



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

GARLIN GILCHRIST II
LT. GOVERNOR

EXECUTIVE ORDER

No. 2021-5

Michigan Jail Reform Advisory Council

Department of Technology, Management and Budget

The Michigan Joint Task Force on Jail and Pretrial Incarceration, created by Executive Order No. 2019-10 and co-chaired by Michigan's Lieutenant Governor and Chief Justice, issued its final report and recommendations in January of 2020. The Task Force found significant growth in county jail populations, costing taxpayers nearly half a billion dollars annually. Jail populations have been driven equally by pretrial and post-conviction incarceration, with limited guidance in state law on the preferred or presumed intervention. The Task Force recommended extensive state policy changes related to traffic violations, arrests, behavioral health diversion, pretrial release and detention, speedy trials, sentencing, probation and parole, financial barriers for system-involved individuals, victim services, and data collection.

The Michigan Legislature passed many of the Task Force recommendations with bipartisan support in December of 2020, which were signed into law on January 4, 2021. The legislature is considering other reforms, as well.

As a national leader in criminal justice reform, Michigan must prioritize the full and timely implementation of these jail reforms and track related outcomes. Interdisciplinary, inter-branch coordination is vital for implementing policy and practice changes, developing educational materials, supporting justice system practitioners, and monitoring performance measures.

Section 1 of article 5 of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the governor.

Section 8 of article 5 of the Michigan Constitution of 1963 places each principal department of state government under the supervision of the governor unless otherwise provided.

Section 8 of article 5 of the Michigan Constitution of 1963 also obligates the governor to take care that the laws be faithfully executed.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. Creating the Michigan Jail Reform Advisory Council

- (a) The Michigan Jail Reform Advisory Council ("Council") is created as an advisory body within the Department of Technology, Management, and Budget ("Department"), consisting of 19 members.
- (b) The governor will appoint the following members:
 - (1) The secretary of state or the secretary of state's designated representative from within the Office of Secretary of State of Michigan.
 - (2) The attorney general or the attorney general's designated representative from within the Department of Attorney General.
 - (3) The director of the Michigan State Police or the director's designated representative from within the Michigan State Police.
 - (4) The director of the Michigan Department of Corrections or the director's designated representative from within the Michigan Department of Corrections.
 - (5) The director of the Michigan Department of Health and Human Services or the director's designated representative from within the Division of Victims Services.
 - (6) An individual who is a public defender or criminal defense attorney for indigent clients, after soliciting and considering nominees from the Michigan Indigent Defense Commission.
 - (7) A county prosecutor, after soliciting and considering nominees from the Prosecuting Attorneys Association of Michigan.
 - (8) A member of a board of county commissioners, after soliciting and considering nominees from the Michigan Association of Counties.
 - (9) A county sheriff or jail administrator, after soliciting and considering nominees from the Michigan's Sheriff's Association.
 - (10) A police chief, after soliciting and considering nominees from the Michigan Association of Chiefs of Police.
 - (11) A community mental health employee, after soliciting and considering nominees from the Community Mental Health Association of Michigan.
 - (12) A representative of community corrections or pretrial services.
- (c) The following officers of the judicial branch of state government may participate as members of the Council:

- (1) The chief justice of the Michigan Supreme Court or the chief justice's designated representative from within the State Court Administrative Office or Michigan Supreme Court.
 - (2) A circuit court judge designated by the chief justice of the Michigan Supreme Court.
 - (3) A district court judge designated by the chief justice of the Michigan Supreme Court.
- (d) The following officers of the legislative branch of state government may participate as members of the Council:
- (1) A member of the Michigan Senate appointed from a list of three nominees submitted by the senate majority leader.
 - (2) A member of the Michigan Senate appointed from a list of three nominees submitted by the senate minority leader.
 - (3) A member of the Michigan House of Representatives appointed from a list of three nominees submitted by the speaker of the Michigan House of Representatives.
 - (4) A member of the Michigan House of Representatives appointed from a list of three nominees submitted by the house minority leader.
- (e) A vacancy on the Council must be filled in the same manner as the original appointment.
- (f) The Governor must name a chairperson of the Council.

2. Charge to the Council

- (a) The Council must facilitate, assist with, monitor, and evaluate the successful implementation of jail reform legislation throughout the State of Michigan. In pursuit of these objectives, the Council's work may include, but is not limited to, the following:
- (1) Provide information to criminal justice system professionals by drafting and distributing guides explaining jail reform legislation and their corresponding effective dates.
 - (2) Collaborate with and support local and state agencies with implementation strategies.
 - (3) Identify training needs for government agencies, system stakeholders, and professional associations to comply with the law and provide support as needed, including subject matter expertise, presentations, and educational materials.

- (4) Coordinate with government agencies and departments to develop and implement necessary changes in forms, technology, and website information.
 - (5) Recommend reasonable timelines for government agencies and key justice system practitioner groups to report on steps taken to implement the statutory and budgetary changes. Provide feedback on implementation plans to support compliance and enhance the likelihood of full and timely implementation.
 - (6) Identify data that can reasonably be collected or sampled to measure the outcomes of jail reform legislation and partner with key justice system practitioner groups to gather that data.
- (b) The Council must report annually on or before the 15th of January to the Governor, Legislature, and Supreme Court on implementation of the jail reform legislation and measurable outcomes.
 - (c) The Council must disseminate accurate and reliable information about the jail reform legislation and its outcomes through public statements, background information and fact-checks for lawmakers, practitioners, and the media, and annual reports on the performance of the policy changes.
 - (d) The Council will dissolve on March 31, 2023, or such other time as the governor directs.

3. Operations of the Council

- (a) By mutual agreement, the State Court Administrative Office will provide personnel to assist the Council in the performance of its duties. As needed, the department must also assist the Council in the performance of its duties and provide personnel to staff the Council. The budgeting, procurement, and related management functions of the Council will be performed under the direction and supervision of the Department.
- (b) The Council must adopt procedures, consistent with this order and applicable law, governing its organization and operations.
- (c) The Council must meet at the call of its chairperson and as otherwise provided in the procedures adopted by the Council.
- (d) The Council may select from among its members a vice chairperson.
- (e) The Council may select from among its members a secretary. Council staff must assist the secretary with recordkeeping responsibilities.
- (f) The Council must comply with the Freedom of Information Act, 1976 PA 442, as amended, MCL 15.231 to 15.246.

- (g) A majority of the members of the Council serving constitutes a quorum for the transaction of the business of the Council. The Council must act by a majority vote of its serving members.
- (h) The Council may establish advisory workgroups composed of individuals or entities participating in Council's activities or other members of the public as deemed necessary by the Council to assist it in performing its duties and responsibilities. The Council may adopt, reject, or modify any recommendations proposed by an advisory workgroup.
- (i) The Council may, as appropriate, make inquiries, studies, and investigations, hold hearings, and receive comments from the public. The Council also may consult with outside experts to perform its duties, including their peers, justice-system practitioners and stakeholders, in-state and national experts, crime victims and those impacted by criminal justice systems in the state, community leaders and members of the public.
- (j) The Council may hire or retain contractors, sub-contractors, advisors, consultants, and agents, and may make and enter into contracts necessary or incidental to the exercise of the powers of the Council and the performance of its duties as the Department deems advisable and necessary, consistent with this order and applicable law, rules, and procedures, subject to available funding.
- (k) The Council may accept donations of labor, services, or other things of value from any public or private agency or person. Any donations must be received and used in accordance with law.
- (l) Members of the Council must not receive additional compensation for participation on the Council. Members of the Council may receive reimbursement for necessary travel and expenses consistent with applicable law, rules, and procedures, subject to available funding.
- (m) Members of the Council must refer all legal, legislative, and media contacts to the Executive Office of the Governor.

4. Implementation

- (a) All departments, committees, commissioners, or officers of this state must give to the Council, or to any member or representative of the Council, any necessary assistance required by the Council, or any member or representative of the Council, in the performance of the duties of the Council so far as is compatible with their duties and consistent with this order and applicable law. Free access also must be given to any books, records, or documents in their custody relating to matters within the scope of inquiry, study, or review of the Council, consistent with applicable law.
- (b) This order is not intended to abate a proceeding commenced by, against, or before an officer or entity affected by this order. A proceeding may be maintained by, against, or before the successor of any officer or entity affected by this order.

- (c) Nothing in this order should be construed to change the organization of the executive branch of state government or the assignment of functions among its units, in a manner requiring the force of law.
- (d) If any portion of this order is found to be unenforceable, the rest of the order remains in effect.
- (e) This order is effective upon filing. Given under my hand and the Great Seal of the State of Michigan.

Date: April 21, 2021

Time: 8:00 am


GRETCHEN WHITMER
GOVERNOR

By the Governor:


SECRETARY OF STATE



FILED WITH SECRETARY OF STATE

ON 4/21/21 AT 9:02 A.M.