**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 Release from Jail Pursuant to**

**Executive Order 2020-29**

NOW Comes Defendant \_\_\_\_\_\_\_\_\_\_, by and through \_\_\_\_\_\_\_\_\_\_, and respectfully moves this Court to release him from jail sentence, pursuant to Executive Order 2020-29. 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. On March 29, 2020, Governor Whitmer issued Executive Order 2020-29, which addresses the need to release people from jail in light of the COVID-19 crisis. See also Joint Statement of Chief Justice McCormack and Sheriff Matt Sexton, Executive Director of the Michigan Sheriffs’ Association (March 26, 2020) (calling for reduction in jail population).
3. Executive Order 2020-29 “strongly encourage[s]” the early release of the following people, as long as they do not pose a public safety risk:
4. Older people, people who have chronic conditions or are otherwise medically frail, people who are pregnant, and people nearing their release date.
5. Anyone who is incarcerated for a traffic violation.
6. Anyone who is incarcerated for failure to appear or failure to pay.
7. Anyone with behavioral health problems who can safely be diverted for treatment.
8. Mr./Ms. \_\_\_\_\_\_\_\_ meets <<at least one / some>> of these criteria and should be immediately released.
9. Mr./Ms. \_\_\_\_\_\_\_\_ is \_\_\_\_\_\_\_ <<Describe why client meets criteria on list. Is client “near” his/her release date? As appropriate, give client’s age or list known health problems. If available, provide citations to PSIR, transcripts, or jail records listing known medical conditions. There is no set list of qualifying diagnoses, so list anything that might qualify.>>
10. In addition, Mr./Ms. \_\_\_\_\_\_\_\_ does not pose a public safety risk. This Court is referred to the following facts:
    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.
11. If Mr./Ms. \_\_\_\_\_\_\_\_ is released from jail, \_\_\_ 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 also needed at home to care for family members <<explain as necessary; identify family members and explain care needed>>.
12. Mr./Ms. \_\_\_\_\_\_\_\_\_\_ release is also in the best interests of society. 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).
13. The Federal Government, the State of Michigan, and all public health authorities now urge – and in many instances – require – “social distancing” in order to save lives and slow the spread of COVID-19. According to the Centers for Disease Control and Prevention (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.
14. In recent days, Governor Whitmer has issued a stream of Executive Orders, each aimed at restricting the spread of COVID-19 by limiting all but essential human interaction among members of the general public. See e.g., Executive Order 2020-21 (stay at home order with limited exceptions for “essential” needs); Executive Order 2020-20 (restricting all “non-essential” personal care services); see also [www.Michigan.gov](http://www.Michigan.gov) (listing all EOs).
15. Consistent with Governor Whitmer’s Executive Orders, and particularly Executive Order 2020-29, Mr./Ms. \_\_\_\_\_\_\_\_\_\_ should now be released from jail, so that \_\_\_ too can limit social interactions, help to slow the spread of COVID-19, and possibly save lives.

WHEREFORE, undersigned counsel respectfully requests that this Court release Mr./Ms. \_\_\_\_\_\_\_\_\_\_ from the \_\_\_\_\_\_\_\_\_\_ County Jail, pursuant to Executive Order 2020-29.

Respectfully submitted,

**Attorney Name**

Address

City, Michigan XXXXX

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