36	60-84 36
II						
10-24 points	12-18 18-24	18-24 18-36	24-48 24-48	36-60 36-60	48-72 48-72	60-84 60-84
III						
25-34 points	18-24 18-24	18-36 18-36	36-60 36-60	48-72 48-72	60-84 60-84	72-96 72-96
IV						
35-49 points	18-36 18-36	24-48 24-48	48-72 48-72	60-84 60-84	72-96 72-96	84-108 84-108
V						
50-74 points	24-48 24-48	36-60 36-60	48-72 48-72	72-96 72-96	84-108 84-108	96-120 96-120
VI						
75+ points	36-60 36-60	48-72 48-72	60-84 60-84	72-96 72-96	96-120 96-120	108-132 108-132

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4

- 1 777.64 Minimum sentence ranges for class C.
 2 Sec. 64. The following are the minimum sentence ranges for class C:

PRIOR RECORD VARIABLE LEVEL

Offense Variable Level	A	B	C	D	E	F
0 points		1-9 points	10-24 points	25-49 points	50-74 points	75+ points

SUPERVISION GUIDE

I						
0-9 points	I.S. 0-11	0-12 J. 17	0-12 J. 10-19	12-24	18-36 19-38	24-48 29-57
II						
10-24 points	0-12 J. 17	0-12 J. 5-17	12-24	18-36 19-38	24-48 29-57	36-60 71
III						
25-34 points	0-12 J. 10-19	12-24	18-36 19-38	24-48 29-57	36-60 71	48-72 43-86
IV						
35-49 points	12-24	18-36 19-38	24-48 29-57	36-60 71	48-72 43-86	60-84 50-100
V						
50-74 points	18-36 19-38	24-48 29-57	36-60 71	48-72 43-86	60-84 50-100	72-96 58-114
VI						
75+ points	24-48 29-57	36-60 71	48-72 43-86	60-84 50-100	72-96 58-114	84-108 62-114

- 3
4

- 1 777.65 Minimum sentence ranges for class D.
 2 Sec. 65. The following are the minimum sentence ranges for class D:

PRIOR RECORD VARIABLE LEVEL

Offense Variable Level	A	B	C	D	E	F
	0 points	1-9 points	10-24 points	25-49 points	50-74 points	75+ points

SUPERVISION GUIDE

I						
0-9 points	I.S. 0-6	I.S. 0-9	I.S. 0-11	0-12 J. 0-17	0-12 J. 5-23	12-24 10-23
II						
10-24 points	I.S. 0-9	I.S. 0-9	0-12 J. 0-17	0-12 J. 5-23	12-24 10-23	18-36 19-38
III						
25-34 points	I.S. 0-11	0-12 J. 0-17	0-12 J. 5-23	12-24 10-23	18-36 19-38	24-36 29-57
IV						
35-49 points	0-12 J. 17	0-12 J. 5-23	12-24 10-23	18-36 19-38	24-36 29-57	30-48 34-67
V						
50-74 points	0-12 J. 5-23	12-24 10-23	18-36 19-38	24-36 29-57	30-48 34-67	36-60 38-76
VI						
75+ points	12-24 10-23	18-36 19-38	24-36 29-57	30-48 34-67	36-60 38-76	48-72 43-76

- 3
4

- 1 777.66 Minimum sentence ranges for class E.
- 2 Sec. 66. The following are the minimum sentence ranges for class E:

PRIOR RECORD VARIABLE LEVEL

Offense Variable Level	A	B	C	D	E	F
	0 points	1-9 points	10-24 points	25-49 points	50-74 points	75+ points
SUPERVISION GUIDE	9	12	18	24	30	36
I						
0-9 points	I.S. 0-3	I.S. 0-6	I.S. 0-9	0-12 J. 5-23	0-12 J. 7-23	0-12 J. 9-23
II						
10-24 points	I.S. 0-6	I.S. 0-9	I.S. 0-11	0-12 J. 7-23	0-12 J. 10-23	12-24
III						
25-34 points	I.S. 0-9	I.S. 0-11	0-12 J. 0-17	0-12 J. 10-23	12-24	14- 28 29
IV						
35-49 points	I.S. 0-11	0-12 J. 0-17	0-12 J. 5-23	12-24	14- 28 29	18-30 19-38
V						
50-74 points	0-12 J. 0-14	0-12 J. 5-23	0-12 J. 7-23	14- 28 29	18-30 19-38	22-38
VI						
75+ points	0-12 J. 0-17	0-12 J. 7-23	12-24	18-30 19-38	22-38	24-38

- 3
- 4

- 1 777.67 Minimum sentence ranges for class F.
- 2 Sec. 67.
- 3 The following are the minimum sentence ranges for class F:

PRIOR RECORD VARIABLE LEVEL

Offense Variable Level	A	B	C	D	E	F
	0 points	1-9 points	10-24 points	25-49 points	50-74 points	75+ points

SUPERVISION GUIDE

I						
0-9 points	I.S. 0-3	I.S. 0-6	I.S. 0-9	0-12 J. 2-17	0-12 J. 5-23	0-12 J. 10-23
10-34 points	I.S. 0-6	I.S. 0-9	0-12 J. 17	0-12 J. 5-23	0-12 J. 10-23	12-24
35-74 points	I.S. 0-9	0-12 J. 17	0-12 J. 2-17	0-12 J. 10-23	12-24	14-24 29
75+ points	0-12 J. 17	0-12 J. 2-17	0-12 J. 5-23	12-24	14-24 29	18-30 17-30

- 4
- 5

- 1 777.68 Minimum sentence ranges for class G.
- 2 Sec. 68.
- 3 The following are the minimum sentence ranges for class G:

PRIOR RECORD VARIABLE LEVEL

Offense Variable Level	A	B	C	D	E	F
	0 points	1-9 points	10-24 points	25-49 points	50-74 points	75+ points

SUPERVISION GUIDE

I						
0-9 points	I.S. 0-3	I.S. 0-6	I.S. 0-9	I.S. 0-11	0-12 J. 0-17	0-12 J. 0-17
II						
10-15 points	I.S. 0-6	I.S. 0-9	I.S. 0-11	0-12 J. 0-17	0-12 J. 2-17	0-12 J. 5-23
III						
16+ points	I.S. 0-9	I.S. 0-11	0-12 J. 17	0-12 J. 2-17	0-12 J. 5-23	0-12 J. 7-23

- 4
- 5

- 1 777.69 Minimum sentence ranges for class H.
- 2 Sec. 69.
- 3 The following are the minimum sentence ranges for class H:

PRIOR RECORD VARIABLE LEVEL

Offense Variable	A	B	C	D	E	F
Level	0	1-9	10-24	25-49	50-74	75+
	points	points	points	points	points	points

SUPERVISION GUIDE

I						
0-9	I.S. 0-1	I.S. 0-3	I.S. 0-6	I.S. 0-9	I.S. 0-11	0-12 J. 0-17
points						
II						
10-15	I.S. 0-3	I.S. 0-6	I.S. 0-9	I.S. 0-11	0-12 J. 0-17	0-12 J. 2-17
points						
III						
16+	I.S. 0-6	I.S. 0-9	I.S. 0-11	0-12 J. 0-17	0-12 J. 2-17	0-12 J. 5-17
points						

- 4
- 5

1 PROBATION: CODE OF CRIMINAL PROCEDURE CHAPTER XI

2 771.2 Probation period; order fixing period and conditions of probation; registration
3 pursuant to sex offenders registration act; reduction in probation period; subsection (1)
4 inapplicable to certain juveniles.

5 Sec. 2.

6 (1) Except as provided in section 2a of this chapter, if the defendant is convicted for an
7 offense that is not a felony, the probation period shall not exceed 2 years. Except as
8 provided in section 2a of this chapter, if the defendant is convicted of a felony, the
9 probation period shall not exceed 5 years.

10 (2) The court shall by order, to be filed or entered in the cause as the court may direct by
11 general rule or in each case, fix and determine the period and conditions of probation.
12 The order is part of the record in the cause. The court may amend the order in form or
13 substance at any time.

14 (3) A defendant who was placed on probation under section 1(4) of this chapter as it
15 existed before March 1, 2003 for an offense committed before March 1, 2003 is subject
16 to the conditions of probation specified in section 3 of this chapter, including payment of
17 a probation supervision fee as prescribed in section 3c of this chapter, and to revocation
18 for violation of these conditions, but the probation period shall not be reduced other than
19 by a revocation that results in imprisonment or as otherwise provided by law.

20 (4) If an individual is placed on probation for a listed offense enumerated in section 2 of
21 the sex offenders registration act, 1994 PA 295, MCL 28.722, the individual's probation
22 officer shall register the individual or accept the individual's registration as provided in
23 that act.

24 (5) Subsection (1) does not apply to a juvenile placed on probation and committed under
25 section 1(3) or (4) of chapter IX to an institution or agency described in the youth
26 rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

27 **(6) IF THE DEFENDANT IS CONVICTED FOR AN OFFENSE THAT IS A**
28 **FELONY, THE COURT SHALL PLACE THE DEFENDANT ON SWIFT AND**
29 **SURE PROBATION SUPERVISION UNDER CHAPTER XIA IF ONE OR MORE**
30 **OF THE FOLLOWING CONDITIONS IS MET:**

31 **(1) SWIFT AND SURE PROBATION SUPERVISION IS RECOMMENDED BY**
32 **THE PROBATION OFFICER;**

33 **(2) SWIFT AND SURE PROBATION SUPERVISION IS REQUIRED IN**
34 **RESPONSE TO A VIOLATION OF SUPERVISION; OR**

35 **(3) THE PROBATIONER'S PRIOR RECORD VARIABLE SCORE RESULTS IN**
36 **A SUPERVISION GUIDE AMOUNT OF 18 MONTHS OR MORE, IN THE**
37 **APPLICABLE SENTENCING GRID IN CHAPTER XVII.**

38
39 771.3 Probation; conditions; entry of order into LEIN; costs as part of sentence of
40 probation; compliance as condition of probation; revocation of probation; fees in delayed
41 or deferred entry of judgment or sentencing.

42 Sec. 3. (1) The sentence of probation shall include all of the following conditions:

43 (a) During the term of his or her probation, the probationer shall not violate any criminal
44 law of this state, the United States, or another state or any ordinance of any municipality
45 in this state or another state.

- 1 (b) During the term of his or her probation, the probationer shall not leave the state
2 without the consent of the court granting his or her application for probation.
- 3 (c) The probationer shall report to the probation officer, either in person or in writing,
4 monthly or as often as the probation officer requires. This subdivision does not apply to a
5 juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an
6 institution or agency described in the youth rehabilitation services act, 1974 PA 150,
7 MCL 803.301 to 803.309.
- 8 (d) If sentenced in circuit court, the probationer shall pay a probation supervision fee as
9 prescribed in section 3c of this chapter.
- 10 (e) The probationer shall pay restitution to the victim of the defendant's course of conduct
11 giving rise to the conviction or to the victim's estate as provided in chapter IX. An order
12 for payment of restitution may be modified and shall be enforced as provided in chapter
13 IX.
- 14 (f) The probationer shall pay an assessment ordered under section 5 of 1989 PA 196,
15 MCL 780.905.
- 16 (g) The probationer shall pay the minimum state cost prescribed by section 1j of chapter
17 IX.
- 18 (h) If the probationer is required to be registered under the sex offenders registration act,
19 1994 PA 295, MCL 28.721 to 28.736, the probationer shall comply with that act.
- 20 (2) As a condition of probation, the court may require the probationer to do 1 or more of
21 the following:
- 22 (a) Be imprisoned in the county jail for not more than 12 months at the time **AS**
23 **PROVIDED IN SECTION 34 OF CHAPTER 769** ~~or intervals that may be consecutive~~
24 ~~or nonconsecutive, within the probation as the court determines. However, the period of~~
25 ~~confinement shall not exceed the maximum period of imprisonment provided for the~~
26 ~~offense charged if the maximum period is less than 12 months. The court may permit day~~
27 ~~parole as authorized under 1962 PA 60, MCL 801.251 to 801.258. The court may, subject~~
28 ~~to sections 3d and 3e of this chapter, permit the individual to be released from jail to~~
29 ~~work at his or her existing job or to attend a school in which he or she is enrolled as a~~
30 ~~student. This subdivision does not apply to a juvenile placed on probation and committed~~
31 ~~under section 1(3) or (4) of chapter IX to an institution or agency described in the youth~~
32 ~~rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.~~
- 33 (b) Pay immediately or within the period of his or her probation a fine imposed when
34 placed on probation.
- 35 (c) Pay costs pursuant to subsection (5).
- 36 (d) Pay any assessment ordered by the court other than an assessment described in
37 subsection (1)(f).
- 38 (e) Engage in community service.
- 39 (f) Agree to pay by wage assignment any restitution, assessment, fine, or cost imposed by
40 the court.
- 41 (g) Participate in inpatient or outpatient drug treatment or, beginning January 1, 2005,
42 participate in a drug treatment court under chapter 10A of the revised judicature act of
43 1961, 1961 PA 236, MCL 600.1060 to 600.1084.
- 44 (h) Participate in mental health treatment.
- 45 (i) Participate in mental health or substance abuse counseling.
- 46 (j) Participate in a community corrections program.

- 1 (k) Be under house arrest.
- 2 (l) Be subject to electronic monitoring.
- 3 (m) Participate in a residential probation program.
- 4 (n) Satisfactorily complete a program of incarceration in a special alternative
5 incarceration unit as provided in section 3b of this chapter.
- 6 (o) Be subject to conditions reasonably necessary for the protection of 1 or more named
7 persons.
- 8 (p) Reimburse the county for expenses incurred by the county in connection with the
9 conviction for which probation was ordered as provided in the prisoner reimbursement to
10 the county act, 1984 PA 118, MCL 801.81 to 801.93.
- 11 (q) Complete his or her high school education or obtain the equivalency of a high school
12 education in the form of a general education development (GED) certificate.
- 13 (3) The court may impose other lawful conditions of probation as the circumstances of
14 the case require or warrant or as in its judgment are proper.
- 15 (4) If an order or amended order of probation contains a condition for the protection of 1
16 or more named persons as provided in subsection (2)(o), the court or a law enforcement
17 agency within the court's jurisdiction shall enter the order or amended order into the law
18 enforcement information network. If the court rescinds the order or amended order or the
19 condition, the court shall remove the order or amended order or the condition from the
20 law enforcement information network or notify that law enforcement agency and the law
21 enforcement agency shall remove the order or amended order or the condition from the
22 law enforcement information network.
- 23 (5) If the court requires the probationer to pay costs under subsection (2), the costs shall
24 be limited to expenses specifically incurred in prosecuting the defendant or providing
25 legal assistance to the defendant and supervision of the probationer.
- 26 (6) If the court imposes costs under subsection (2) as part of a sentence of probation, all
27 of the following apply:
- 28 (a) The court shall not require a probationer to pay costs under subsection (2) unless the
29 probationer is or will be able to pay them during the term of probation. In determining the
30 amount and method of payment of costs under subsection (2), the court shall take into
31 account the probationer's financial resources and the nature of the burden that payment of
32 costs will impose, with due regard to his or her other obligations.
- 33 (b) A probationer who is required to pay costs under subsection (1)(g) or (2)(c) and who
34 is not in willful default of the payment of the costs may petition the sentencing judge or
35 his or her successor at any time for a remission of the payment of any unpaid portion of
36 those costs. If the court determines that payment of the amount due will impose a
37 manifest hardship on the probationer or his or her immediate family, the court may remit
38 all or part of the amount due in costs or modify the method of payment.
- 39 (7) If a probationer is required to pay costs as part of a sentence of probation, the court
40 may require payment to be made immediately or the court may provide for payment to be
41 made within a specified period of time or in specified installments.
- 42 (8) If a probationer is ordered to pay costs as part of a sentence of probation, compliance
43 with that order shall be a condition of probation. The court may revoke probation if the
44 probationer fails to comply with the order and if the probationer has not made a good
45 faith effort to comply with the order. In determining whether to revoke probation, the
46 court shall consider the probationer's employment status, earning ability, and financial

1 resources, the willfulness of the probationer's failure to pay, and any other special
2 circumstances that may have a bearing on the probationer's ability to pay. The
3 proceedings provided for in this subsection are in addition to those provided in section 4
4 of this chapter.

5 (9) If entry of judgment is deferred in the circuit court, the court shall require the
6 individual to pay a supervision fee in the same manner as is prescribed for a delayed
7 sentence under section 1(3) of this chapter, shall require the individual to pay the
8 minimum state costs prescribed by section 1j of chapter IX, and may impose, as
9 applicable, the conditions of probation described in subsections (1), (2), and (3).

10 (10) If sentencing is delayed or entry of judgment is deferred in the district court or in a
11 municipal court, the court shall require the individual to pay the minimum state costs
12 prescribed by section 1j of chapter IX and may impose, as applicable, the conditions of
13 probation described in subsections (1), (2), and (3).

14 15 **771.3g FIRST TIME OFFENDER WAIVER**

16 **Sec. 3g**

17 **(1) EXCEPT AS PROVIDED IN SUBSECTIONS (2) AND (3), IF AN**
18 **INDIVIDUAL PLEADS GUILTY TO A CRIMINAL OFFENSE, THE COURT OF**
19 **RECORD HAVING JURISDICTION OVER THE CRIMINAL OFFENSE MAY,**
20 **WITHOUT ENTERING A JUDGMENT OF CONVICTION AND WITH THE**
21 **CONSENT OF THAT INDIVIDUAL, ASSIGN THAT INDIVIDUAL TO THE**
22 **STATUS OF FIRST TIME OFFENDER.**

23 **(2) SUBSECTION (1) DOES NOT APPLY TO ANY OF THE FOLLOWING:**

24 **(A) A FELONY FOR WHICH THE MAXIMUM PENALTY IS IMPRISONMENT**
25 **FOR LIFE.**

26 **(B) A VIOLATION, ATTEMPTED VIOLATION, OR CONSPIRACY TO**
27 **VIOLATE SECTION 520B, 520C, 520D, OR 520E OF THE MICHIGAN PENAL**
28 **CODE, 1931 PA 328, MCL 750.520B, 750.520C, 750.520D, AND 750.520E, OTHER**
29 **THAN SECTION 520D(1)(A) OR 520E(1)(A) OF THE MICHIGAN PENAL**
30 **CODE, 1931 PA 328, MCL 750.520D AND 750.520E.**

31 **(C) A VIOLATION, ATTEMPTED VIOLATION, OR CONSPIRACY TO**
32 **VIOLATE SECTION 520G OF THE MICHIGAN PENAL CODE, 1931 PA 328,**
33 **MCL 750.520G, WITH THE INTENT TO COMMIT A VIOLATION OF**
34 **SECTION 520B, 520C, 520D, OR 520E OF THE MICHIGAN PENAL CODE, 1931**
35 **PA 328, MCL 750.520B, 750.520C, 750.520D, AND 750.520E, OTHER THAN**
36 **SECTION 520D(1)(A) OR 520E(1)(A) OF THE MICHIGAN PENAL CODE, 1931**
37 **PA 328, MCL 750.520D AND 750.520E.**

38 **(D) SECTION 72, 73, OR 75 OF THE MICHIGAN PENAL CODE, 1931 PA 328,**
39 **MCL 750.72, 750.73, AND 750.75.**

40 **(E) AN ATTEMPT TO COMMIT A CRIME DESCRIBED IN SUBDIVISIONS**
41 **(A), (B), (C), OR (D).**

42 **(3) THE COURT SHALL NOT ASSIGN AN OFFENDER TO THE STATUS OF**
43 **FIRST TIME OFFENDER IF THE INDIVIDUAL HAS PREVIOUSLY BEEN**
44 **CONVICTED OF A FELONY UNDER A LAW OF THIS STATE, OR UNDER A**
45 **LAW OF ANOTHER STATE, THE UNITED STATES, THE DOMINION OF**

1 CANADA, OR ANY PROVINCE OR TERRITORY OF THE DOMINION OF
2 CANADA.

3 (4) IN ASSIGNING AN INDIVIDUAL TO FIRST TIME OFFENDER STATUS
4 UNDER THIS SECTION, THE COURT MAY WAIVE THE IMPOSITION OF A
5 SENTENCE WITHIN THE GUIDELINES SET FORTH IN CHAPTER XVII AND
6 IMPOSE A SENTENCE WHICH MAY INCLUDE ANY OF THE FOLLOWING:

7 (A) UP TO NINETY DAYS OF IMPRISONMENT IN A FACILITY OPERATED
8 OR UTILIZED UNDER CONTRACT BY THE COUNTY.

9 (B) UP TO SIX MONTHS OF PROBATION SUPERVISION UNLESS
10 TREATMENT IS ORDERED, IN WHICH CASE THE PERIOD OF
11 SUPERVISION MAY INCLUDE UP TO THE PERIOD OF TREATMENT, BUT
12 SHALL NOT EXCEED ONE YEAR.

13 (5) AN INDIVIDUAL ON FIRST TIME OFFENDER STATUS SHALL BE
14 SUBJECT TO PROBATION CONDITIONS AS PROVIDED IN SECTION 3 OF
15 CHAPTER XI.

16 (6) THE COURT OF RECORD HAVING JURISDICTION OVER THE
17 CRIMINAL OFFENSE REFERRED TO IN SUBSECTION 1 MAY, AT ITS
18 DISCRETION, REVOKE THE STATUS OF FIRST TIME OFFENDER ANY
19 TIME BEFORE THE INDIVIDUAL'S FINAL RELEASE. UPON REVOCATION
20 OF THE INDIVIDUAL'S STATUS AS A FIRST TIME OFFENDER, THE
21 COURT MAY ENTER AN ADJUDICATION OF GUILT AND PROCEED AS
22 PROVIDED BY LAW.

23 (5) IF CONSIDERATION OF AN INDIVIDUAL AS A FIRST TIME OFFENDER
24 IS NOT TERMINATED THE COURT SHALL DISCHARGE THE INDIVIDUAL
25 AND DISMISS THE PROCEEDINGS. AN ASSIGNMENT OF AN INDIVIDUAL
26 TO THE STATUS OF FIRST TIME OFFENDER AS PROVIDED IN THIS
27 SECTION IS NOT A CONVICTION FOR A CRIME AND THE INDIVIDUAL
28 SHALL NOT SUFFER A CIVIL DISABILITY OR LOSS OF RIGHT OR
29 PRIVILEGE FOLLOWING HIS OR HER RELEASE FROM THAT STATUS.
30 ALL PROCEEDINGS REGARDING THE DISPOSITION OF THE CRIMINAL
31 CHARGE SHALL BE CLOSED TO PUBLIC INSPECTION, BUT SHALL BE
32 OPEN TO THE COURTS OF THIS STATE, THE DEPARTMENT OF
33 CORRECTIONS, LAW ENFORCEMENT PERSONNEL AND, PROSECUTING
34 ATTORNEYS FOR USE ONLY IN THE PERFORMANCE OF THEIR DUTIES.
35

36 771.4 Legislative intent; VIOLATION SANCTIONS AND revocation of probation;
37 procedure; sentence; section inapplicable to certain juveniles.

38 Sec. 4. (a) ~~It is the intent of the legislature that the granting of probation is a matter of~~
39 ~~grace conferring no vested right to its continuance.~~ If during the probation period the
40 sentencing court **IS NOTIFIED** ~~determines~~ that the probationer **HAS COMMITTED** ~~is~~
41 ~~likely again to engage in an offensive or criminal course of conduct or that the public~~
42 ~~good requires revocation of probation, the court may revoke probation. All probation~~
43 ~~orders are revocable in any manner the court that imposed probation considers applicable~~
44 ~~either for a violation or attempted violation of a probation condition, THE COURT~~
45 **MAY HOLD A HEARING ON REVOCATION** ~~or for any other type of antisocial~~
46 ~~conduct or action on the probationer's part for which the court determines that revocation~~

1 ~~is proper in the public interest.~~ Hearings on the revocation shall be summary and informal
2 and not subject to the rules of evidence or of pleadings applicable in criminal trials. In its
3 probation order or by general rule, the court may provide for the apprehension, detention,
4 and confinement of a probationer accused of violating a probation condition or conduct
5 inconsistent with the public good. The method of hearing and presentation of charges are
6 within the court's discretion, except that the probationer is entitled to a written copy of
7 the charges constituting the claim that he or she violated probation and to a probation
8 revocation hearing. The court may investigate and enter a disposition of the probationer
9 as the court determines best serves the public interest.

10 **(b) IF THE COURT DETERMINES THAT THE PROBATIONER HAS**
11 **COMMITTED A LOW SEVERITY VIOLATION, THE COURT MAY**
12 **SANCTION THE PROBATIONER TO ONE OR MORE NONCONFINEMENT**
13 **SANCTIONS, AND FOR A SECOND THROUGH FIFTH LOW SEVERITY**
14 **VIOLATION, THE COURT MAY SANCTION THE PROBATIONER BY**
15 **IMPRISONING THEM FOR A PERIOD OF UP TO THREE DAYS**
16 **CONFINEMENT IN THE COUNTY JAIL. TIME SERVED SHALL BE**
17 **CREDITED TO REDUCE THE TOTAL AMOUNT OF THE SANCTION TERM**
18 **REMAINING.**

19 **(c) IF THE COURT DETERMINES THAT THE PROBATIONER HAS**
20 **COMMITTED A HIGH SEVERITY VIOLATION AND REVOCATION IS**
21 **APPROPRIATE AND:**

22 **(1) THE PROBATIONER WAS ORIGINALLY SENTENCED FOR AN OFFENSE**
23 **COMMITTED ON OR AFTER xxx, 2015, THE COURT MAY ORDER THE**
24 **PROBATIONER TO SERVE UP TO 60 DAYS OF THE REMAINING**
25 **SANCTION TERM. THE PROBATIONER SHALL THEN BE RETURNED TO**
26 **SUPERVISION AND THE TIME SERVED SHALL BE CREDITED TO REDUCE**
27 **THE TOTAL AMOUNT OF THE SANCTION TERM REMAINING.**

28 **(2) THE PROBATIONER WAS ORIGINALLY SENTENCED FOR AN OFFENSE**
29 **COMMITTED BEFORE xxx, 2015, THE COURT MAY ORDER THE**
30 **PROBATIONER TO IMPRISONMENT IN THE COUNTY JAIL FOR UP TO**
31 **ONE YEAR, OR THE REMAINDER OF THE SENTENCE, WHICHEVER IS**
32 **LESS.**

33 **(d) FOR PURPOSES OF THIS SECTION, “HIGH SEVERITY VIOLATION”**
34 **AND “LOW SEVERITY VIOLATION” ARE DEFINED AS SET FORTH IN**
35 **SECTION 771A.2 OF CHAPTER XIA.**

36 ~~(f) If the probation order is revoked, the court may sentence the probationer in the same~~
37 ~~manner and to the same penalty as the court might have done if the probation order had~~
38 ~~never been made.~~ This section does not apply to a juvenile placed on probation and
39 committed under section 1(3) or (4) of chapter IX to an institution or agency described in
40 the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

41
42 771.14 Presentence investigation report; contents; information related to victim
43 prohibited from inclusion; information exempted from disclosure; amendment or
44 alteration; review of report; challenge; findings; copies.

45 Sec. 14. (1) Before the court sentences a person charged with a felony or a person who is
46 a licensee or registrant under article 15 of the public health code, 1978 PA 368, MCL

1 333.16101 to 333.18838, as described in section 1(14) of chapter IX, and, if directed by
2 the court, in any other case in which a person is charged with a misdemeanor within the
3 jurisdiction of the court, the probation officer shall inquire into the antecedents, character,
4 and circumstances of the person, and shall report in writing to the court.

5 (2) A presentence investigation report prepared under subsection (1) shall not include any
6 address or telephone number for the home, workplace, school, or place of worship of any
7 victim or witness, or a family member of any victim or witness, unless an address is used
8 to identify the place of the crime or to impose conditions of release from custody that are
9 necessary for the protection of a named individual. Upon request, any other address or
10 telephone number that would reveal the location of a victim or witness or a family
11 member of a victim or witness shall be exempted from disclosure unless an address is
12 used to identify the place of the crime or to impose conditions of release from custody
13 that are necessary for the protection of a named individual. A presentence investigation
14 report prepared under subsection (1) shall include all of the following:

15 (a) An evaluation of and a prognosis for the person's adjustment in the community based
16 on factual information contained in the report.

17 (b) If requested by a victim, any written impact statement submitted by the victim under
18 the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to
19 780.834.

20 ~~(c) A specific written recommendation for disposition based on the evaluation and other~~
21 ~~information as prescribed by the assistant director of the department of corrections in~~
22 ~~charge of probation.~~

23 ~~(d)~~ A statement prepared by the prosecuting attorney as to whether consecutive
24 sentencing is required or authorized by law.

25 **(d) (e)** For a person to be sentenced under the sentencing guidelines set forth in chapter
26 XVII, all of the following:

27 (i) For each conviction for which a consecutive sentence is authorized or required, the
28 sentence grid in part 6 of chapter XVII that contains the recommended minimum
29 sentence range.

30 (ii) Unless otherwise provided in subparagraph (i), for each crime having the highest
31 crime class, the sentence grid in part 6 of chapter XVII that contains the recommended
32 minimum sentence range.

33 (iii) Unless otherwise provided in subparagraph (i), the computation that determines the
34 recommended minimum sentence range for the crime having the highest crime class.

35 (iv) A specific statement as to the applicability of intermediate sanctions, as defined in
36 section 31 of chapter IX, **AND THE APPLICABILITY OF SWIFT AND SURE**
37 **SANCTIONS PROBATION, AS DEFINED IN SECTION .2.**

38 ~~(v) The recommended sentence.~~

39 **(e) (f)** If a person is to be sentenced for a felony or for a misdemeanor involving the
40 illegal delivery, possession, or use of alcohol or a controlled substance, a statement that
41 the person is licensed or registered under article 15 of the public health code, 1978 PA
42 368, MCL 333.16101 to 333.18838, if applicable.

43 **(f) (g)** Diagnostic opinions that are available and not exempted from disclosure under
44 subsection (3).

45 **(g) (h)** A statement as to whether the person has provided the identification documents
46 referenced in subsection (9)(b).

1 (3) The court may exempt from disclosure in the presentence investigation report
2 information or a diagnostic opinion that might seriously disrupt a program of
3 rehabilitation or sources of information obtained on a promise of confidentiality. If a part
4 of the presentence investigation report is not disclosed, the court shall state on the record
5 the reasons for its action and inform the defendant and his or her attorney that
6 information has not been disclosed. The action of the court in exempting information
7 from disclosure is subject to appellate review. Information or a diagnostic opinion
8 exempted from disclosure under this subsection shall be specifically noted in the
9 presentence investigation report.

10 (4) If a prepared presentence investigation report is amended or altered before sentencing
11 by the supervisor of the probation officer who prepared the report or by any other person
12 who has the authority to amend or alter a presentence investigation report, the probation
13 officer may request that the court strike his or her name from the report and the court
14 shall comply with that request.

15 (5) The court shall permit the prosecutor, the defendant's attorney, and the defendant to
16 review the presentence investigation report before sentencing.

17 (6) At the time of sentencing, either party may challenge, on the record, the accuracy or
18 relevancy of any information contained in the presentence investigation report. The court
19 may order an adjournment to permit the parties to prepare a challenge or a response to a
20 challenge. If the court finds on the record that the challenged information is inaccurate or
21 irrelevant, that finding shall be made a part of the record, the presentence investigation
22 report shall be amended, and the inaccurate or irrelevant information shall be stricken
23 accordingly before the report is transmitted to the department of corrections.

24 (7) A copy of the report described under subsection (5) and the amended report described
25 under subsection (6) shall be provided to the prosecutor and the defendant's attorney or
26 the defendant if he or she is not represented by an attorney. The copy of the report
27 described under subsection (5) shall be provided not less than 2 business days before
28 sentencing unless that period is waived by the defendant. The prosecutor and the
29 defendant's attorney or the defendant if he or she is not represented by an attorney have
30 the right to retain a copy of the report and the amended report provided under this
31 subsection.

32 (8) On appeal, the defendant's attorney, or the defendant if proceeding pro se, shall be
33 provided with a copy of the presentence investigation report and any attachments to the
34 report with the exception of any information exempted from disclosure by the court under
35 subsection (3).

36 (9) If the person is committed to a state correctional facility, both of the following apply:

37 (a) A copy or amended copy of the presentence investigation report and, if a psychiatric
38 examination of the person has been made for the court, a copy of the psychiatric report
39 shall accompany the commitment papers. If the person is sentenced by fine or
40 imprisonment or placed on probation or other disposition of his or her case is made by the
41 court, a copy or amended copy of the presentence investigation report, including a
42 psychiatric examination report made in the case, shall be filed with the department of
43 corrections.

44 (b) The person shall be provided notification that provides an explanation of the
45 importance of obtaining an operator's license or state personal identification card upon
46 release from incarceration and lists the personal identification documents described in

1 section 34c of the corrections code of 1953, 1953 PA 232, MCL 791.234c, necessary for
2 obtaining an operator's license or state personal identification card. The notification also
3 shall contain a request that the person obtain and provide those documents to the
4 department of corrections. The notification also shall state that the department of
5 corrections will retain in the file maintained for the person any identification documents
6 provided by the person until he or she is released from secure confinement. Any
7 identification documents previously provided by the person shall accompany the
8 commitment papers.

9 (10) A prisoner under the jurisdiction of the department of corrections shall be provided
10 with a copy of any presentence investigation report in the department's possession about
11 that prisoner, except for information exempted from disclosure under subsection (3), not
12 less than 30 days before a parole interview is conducted under section 35 of the
13 corrections code of 1953, 1953 PA 232, MCL 791.235.

14

1 VIOLATIONS: CODE OF CRIMINAL PROCEDURE CHAPTER XIA
2 CHAPTER XIA SWIFT AND SURE SANCTIONS

3 771A.2 Definitions.

4 Sec. 2. As used in this chapter:

5 (a) "Circuit court" includes a unified trial court having jurisdiction over probationers.

6 (b) "Probationer" means an individual placed on probation for committing a felony.

7 (c) **"DELEGATION" MEANS THE AUTHORITY GRANTED UNDER THIS**
8 **CHAPTER TO A PROBATION AGENT OR PROBATION OFFICER TO**
9 **IMPOSE SANCTIONS.**

10 (d) **"DEPARTMENT" MEANS THE DEPARTMENT OF CORRECTIONS.**

11 (e) **"HIGH SEVERITY VIOLATION" MEANS:**

12 (i) **USE OR POSSESSION OF WEAPONS, AMMUNITION OR**
13 **EXPLOSIVES;**

14 (ii) **CONTACT WITH A PROHIBITED PERSON, BUSINESS OR**
15 **LOCATION;**

16 (iii) **DOMESTIC VIOLENCE OR OTHER THREATENING OR**
17 **ASSAULTIVE BEHAVIOR;**

18 (iv) **ARREST FOR A NEW FELONY; OR**

19 (v) **THE SIXTHTH OR SUBSEQUENT LOW SEVERITY VIOLATION.**

20 (f) **"LOW SEVERITY VIOLATION" MEANS Any VIOLATION OF A**
21 **CONDITION OF SUPERVISION THAT IS NOT A HIGH SEVERITY**
22 **VIOLATION.**

23 (g) **"NONCONFINEMENT RESPONSE" MEANS ANY VIOLATION RESPONSE**
24 **THAT DOES NOT RESULT IN IMPRISONMENT IN THE CUSTODY OF THE**
25 **DEPARTMENT OR THE COUNTY JAIL, INCLUDING, BUT NOT LIMITED**
26 **TO, THE FOLLOWING:**

27 (i) **EXTENSION OF THE PERIOD OF SUPERVISION WITHIN THE**
28 **PERIOD PROVIDED BY LAW.**

29 (ii) **ADDITIONAL REPORTING AND COMPLIANCE REQUIREMENTS.**

30 (iii) **TESTING FOR THE USE OF DRUGS AND ALCOHOL.**

31 (iv) **COUNSELING AND TREATMENT FOR EMOTIONAL OR OTHER**
32 **MENTAL HEALTH PROBLEMS, INCLUDING FOR SUBSTANCE**
33 **ABUSE.**

34
35 771A.3 State swift and sure sanctions program; ~~intent to create;~~ objectives **AND**
36 **PROCEDURES.**

37 **Sec. 3.** It is the intent of the legislature ~~to create a voluntary state program~~ to fund swift
38 and sure probation supervision ~~at the local level~~ based upon the immediate detection of
39 probation violations and ~~prompt~~ the **PROMPT** imposition of sanctions and remedies to
40 address those violations. In furtherance of this intent, the state swift and sure sanctions
41 program **SHALL BE IMPLEMENTED AS FOLLOWS** ~~is created with the following~~
42 ~~objectives:~~

43 (a) Probationers are to be sentenced with prescribed terms of probation meeting the
44 objectives of this chapter. Probationers are to be aware of their probation terms as well as
45 the consequences for violating the terms of their probation. **UNLESS THE CIRCUIT**
46 **COURT STATES IN THE ORDER OF PROABTION THAT DELEGATION IS**

1 **WITHHELD, THE PROBATION OFFICER MAY FOLLOW THE PROCEDURE**
2 **SET FORTH UNDER THIS SECTION TO HAVE PROBATIONERS ARRESTED**
3 **AND TO IMPOSE A RESPONSE OR SANCTION.**

4 (b) Probationers are to be closely monitored and every detected violation is to be
5 promptly addressed by the court, **IF DELEGATION HAS BEEN WITHHELD, OR**
6 **BY THE PROBATION OFFICER WITH DELEGATION, PROVIDED THAT:**

7 **(i) IF THERE HAS BEEN DELEGATION, THE COURT MAY ADDRESS THE**
8 **VIOLATION WHEN SUCH A HEARING HAS BEEN AGREED TO BY THE**
9 **PARTIES AND WOULD NOT CAUSE UNREASONABLE DELAY;**

10 **(ii) THE COURT SHALL ADDRESS HIGH SEVERITY VIOLATIONS UNDER**
11 **SECTION .4 OF CHAPTER XI.**

12 (c) Probationers are to be arrested as soon as a violation has been detected ~~and are to be~~
13 ~~promptly taken before a judge for a hearing on the violation.~~ **THE PROBATION**
14 **OFFICER MAY IMPOSE A NONCONFINEMENT RESPONSE FOR A LOW**
15 **SEVERITY VIOLATION AFTER ADMINISTRATIVE REVIEW AND**
16 **APPROVAL BY A SUPERVISOR. THE PROBATIONER MAY FILE A MOTION**
17 **WITH THE COURT TO REVIEW THE ACTION TAKEN BY THE PROBATION**
18 **OFFICER, AND SHALL BE GIVEN NOTICE OF THE RIGHT TO SEEK SUCH**
19 **A COURT REVIEW.**

20 (d) Continued violations are to be addressed by increasing sanctions and remedies as
21 necessary to achieve results. **THE DEPARTMENT SHALL PROMULGATE RULES**
22 **UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306**
23 **OF THE PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE**
24 **MICHIGAN COMPILED LAWS, TO IMPLEMENT THE REQUIREMENTS OF**
25 **THIS SECTION, WHICH SHALL INCLUDE ALL OF THE FOLLOWING:**

26 **(1) THE PROCEDURE FOR A SUPERVISOR TO EVALUATE THE OFFICER'S**
27 **ACTION PRIOR TO IMPOSITION OF A SANCTION.**

28 **(2) A STRUCTURED SANCTIONING PROCESS THAT INCLUDES**
29 **PRESUMPTIVE SANCTIONS, AND AGGRAVATING AND MITIGATING**
30 **FACTORS. THE DEPARTMENT MUST DEFINE AGGRAVATING FACTORS**
31 **THAT INDICATE THE PROBATIONER PRESENTS A CURRENT AND**
32 **ONGOING FORESEEABLE RISK THAT ELEVATES BEHAVIOR TO A HIGH**
33 **LEVEL VIOLATION PROCESS TO BE REFERRED TO THE SENTENCING**
34 **COURT FOR REVOCATION UNDER SECTION 771.4(B) OF CHAPTER XI.**

35 **(3) THE PROCEDURE FOR THE DEPARTMENT TO RESPOND WHEN A**
36 **PROBATIONER COMMITS A LOW LEVEL VIOLATION AS FOLLOWS:**

37 **(1) FOR A FIRST LOW SEVERITY VIOLATION, THE DEPARTMENT**
38 **MAY IMPOSE ONE OR MORE NONCONFINEMENT RESPONSES.**

39 **(2) FOR A SECOND OR SUBSEQUENT LOW SEVERITY VIOLATION,**
40 **THE DEPARTMENT MAY SANCTION THE OFFENDER TO A PERIOD OF UP**
41 **TO THREE DAYS CONFINEMENT IN THE COUNTY JAIL.**

42 ~~(e) To the extent possible and considering local resources, probationers subject to swift~~
43 ~~and sure probation under this chapter shall be treated uniformly throughout the state.~~

44
45
46 Sec. 4 5.

1 (1) A **JUDGE WHO WITHHOLDS DELEGATION** ~~program of swift and sure~~
2 ~~probation supervision funded under section 4~~ shall do all of the following:
3 (a) ~~Require the court to inform~~ **INFORM** the probationer in person of the requirements
4 of his or her probation and the sanctions and remedies that may apply to probation
5 violations.
6 (b) Require the probationer to initially meet in person with a probation agent or probation
7 officer and as otherwise required by the court.
8 (c) Provide for an appearance before the judge for any probation violation as soon as
9 possible but within 72 hours after the violation is reported to the court ~~unless a departure~~
10 ~~from the 72-hour requirement is authorized for good cause as determined by criteria~~
11 ~~established by the state court administrative office.~~
12 (d) Provide for the immediate imposition of sanctions and remedies approved by the
13 **DEPARTMENT UNDER THE RULES PROMULGATED PURSUANT TO THIS**
14 **CHAPTER.** ~~state court administrative office to effectively address probation violations.~~
15 ~~The sanctions and remedies approved under this subdivision may include, but need not be~~
16 ~~limited to, 1 or more of the following:~~
17 (i) ~~Temporary incarceration in a jail or other facility authorized by law to hold probation~~
18 ~~violators.~~
19 (ii) ~~Extension of the period of supervision within the period provided by law.~~
20 (iii) ~~Additional reporting and compliance requirements.~~
21 (iv) ~~Testing for the use of drugs and alcohol.~~
22 (v) ~~Counseling and treatment for emotional or other mental health problems, including~~
23 ~~for substance abuse.~~
24 (vi) ~~Probation revocation.~~
25 (2) ~~The state court administrative office may, under the supervision of the supreme court,~~
26 ~~do any of the following regarding programs funded under this chapter:~~
27 (a) ~~Establish general eligibility requirements for offender participation.~~
28 (b) ~~Require courts and offenders to enter into written participation agreements.~~
29 (c) ~~Create recommended and mandatory sanctions and remedies for use by participating~~
30 ~~courts.~~
31 (d) ~~Establish criteria for deviating from recommended and mandatory sanctions and~~
32 ~~remedies when necessary to address special circumstances.~~
33 (e) ~~Establish a system for determining sanctions and remedies that should or may be~~
34 ~~imposed under subdivision (c) and for alternative sanctions and remedies under~~
35 ~~subdivision (d).~~

36
37 *Current sections 4, 6, 7, and 8 are repealed.*
38

1 PRISON RELEASE AND RETURN: CORRECTIONS CODE

2 791.251 Hearings division; creation; appointment and duties of hearing administrator;
3 duties of hearings division; supervision and qualifications of hearing officer.

4 Sec. 51.

5 (1) There is created within the department a hearings division. The division is under the
6 direction and supervision of the hearings administrator who is appointed by the director
7 of the department.

8 (2) Except as otherwise provided in this section, the hearings division is responsible for
9 each prisoner hearing the department conducts that may result in the loss by a prisoner of
10 a right, including but not limited to any 1 or more of the following matters:

11 (a) An infraction of a prison rule that may result in punitive segregation, loss of
12 disciplinary credits, or the loss of good time.

13 (b) A security classification that may result in the placement of a prisoner in
14 administrative segregation.

15 (c) A special designation that permanently excludes, by department policy or rule, a
16 person under the jurisdiction of the department from community placement.

17 (d) Visitor restrictions.

18 (e) High or very high assaultive risk classifications.

19 **(f) DELAYED RELEASE FOR MISCONDUCT UNDER SECTION 66a.**

20 (3) Except as otherwise provided in this section, the hearings division is responsible for
21 each prisoner hearing that may result in the accumulation of disciplinary time.

22 (4) The hearings division is not responsible for a prisoner hearing that is conducted for
23 prisoners transferred under section 11a to an institution of another state pursuant to the
24 interstate corrections compact.

25 (5) The hearings division is not responsible for a prisoner hearing that is conducted as a
26 result of a minor misconduct charge that would not cause a loss of good time or
27 disciplinary credits, or result in placement in punitive segregation.

28 (6) Each hearings officer of the department is under the direction and supervision of the
29 hearings division. Each hearings officer hired by the department after October 1, 1979,
30 shall be an attorney.

31
32 **791.266a DELAYED RELEASE FOR MISCONDUCT**

33 **Sec. 66a**

34 **(a) THIS SECTION APPLIES TO PRISONERS SENTENCED FOR OFFENSES**
35 **COMMITTED ON OR AFTER xxx, 2015.**

36 **(b) A PRISONER SHALL BE RELEASED TO SUPERVISION AFTER HAVING**
37 **SERVED THE MINIMUM SENTENCE OF THE INITIAL PRISON TERM**
38 **IMPOSED, UNLESS THE PRISONER HAS PENDING FELONY CHARGES OR**
39 **DETAINERS, OR A HISTORY OF SERIOUS AND PERSISTENT**
40 **INSTITUTIONAL MISCONDUCT AS DETERMINED BY THE HEARINGS**
41 **DIVISION.**

42 **(c) A PRISONER WHOSE RELEASE IS DELAYED MAY BE RELEASED TO**
43 **SUPERVISION AFTER DEMONSTRATING POSITIVE INSITUTIONAL**
44 **CONDUCT, AND SHALL BE RELEASED TO SUPERVISION UPON**
45 **REACHING THE MAXIMUM OF THE INITIAL PRISON TERM.**

1 (d) A PRISONER RELEASED TO SUPERVISION UNDER THIS SECTION
2 SHALL HAVE THE SAME DUTIES AND LIMITED RIGHTS UNDER
3 SUPERVISION AS A PRISONER RELEASED TO PAROLE.

4 (e) THE PAROLE BOARD SHALL USE ACTUARIAL RISK AND NEED
5 ASSESSMENT INFORMATION IN DETERMINING AND IMPOSING
6 SUPERVISION AND TREATMENT STRATEGIES UPON RELEASE UNDER
7 THIS SUBSECTION.

8 (f) AS USED IN THIS SECTION, "SERIOUS AND PERSISTENT
9 INSTITUTIONAL CONDUCT" MEANS ANY OF THE FOLLOWING:

10 (1) TWO OR MORE MAJOR MISCONDUCTS WHILE INCARCERATED.

11 (2) A CONTINUOUS PATTERN OF MINOR MISCONDUCTS WHILE
12 INCARCERATED.

13 (3) WILLFUL FAILURE TO PARTICIPATE IN AN ASSIGNMENT, PROGRAM
14 OR EDUCATION REQUIRED BY THE DEPARTMENT.

15
16 791.240a Parole; revocation; violation; right to fact-finding hearing; time and location of
17 hearing; parolee determined to be indigent; appointment of attorney; notice; rights at
18 hearing; postponement; notice to director if hearing not conducted within certain time
19 period; insufficient evidence; reinstatement to parole status; finding of parole violation;
20 revocation of parole; noncompliance with order to make restitution; "violent felony"
21 defined.

22 Sec. 40a.

23 (1) After a prisoner is released on parole **OR TO SUPERVISION UNDER SECTION**
24 **66a**, the prisoner's parole **OR RELEASE** order is subject to revocation at the discretion
25 of the parole board for cause as provided in this section.

26 (a) A PRISONER REVOKED UNDER SUBSECTION 10 WHO IS SENTENCED
27 FOR AN OFFENSE COMMITTED PRIOR TO xxx, 2015 THAT IS NOT AN
28 OFFENSE UNDER GRID M2, A, B, OR C UNDER THE GUIDELINES IN
29 CHAPTER XVII, CODE OF CRIMINAL PROCEDURE, SHALL BE REQUIRED
30 TO SERVE UP TO 90 DAYS OF THE REMAINING SENTENCE IN THE
31 CUSTODY OF THE DEPARTMENT. THE PRISONER SHALL THEN BE
32 RETURNED TO SUPERVISION AND THE TIME SERVED, NOT INCLUDING
33 THE TIME SERVED FROM ARREST TO HEARING, SHALL BE CREDITED
34 TO REDUCE THE TOTAL AMOUNT OF THE REMAINING SENTENCE
35 REMAINING.

36 (b) A PRISONER REVOKED UNDER THIS SECTION WHO IS SENTENCED
37 FOR AN OFFENSE COMMITTED ON OR AFTER xxx, 2015 SHALL BE
38 RECOMMITTED TO SERVE UP TO 90 DAYS OF THE SANCTION TERM
39 REMAINING.

40

1 DRUG OFFENSES: PUBLIC HEALTH CODE

2 333.7413 Conviction of second or subsequent violation; penalty.

3 Sec. 7413.

4 (1) An individual who was convicted previously for a violation of any of the following
5 offenses and is thereafter convicted of a second or subsequent violation of any of the
6 following offenses shall be imprisoned for life and shall not be eligible for probation,
7 suspension of sentence, or parole during that mandatory term:

8 (a) A violation of section 7401(2)(a)(ii) or (iii).

9 (b) A violation of section 7403(2)(a)(ii) or (iii).

10 (c) Conspiracy to commit an offense proscribed by section 7401(2)(a)(ii) or (iii) or
11 section 7403(2)(a)(ii) or (iii).

12 (2) Except as otherwise provided in subsections (1) and (3), an individual convicted of a
13 second ~~or subsequent~~ offense under this article may be imprisoned **FOR A MAXIMUM**
14 **TERM THAT IS NOT MORE THAN 1-1/2 TIMES THE LONGEST TERM**
15 **PRESCRIBED FOR A FIRST CONVICTION OF THAT OFFENSE OR FOR A**
16 **LESSER TERM. AN INDIVIDUAL CONVICTED OF A THIRD OR**
17 **SUBSEQUENT OFFENSE UNDER THIS ARTICLE MAY BE IMPRISONED**
18 **FOR A MAXIMUM TERM THAT IS NOT MORE THAN TWICE THE**
19 **LONGEST TERM PRESCRIBED FOR A FIRST CONVICTION OF THAT**
20 **OFFENSE OR FOR A LESSER TERM.** ~~for a term not more than twice the term~~
21 ~~otherwise authorized or fined an amount not more than twice that otherwise authorized,~~
22 ~~or both.~~

23 (3) An individual convicted of a second or subsequent offense under section 7410(2) or
24 (3) shall be punished, subject to subsection (4), by a term of imprisonment of not less
25 than 5 years nor more than twice that authorized under section 7410(2) or (3) and, in
26 addition, may be punished by a fine of not more than 3 times that authorized by section
27 7410(2) or (3); and shall not be eligible for probation or suspension of sentence during
28 the term of imprisonment.

29 (4) The court may depart from the minimum term of imprisonment authorized under
30 subsection (3) if the court finds on the record that there are substantial and compelling
31 reasons to do so.

32 (5) For purposes of subsection (2), an offense is considered a second or subsequent
33 offense, if, before conviction of the offense, the offender has at any time been convicted
34 under this article or under any statute of the United States or of any state relating to a
35 narcotic drug, marihuana, depressant, stimulant, or hallucinogenic drug. **A**
36 **CONVICTION SHALL NOT BE USED TO ENHANCE A SENTENCE UNDER**
37 **THIS SECTION IF THAT CONVICTION IS USED TO SCORE PRIOR RECORD**
38 **VARIABLES UNDER PART V OF CHAPTER XVII.**

1 COMMUNITY CORRECTIONS AND REENTRY: COMMUNITY CORRECTIONS
2 ACT

3 791.404 Duties of state board.

4 Sec. 4.

5 (1) The state board shall do all of the following:

6 (a) Develop and establish goals, offender eligibility criteria, and program guidelines for
7 community corrections programs.

8 (b) Adopt minimum program standards, policies, and rules for community corrections
9 programs.

10 (c) Adopt an application process and procedures for funding community corrections
11 programs, including the format for comprehensive corrections plans.

12 (d) Adopt criteria for community corrections program evaluations.

13 (e) Hire an executive director, who shall serve at the pleasure of the board.

14 **(f) DEVELOP PROCEDURES FOR THE TRANSITION TO UNIFIED**
15 **COMMUNITY CORRECTIONS AND REENTRY PLANNING AND FUNDING**
16 **UNDER SECTION 8.**

17 **(2) BEGINNING ON JUNE 1, 2015, THE STATE BOARD SHALL DIRECT THE**
18 **OFFICE TO DO THE FOLLOWING:**

19 **(a) CONDUCT A COUNTY-BY-COUNTY ANALYSIS OF THE PROBATIONER**
20 **AND PAROLEE POPULATIONS, INCLUDING A CENSUS OF THE HIGH-RISK**
21 **SUBPOPULATIONS, AND THE CRIMINOGENIC NEEDS FOR SERVICES**
22 **THAT ARE PRESENT IN THOSE SUBPOPULATIONS.**

23 **(b) PREPARE INSTRUCTIONS FOR ADVISORY BOARDS TO:**

24 **(i) CONDUCT A GAP ANALYSIS, COMPARING THE RESULTS OF THE**
25 **OFFICE'S NEEDS ANALYSIS WITH THE EXISTING RESOURCES,**
26 **PROGRAMS AND SERVICES IN THE LOCALITY;**

27 **(ii) DESCRIBE THE NEEDS THAT ARE CURRENTLY WITHIN THEIR**
28 **ABILITY TO MEET; AND**

29 **(iii) DESCRIBE THOSE NEEDS THAT REQUIRE FURTHER**
30 **RESOURCES TO MEET.**

31 **(c) EVALUATE THE OFFICE'S CURRENTLY FUNDED PROGRAMS AS**
32 **WELL AS THE DEPARTMENT'S COMMUNITY REENTRY PROGRAMS FOR**
33 **FIDELITY TO EVIDENCE BASED PRACTICES AND TO IDENTIFY**
34 **RESOURCES THAT CAN BE REDIRECTED TO PROGRAMS ADDRESSING**
35 **CRIMINOGENIC NEEDS.**

36 **(d) PRIOR TO JANUARY 1, 2016, CONDUCT AT LEAST THREE PUBLIC**
37 **HEARINGS IN LOCATIONS OTHER THAN THE CAPITAL TO PRESENT THE**
38 **RESULTS OF THE EFFORTS DESCRIBED IN SUBSECTIONS (a) THROUGH**
39 **(c) AND RECEIVE PUBLIC COMMENT.**

40 **(d) CONDUCT SERVICE PROCUREMENT UNDER SECTION 11.**

41 **(e) EVALUATE THE DELIVERY OF SERVICES ACCORDING TO**
42 **CONTRACTUAL EXPECTATIONS FOR PROVIDERS, INCLUDING**
43 **MEASUREMENT OF RECIDIVISM. RECIDIVISM MEASUREMENT BY THE**
44 **DEPARTMENT SHALL INCLUDE, AS APPLICABLE, ANALYSIS:**

45 **(i) OF REARREST RATES, RE-SENTENCE RATES, AND RETURN TO**
46 **PRISON RATES;**

1 (ii) **AT ONE, TWO AND THREE YEAR INTERVALS AFTER EXITING**
2 **PRISON OR JAIL AND AFTER ENTERING PROBATION;**

3 (iii) **AT THE STATEWIDE LEVEL, AND BY LOCALITY AND**
4 **DISCRETE PROGRAM, TO THE EXTENT PRACTICABLE.**

5
6 791.407 Membership of boards.

7 Sec. 7.

8 (1) A county advisory board, regional advisory board, city-county advisory board, or city
9 advisory board shall consist of the following:

10 (a) One member shall be a county sheriff, or his or her designee.

11 (b) One member shall be a chief of a city police department, or his or her designee.

12 (c) One member shall be a judge of the circuit court or his or her designee.

13 (d) One member shall be a judge of the district court or his or her designee.

14 (e) One member shall be a judge of the probate court or his or her designee.

15 (f) One member shall be a county commissioner or city councilperson. In the case of a
16 regional advisory board or a city-county advisory board, 1 county commissioner or
17 councilperson from each participating city and county shall serve as a member.

18 (g) One member **EACH** shall be selected from **AT LEAST THREE** † of the following
19 service areas: mental health, public health, substance abuse, employment and training, or
20 community alternative programs.

21 (h) One member shall be a county prosecuting attorney or his or her designee.

22 (i) One member shall be a criminal defense attorney.

23 (j) One member shall be from the business community.

24 (k) One member shall be from the communications media.

25 (l) One member shall be either a circuit court probation agent or a district court probation
26 officer.

27 (m) One member shall be a representative of the general public.

28 **(n) ONE MEMBER SHALL BE AFFILIATED WITH THE APPLICABLE**
29 **WORKFORCE INVESTMENT BOARD.**

30 (2) In the case of a county or regional advisory board, the members shall be appointed by
31 the county board or boards of commissioners. In the case of a city advisory board, the
32 members shall be appointed by the city council. In the case of the city-county advisory
33 board, the members shall be appointed by the county board of commissioners and the city
34 council. In appointing the members of an advisory board, the county and city shall ensure
35 that minority persons and women are fairly represented.

36 (3) Before an appointment is made under this section, the appointing authority shall
37 publish advance notice of the appointments and shall request that the names of persons
38 interested in being considered for appointment be submitted to the appointing authority.

39
40 791.408 Comprehensive corrections **AND REENTRY** plan.

41 Sec. 8.

42 (1) A county, city, city-county, or regional advisory board, on behalf of the city, county,
43 or counties it represents, may apply for funding and other assistance under this act by
44 submitting to the office a comprehensive corrections **AND REENTRY** plan that meets
45 the requirements of this section, and the criteria, standards, rules, and policies developed
46 by the state board pursuant to section 4.

1 (2) The plan shall be developed by the county, city, city-county, or regional advisory
2 board **SHALL REFLECT THE RESULTS OF THE PROCESS DESCRIBED IN**
3 **SUBSECTION 2 OF SECTION 4**, and shall include all of the following for the county,
4 city, or counties represented by the advisory board:

5 (a) A system for the development, implementation, and operation of community
6 corrections programs **OR SERVICES TO ENHANCE PUBLIC SAFETY BY**
7 **REDUCING RECIDIVISM, HOLDING OFFENDERS ACCOUNTABLE, AND**
8 **SUPPORTING OFFENDERS REENTERING FROM JAIL OR PRISON** and an
9 explanation of how the state prison commitment rate for the city, county, or counties will
10 be reduced, and how the public safety will be maintained, as a result of implementation
11 of the comprehensive corrections plan. The plan shall include, where appropriate,
12 provisions that detail how the city, county, or counties plan to substantially reduce, within
13 1-year, the use of prison sentences for felons for which the state felony sentencing
14 guidelines upper limit for the recommended minimum sentence is 12 months or less as
15 validated by the department of corrections. Continued funding in the second and
16 subsequent years shall be contingent upon substantial compliance with this subdivision.

17 (b) A data analysis of the local criminal justice system including a basic description of
18 jail utilization detailing such areas as sentenced versus unsentenced inmates, sentenced
19 felons versus sentenced misdemeanants, **AND USE OF PRETRIAL ASSESSMENT**
20 **AND DIVERSION.** any use of a jail classification system. The analysis also shall
21 include a basic description of offenders sentenced to probation and to prison and a review
22 of the rate of commitment to the state corrections systems from the city, county, or
23 counties for the preceding 3 years. The analysis also shall compare actual sentences with
24 the sentences recommended by the state felony sentencing guidelines.

25 (c) An analysis of the local community corrections **AND REENTRY** programs used at
26 the time the plan is submitted and during the preceding 3 years, including types of
27 offenders served, **EVALUATION RESULTS**, and funding levels.

28 (d) A system for evaluating the effectiveness of the community corrections **AND**
29 **REENTRY** programs, which shall utilize the criteria developed pursuant to section 4(d)
30 **AND INCLUDE EITHER A DESCRIPTION OF THE LOCAL EVALUATION**
31 **DESIGN OR A REQUEST FOR A STATE EVALUATION DESIGN.**

32 (e) The identity of any designated subgrant recipient.

33 (f) In the case of a regional or city-county plan, provisions for the appointment of 1 fiscal
34 agent to coordinate the financial activities pertaining to the grant award.

35 **(g) A STATEMENT WHETHER THE ADVISORY BOARD AGREES TO**
36 **EXPAND THE MISSION OF THE BOARD TO ENCOMPASS REENTRY**
37 **SERVICES AND ACCEPT FUNDING FOR REENTRY SERVICES, OR**
38 **REQUESTS THE CREATION OF A SEPARATE ADVISORY BOARD AND**
39 **FUNDING FOR THAT PURPOSE. REQUESTS TO EXPAND THE MISSION OF**
40 **THE ADVISORY BOARD MAY BE ACCOMPANIED BY PROPOSED NEW**
41 **MEMBER POSITIONS ON THE BOARD.**

42 (3) The county board or boards of commissioners of the county or counties represented
43 by a county, city-county, or regional advisory board, or the city council of the city
44 represented by a city or city-county advisory board, shall approve the proposed
45 comprehensive corrections **AND REENTRY** plan prepared by their advisory board
46 before the plan is submitted to the office pursuant to subsection (1).

1 ~~(4) This section is intended to encourage the participation in community corrections~~
2 ~~programs of offenders who would likely be sentenced to imprisonment in a state~~
3 ~~correctional facility or jail, would not increase the risk to public safety, have not~~
4 ~~demonstrated a pattern of violent behavior, and do not have a criminal record that~~
5 ~~indicates a pattern of violent offenses.~~
6

7 791.411 Authorized payments for community corrections programs; funding for
8 administration; current spending not to be supplanted.
9 Sec. 11.

10 **(1) THE FUNDS APPROPRIATED TO THE OFFICE SHALL BE ALLOCATED**
11 **TO THE MAXIMUM EXTENT POSSIBLE TO PERFORMANCE BASED**
12 **CONTRACTUAL AGREEMENTS WITH PROGRAMS AND SERVICE**
13 **PROVIDERS FOR THE OPERATION OF COMMUNITY-BASED**
14 **CORRECTIONS AND REENTRY PROGRAMS THAT FULFILL NEEDS**
15 **IDENTIFIED IN THE PLAN SUBMITTED PURSUANT TO SECTION 8 OR THE**
16 **PROPOSAL SUBMITTED PURSUANT TO SECTION 10 IF THE PLAN IS**
17 **APPROVED BY THE OFFICE.** The office ~~shall~~ **MAY ALSO** authorize payments
18 from funds appropriated to the office for community corrections **AND REENTRY**
19 programs to cities, counties, **OR** regions, ~~or agencies~~ for the community corrections
20 **AND REENTRY** programs described in the plan submitted pursuant to section 8 or the
21 proposal submitted pursuant to section 10 if the plan or proposal is approved by the
22 office.

23 (2) Of the total funding recommended for the implementation of the comprehensive
24 corrections plan **AND PAID TO CITIES OR COUNTIES**, not more than 30% may be
25 used by the city, county, or counties for administration.

26 (3) The funds provided to a city, county, or counties under this section shall not supplant
27 current spending by the city, county, or counties for community corrections **AND**
28 **REENTRY** programs.

29 **(4) CONTRACTS FOR SERVICE PROCUREMENT SHALL BE**
30 **COMPETITIVELY BID AND PERFORMANCE BASED. TO BE ELIGIBLE FOR**
31 **FUNDING, PROGRAMS AND SERVICE PROVIDERS MUST DEMONSTRATE**
32 **THAT THEY WILL PROVIDE INTERVENTIONS WITH FIDELITY TO**
33 **MODELS THAT ARE KNOWN TO REDUCE RECIDIVISM AND THAT**
34 **ADDRESS THE NEEDS FOR SERVICES PRESENTED IN THAT LOCALITY.**

35 **(5) THE OFFICE SHALL DEVELOP MINIMUM PROGRAM STANDARDS,**
36 **POLICIES, AND RULES FOR COMMUNITY CORRECTIONS AND REENTRY**
37 **PROGRAMS. COMMUNITY CORRECTIONS OR REENTRY TREATMENT**
38 **PROGRAMS SHALL BE CERTIFIED BY THE DIRECTOR OF THE**
39 **DEPARTMENT. THE DIRECTOR MAY ESTABLISH QUALIFICATIONS FOR**
40 **THE CERTIFICATION OF PROGRAMS, WHICH MAY INCLUDE**
41 **REQUIREMENTS FOR SUPERVISION AND MONITORING OF CLIENTS, FEE**
42 **REIMBURSEMENT PROCEDURES, HANDLING OF CONFLICTS OF**
43 **INTEREST, DELIVERY OF SERVICES TO CLIENTS UNABLE TO PAY, AND**
44 **OTHER MATTERS RELATING TO QUALITY AND DELIVERY OF SERVICES**
45 **BY THE PROGRAM. THE CERTIFICATION SHALL BE FOR A FOUR-YEAR**
46 **PERIOD. THE DIRECTOR SHALL CONSULT WITH THE DEPARTMENT OF**

1 **HUMAN SERVICES ON THOSE STANDARDS, POLICIES, AND RULES THAT**
2 **ARE APPLICABLE TO LICENSED AND CREDENTIALLED SUBSTANCE**
3 **ABUSE OR MENTAL HEALTH SERVICES.**
4

DRAFT

1 VICTIMIZATION SURVEY: CRIME VICTIMS COMPENSATION BOARD

2 18.353 Crime victims services commission; powers and duties generally.

3 Sec. 3.

4 (1) The commission shall do all of the following:

5 (a) Promulgate rules under the administrative procedures act of 1969, Act No. 306 of the
6 Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws,
7 including rules for the approval of attorneys' fees for representation before the
8 commission or before the court of appeals upon judicial review as provided for in section
9 8.

10 (b) Obtain from a state or local governmental unit assistance and data to enable the
11 commission to carry out its functions and duties.

12 (c) Investigate and determine claims for awards and reinvestigate or reopen cases as the
13 commission considers necessary.

14 (d) Direct medical examination of victims.

15 (e) Review all appeals, hold hearings, administer oaths or affirmations, examine any
16 person under oath or affirmation, issue subpoenas requiring the attendance and giving of
17 testimony of witnesses and the production of books, papers, documentary or other
18 evidence. For the purposes of this section, a certified copy of an investigative report
19 relating to the hearing meets the requirements of this section.

20 (f) Take or cause to be taken affidavits or depositions within or without the state.

21 (g) Give an annual written report of its activities to the governor and the legislature.

22 (h) Conduct a program to insure continued public awareness of the provisions of this act
23 in cooperation with state and local agencies.

24 (i) Monitor, evaluate, and coordinate state and local victim assistance programs.

25 (j) Administer and provide advice for the disbursement of federal funds available from
26 the victims of crime act of 1984, chapter XIV of the comprehensive crime control act of
27 1984, title II of Public Law 98-473, 98 Stat. 2170, for the purposes of compensating and
28 assisting crime victims.

29 (k) Perform the duties required under Act No. 196 of the Public Acts of 1989, being
30 sections 780.901 to 780.911 of the Michigan Compiled Laws.

31 **(l) PERFORM OR CONTRACT FOR THE PERFORMANCE OF A PERIODIC**
32 **VICTIMIZATION SURVEY BY LOCALITY, AND REPORT THE RESULTS TO**
33 **THE GOVERNOR, THE ATTORNEY GENERAL, THE SUPREME COURT,**
34 **AND THE LEGISLATURE.**

35 (2) With the exception of subsection (1)(e), the powers provided in subsection (1) may be
36 delegated by the commission to a member of the commission or its staff.