**STATE OF MICHIGAN**

**IN THE** \_\_\_\_ **COUNTY CIRCUIT COURT**

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

Case No. \_\_\_\_\_\_\_\_\_\_

v.

Hon. Judge \_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_,

Defendant.

PROSECUTOR (P XXXXX) ATTORNEY (P XXXXX)

Prosecuting Attorney Attorney for Defendant

Address Address

City, State ZIP City, State ZIP

PHONE PHONE

**Motion for Jail Sentence Reduction Pursuant to MCL 801.257**

NOW Comes Defendant \_\_\_\_\_\_\_\_\_\_, by and through \_\_\_\_\_\_\_\_\_\_, and respectfully moves this Court to reduce his jail sentence, pursuant to 801.257. In support, counsel states:

1. On \_\_\_\_, Mr./Ms. \_\_\_\_\_\_\_\_\_\_ pled guilty to \_\_\_\_\_\_\_\_\_\_, in violation of MCL \_\_\_\_\_\_\_\_\_\_. On \_\_\_\_, Mr./Ms. \_\_\_\_\_\_\_\_\_\_ was sentenced to a jail term of \_\_\_\_\_\_\_\_\_\_. Mr./Ms. \_\_\_\_\_\_\_\_\_\_ is currently incarcerated at the \_\_\_\_\_\_\_\_\_\_ County Jail.
2. MCL 801.257 authorizes a discretionary reduction of 25% of a county jail inmate’s sentence if that inmate’s “. . . conduct, diligence and general attitude merits such reduction.” The statutory ability to reduce a jail term has been recognized by our Supreme Court. See *In Re Jenkins*, 438 Mich 364, 369, n 2 (1991); see also Staff Comment to MCR 6.429 (noting authority under MCL 801.257).
3. If Mr./Ms. \_\_\_\_\_\_\_\_’s jail sentence is reduced and if Mr./Ms. \_\_\_\_\_\_\_\_ is released, \_\_\_ anticipates <<explain where client will go>>. Mr./Ms. \_\_\_\_\_\_\_\_ has a supportive family and will have a stable home environment <<explain as necessary>>. Mr./Ms. \_\_\_\_\_\_\_\_ is needed at home to care for family members <<explain as necessary; identify family members and explain care needed>>.
4. **Mr./Ms. \_\_\_\_\_\_\_\_\_\_’s “conduct, diligence and attitude” warrant a reduction in sentence.**
5. Mr./Ms. \_\_\_\_\_\_\_\_\_\_’s conduct, diligence and attitude from the time of sentencing and and while incarcerated has been <<excellent or exemplary or good or strong or commendable>>. The Court is referred to the following facts:

<<State appropriate facts, such as those below. Provide record citations, documentation or reference the names of jail personnel, as available.>>

* 1. Mr./Ms. \_\_\_\_\_\_\_\_\_\_ took all steps to qualify for work release immediately and while awaiting a bed to enter the work release program; was made a county jail trustee; and also received all available Sheriff’s good time credits as provided by statute.
  2. Mr./Ms. \_\_\_\_\_\_\_\_\_\_ has paid all court-ordered costs and fees.
  3. Mr./Ms. \_\_\_\_\_\_\_\_\_\_has had no punishable rules violations while a trustee and/ or in or out of the work release programs and/ or while incarcerated.
  4. While on work release, Mr./Ms. \_\_\_\_\_\_\_\_\_\_ was regularly screened for alcohol and drugs and has always passed/ tested negative (clean); Mr./Ms. \_\_\_\_\_\_\_\_\_\_was also responsible to report to \_\_\_\_\_ for random drug and alcohol testing before his incarceration and passed \_\_\_\_\_ tests.

1. **The circumstances of Mr./Ms. \_\_\_\_\_\_\_\_\_\_’s crime warrants a reduction in sentence.**
2. A reduction in jail time is also warranted given the circumstances surrounding Mr./Ms. \_\_\_\_\_\_\_\_\_\_’s crime:

<<State appropriate circumstanes, such as those below. Provide record citations, documentation or reference the names of jail personnel, as available >>

* 1. The offense was not serious in nature or not the most serious violation of the statute (DESCRIBE WHY. Perhaps no victim, victim not harmed, little loss or damage, property returned) OR the offender’s role was minor (DESCRIBE WHY. Defendant not primary actor or played passive role or induced by others?).
  2. Moreover, there were some mitigating circumstances surrounding the offense (DESCRIBE THEM. Perhaps diminished mental capacity due to substance abuse or mental illness. Perhaps duress or coercion).
  3. Mr./Ms. \_\_\_\_\_\_\_\_\_\_ is a first-time offender OR has a prior record that is old or not serious/assaultive (DESCRIBE PRIOR RECORD AND WHY DEFENDANT IS NOT A DANGER TO PUBLIC. INCLUDE DEFENDANT’S **AGE**, IF RELEVANT).
  4. The sentencing guidelines range would have supported a lower sentence. (INPUT GUIDELINES RANGE). Intermediate sanction cells and straddle cells do not require any jail time. This was true when the guidelines were mandatory, see MCL 769.34(4)(a) & (c)(2) (“An intermediate sanction may include a jail term . . . “ and “an intermediate sanction that may include a term of imprisonment”)” and is certainly true now that the guidelines are advisory. *People v Lockridge*, 498 Mich 358 (2015).
  5. Mr./Ms. \_\_\_\_\_\_\_\_\_\_ cooperated with the police or was cooperative at arrest and during questioning.
  6. Mr./Ms. \_\_\_\_\_\_\_\_\_\_ expressed remorse at sentencing and is still remorseful.

1. **The impact of the COVID-19 pandemic warrants a reduction in Mr./Ms. \_\_\_\_\_\_\_\_\_\_’s sentence.**
2. Finally, while MCL 801.257 does not expressly permit consideration of the current COVID-19 pandemic and its impact, counsel asks this Court to evaluate whether continued incarceration of Mr./Ms. \_\_\_\_\_\_\_\_\_\_ would best protect society. Of course, protection of society has long been considered one of the four primary goals of punishment. See e.g., *People v Snow*, 386 Mich 586, 592 (1972), citing *Williams v New York*, 337 US 241 (1949); see also Administrative Order No. 2020-1 (2020) (urging trial courts to “take reasonable steps to protect the public” due to the COVID-19 crisis).
3. The Federal Government, the State of Michigan, and all public health authorities now urge – and in some instances – require – “social distancing” in order to save lives and slow the spread of COVID-19. According to the Centers for Disease Control (CDC), social distancing “means remaining out of congregate settings, avoiding mass gatherings, and maintaining distance (approximately 6 feet or 2 meters) from others when possible.” See [www.CDC.gov](http://www.CDC.gov). But social distancing is impossible to accomplish in a jail setting, which was not designed or built to provide individual inmates this amount of individual space.
4. Governor Whitmer has also recently ordered that “all assemblages of more than 50 people in a single indoor shared space and all events of more than 50 people are prohibited in this state**.**” Executive Order 2020-11 (March 17, 2020). This may be difficult to accomplish in a jail setting, which was not designed or built for such limitations.
5. <<Optional>> To save lives and slow the spread of COVID-19, the CDC also recommends that those over age 60 and those with chronic health conditions – such as heart disease, diabetes, and lung disease – take special precautions and isolate themselves as much as possible. Mr./Ms. \_\_\_\_\_\_\_\_\_\_ is \_\_\_ years old, and suffers from \_\_\_\_\_\_\_\_\_\_.
6. Given these unique and emergency considerations, a reduction in Mr./Ms. \_\_\_\_\_\_\_\_\_\_’s jail sentence would thus help to protect society by reducing the jail population, slowing the spread of COVID-19, and possibly saving lives.

WHEREFORE, undersigned counsel respectfully requests that this Court reduce his Mr./Ms. \_\_\_\_\_\_\_\_\_\_’s jail sentence, pursuant to 801.257.

Respectfully submitted,

**Attorney Name**

Address

City, Michigan XXXXX

Dated: \_\_\_\_\_\_\_\_\_\_, 2020