

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 319

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
(MCL 760.1 to 777.69) by adding sections 25 and 25a to chapter IX.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER IX

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SEC. 25. (1) THIS SECTION APPLIES TO A CRIMINAL DEFENDANT WHO
WAS LESS THAN 18 YEARS OF AGE AT THE TIME HE OR SHE COMMITTED AN
OFFENSE DESCRIBED IN SUBSECTION (2) IF EITHER OF THE FOLLOWING
CIRCUMSTANCES EXISTS:

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(A) THE DEFENDANT IS CONVICTED OF THE OFFENSE ON OR AFTER THE
EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION.

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(B) THE DEFENDANT WAS CONVICTED OF THE OFFENSE BEFORE THE
EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION AND

1 EITHER OF THE FOLLOWING APPLIES:

2 (i) THE CASE IS STILL PENDING IN THE TRIAL COURT OR THE
3 APPLICABLE TIME PERIODS FOR DIRECT APPELLATE REVIEW BY STATE OR
4 FEDERAL COURTS HAVE NOT EXPIRED.

5 (ii) ON JUNE 25, 2012 THE CASE WAS PENDING IN THE TRIAL COURT
6 OR THE APPLICABLE TIME PERIODS FOR DIRECT APPELLATE REVIEW BY STATE
7 OR FEDERAL COURTS HAD NOT EXPIRED.

8 (2) THE PROSECUTING ATTORNEY MAY FILE A MOTION UNDER THIS
9 SECTION TO SENTENCE A DEFENDANT DESCRIBED IN SUBSECTION (1) TO
10 IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE IF THE
11 INDIVIDUAL IS OR WAS CONVICTED OF ANY OF THE FOLLOWING VIOLATIONS:

12 (A) A VIOLATION OF SECTION 17764(7) OF THE PUBLIC HEALTH CODE,
13 1978 PA 368, MCL 333.17764.

14 (B) A VIOLATION OF SECTION 16(5), 18(7), 316, 436(2)(E), OR
15 543F OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.16, 750.18,
16 750.316, 750.436, AND 750.543F.

17 (C) A VIOLATION OF CHAPTER XXXIII OF THE MICHIGAN PENAL CODE,
18 1931 PA 328, MCL 750.200 TO 750.212A.

19 (D) ANY VIOLATION OF LAW INVOLVING THE DEATH OF ANOTHER PERSON
20 FOR WHICH PAROLE ELIGIBILITY IS EXPRESSLY DENIED UNDER STATE LAW.

21 (3) IF THE PROSECUTING ATTORNEY INTENDS TO SEEK A SENTENCE OF
22 IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE FOR A CASE
23 DESCRIBED IN SUBSECTION (1)(A), THE PROSECUTING ATTORNEY SHALL FILE
24 THE MOTION WITHIN 21 DAYS AFTER THE DEFENDANT IS CONVICTED OF THAT
25 VIOLATION. IF THE PROSECUTING ATTORNEY INTENDS TO SEEK A SENTENCE
26 OF IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE FOR A
27 CASE DESCRIBED UNDER SUBSECTION (1)(B), THE PROSECUTING ATTORNEY

1 SHALL FILE THE MOTION WITHIN 90 DAYS AFTER THE EFFECTIVE DATE OF
2 THE AMENDATORY ACT THAT ADDED THIS SECTION. THE MOTION SHALL
3 SPECIFY THE GROUNDS ON WHICH THE PROSECUTING ATTORNEY IS REQUESTING
4 THE COURT TO IMPOSE A SENTENCE OF IMPRISONMENT FOR LIFE WITHOUT THE
5 POSSIBILITY OF PAROLE.

6 (4) IF THE PROSECUTING ATTORNEY DOES NOT FILE A MOTION UNDER
7 SUBSECTION (3) WITHIN THE TIME PERIODS PROVIDED FOR IN THAT
8 SUBSECTION, THE COURT SHALL SENTENCE THE DEFENDANT TO A TERM OF
9 YEARS AS PROVIDED IN SUBSECTION (9).

10 (5) IF THE PROSECUTING ATTORNEY FILES A MOTION UNDER
11 SUBSECTION (2) REQUESTING THAT THE INDIVIDUAL BE SENTENCED TO
12 IMPRISONMENT FOR LIFE WITHOUT PAROLE ELIGIBILITY, THE INDIVIDUAL
13 SHALL FILE A RESPONSE TO THE PROSECUTION'S MOTION WITHIN 14 DAYS
14 AFTER RECEIVING NOTICE OF THE MOTION.

15 (6) IF THE PROSECUTING ATTORNEY FILES A MOTION UNDER
16 SUBSECTION (2), THE COURT SHALL CONDUCT A HEARING ON THE MOTION AS
17 PART OF THE SENTENCING PROCESS. AT THE HEARING, THE TRIAL COURT
18 SHALL CONSIDER THE FACTORS LISTED IN MILLER V ALABAMA, 576 US ____;
19 183 L ED 2D 407; 132 S CT 2455 (2012), AND MAY CONSIDER ANY OTHER
20 CRITERIA RELEVANT TO ITS DECISION, INCLUDING THE INDIVIDUAL'S
21 RECORD WHILE INCARCERATED.

22 (7) AT THE HEARING UNDER SUBSECTION (6), THE COURT SHALL
23 SPECIFY ON THE RECORD THE AGGRAVATING AND MITIGATING CIRCUMSTANCES
24 CONSIDERED BY THE COURT AND THE COURT'S REASONS SUPPORTING THE
25 SENTENCE IMPOSED. THE COURT MAY CONSIDER EVIDENCE PRESENTED AT
26 TRIAL TOGETHER WITH ANY EVIDENCE PRESENTED AT THE SENTENCING
27 HEARING.

1 (8) EACH VICTIM SHALL BE AFFORDED THE RIGHT UNDER SECTION 15
2 OF THE WILLIAM VAN REGENMORTER CRIME VICTIM'S RIGHTS ACT, 1985 PA
3 87, MCL 780.765, TO APPEAR BEFORE THE COURT AND MAKE AN ORAL IMPACT
4 STATEMENT AT ANY SENTENCING OR RESENTENCING OF THE DEFENDANT UNDER
5 THIS SECTION.

6 (9) IF THE COURT DECIDES NOT TO SENTENCE THE INDIVIDUAL TO
7 IMPRISONMENT FOR LIFE WITHOUT PAROLE ELIGIBILITY, THE COURT SHALL
8 SENTENCE THE INDIVIDUAL TO A TERM OF IMPRISONMENT FOR WHICH THE
9 MAXIMUM TERM SHALL BE NOT LESS THAN 60 YEARS AND THE MINIMUM TERM
10 SHALL BE NOT LESS THAN 25 YEARS OR MORE THAN 40 YEARS.

11 (10) A DEFENDANT WHO IS SENTENCED UNDER THIS SECTION SHALL BE
12 GIVEN CREDIT FOR TIME ALREADY SERVED BUT SHALL NOT RECEIVE ANY GOOD
13 TIME CREDITS, SPECIAL GOOD TIME CREDITS, DISCIPLINARY CREDITS, OR
14 ANY OTHER CREDITS THAT REDUCE THE DEFENDANT'S MINIMUM OR MAXIMUM
15 SENTENCE.

16 SEC. 25A. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (2)
17 AND (3), THE PROCEDURES SET FORTH IN SECTION 25 OF THIS CHAPTER DO
18 NOT APPLY TO ANY CASE THAT IS FINAL FOR PURPOSES OF APPEAL ON OR
19 BEFORE JUNE 24, 2012. A CASE IS FINAL FOR PURPOSES OF APPEAL UNDER
20 THIS SECTION IF ANY OF THE FOLLOWING APPLY:

21 (A) THE TIME FOR FILING AN APPEAL IN THE STATE COURT OF
22 APPEALS HAS EXPIRED.

23 (B) THE APPLICATION FOR LEAVE TO APPEAL IS FILED IN THE STATE
24 SUPREME COURT AND IS DENIED OR A TIMELY FILED MOTION FOR REHEARING
25 IS DENIED.

26 (C) IF THE STATE SUPREME COURT HAS GRANTED LEAVE TO APPEAL,
27 AFTER THE COURT RENDERS ITS DECISION OR AFTER A TIMELY FILED MOTION

1 FOR REHEARING IS DENIED.

2 (2) IF THE STATE SUPREME COURT OR THE UNITED STATES SUPREME
3 COURT FINDS THAT THE DECISION OF THE UNITED STATES SUPREME COURT IN
4 MILLER V ALABAMA, 576 US ____; 183 L ED 2D 407; 132 S CT 2455
5 (2012), APPLIES RETROACTIVELY TO ALL DEFENDANTS WHO WERE UNDER THE
6 AGE OF 18 AT THE TIME OF THEIR CRIMES, AND THAT DECISION IS FINAL
7 FOR APPELLATE PURPOSES, THE DETERMINATION OF WHETHER A SENTENCE OF
8 IMPRISONMENT FOR A VIOLATION SET FORTH IN SECTION 25(2) OF THIS
9 CHAPTER SHALL BE IMPRISONMENT FOR LIFE WITHOUT PAROLE ELIGIBILITY
10 OR A TERM OF YEARS AS SET FORTH IN SECTION 25(9) OF THIS CHAPTER
11 SHALL BE MADE BY THE SENTENCING JUDGE OR HIS OR HER SUCCESSOR AS
12 PROVIDED IN THIS SECTION. FOR PURPOSES OF THIS SUBSECTION, A
13 DECISION OF THE STATE SUPREME COURT IS FINAL WHEN EITHER THE UNITED
14 STATES SUPREME COURT DENIES A PETITION FOR CERTIORARI CHALLENGING
15 THE DECISION OR THE TIME FOR FILING THAT PETITION PASSES WITHOUT A
16 PETITION BEING FILED.

17 (3) IF THE STATE SUPREME COURT OR THE UNITED STATES SUPREME
18 COURT FINDS THAT THE DECISION OF THE UNITED STATES SUPREME COURT IN
19 MILLER V ALABAMA, 576 US ____; 183 L ED 2D 407; 132 S CT 2455
20 (2012), APPLIES RETROACTIVELY TO ALL DEFENDANTS WHO WERE CONVICTED
21 OF FELONY MURDER UNDER SECTION 316(1)(B) OF THE MICHIGAN PENAL
22 CODE, 1931 PA 328, MCL 750.316, AND WHO WERE UNDER THE AGE OF 18 AT
23 THE TIME OF THEIR CRIMES, AND THAT THE DECISION IS FINAL FOR
24 APPELLATE PURPOSES, THE DETERMINATION OF WHETHER A SENTENCE OF
25 IMPRISONMENT SHALL BE IMPRISONMENT FOR LIFE WITHOUT PAROLE
26 ELIGIBILITY OR A TERM OF YEARS AS SET FORTH IN SECTION 25(9) OF
27 THIS CHAPTER SHALL BE MADE BY THE SENTENCING JUDGE OR HIS OR HER

1 SUCCESSOR AS PROVIDED IN THIS SECTION. FOR PURPOSES OF THIS
2 SUBSECTION, A DECISION OF THE STATE SUPREME COURT IS FINAL WHEN
3 EITHER THE UNITED STATES SUPREME COURT DENIES A PETITION FOR
4 CERTIORARI CHALLENGING THE DECISION WITH REGARD TO THE RETROACTIVE
5 APPLICATION OF MILLER V ALABAMA, 576 US ____; 183 L ED 2D 407; 132 S
6 CT 2455 (2012), TO DEFENDANTS WHO COMMITTED FELONY MURDER AND WHO
7 WERE UNDER THE AGE OF 18 AT THE TIME OF THEIR CRIMES, OR WHEN THE
8 TIME FOR FILING THAT PETITION PASSES WITHOUT A PETITION BEING
9 FILED.

10 (4) THE FOLLOWING PROCEDURES APPLY TO CASES DESCRIBED IN
11 SUBSECTIONS (2) AND (3):

12 (A) WITHIN 30 DAYS AFTER THE DATE THE SUPREME COURT'S DECISION
13 BECOMES FINAL, THE PROSECUTING ATTORNEY SHALL PROVIDE A LIST OF
14 NAMES TO THE CHIEF CIRCUIT JUDGE OF THAT COUNTY OF ALL DEFENDANTS
15 WHO ARE SUBJECT TO THE JURISDICTION OF THAT COURT AND WHO MUST BE
16 RESENTENCED UNDER THAT DECISION.

17 (B) WITHIN 180 DAYS AFTER THE DATE THE SUPREME COURT'S
18 DECISION BECOMES FINAL, THE PROSECUTING ATTORNEY SHALL FILE MOTIONS
19 FOR RESENTENCING IN ALL CASES IN WHICH THE PROSECUTING ATTORNEY
20 WILL BE REQUESTING THE COURT TO IMPOSE A SENTENCE OF IMPRISONMENT
21 FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE. A HEARING ON THE MOTION
22 SHALL BE CONDUCTED AS PROVIDED IN SECTION 25 OF THIS CHAPTER.

23 (C) IF THE PROSECUTING ATTORNEY DOES NOT FILE A MOTION UNDER
24 SUBDIVISION (B), THE COURT SHALL SENTENCE THE INDIVIDUAL TO A TERM
25 OF IMPRISONMENT FOR WHICH THE MAXIMUM TERM SHALL BE 60 YEARS AND
26 THE MINIMUM TERM SHALL BE NOT LESS THAN 25 YEARS OR MORE THAN 40
27 YEARS. EACH VICTIM SHALL BE AFFORDED THE RIGHT UNDER SECTION 15 OF

Senate Bill No. 319 (H-3) as amended February 4, 2014

1 THE WILLIAM VAN REGENMORTER CRIME VICTIM'S RIGHTS ACT, 1985 PA 87,
2 MCL 780.765, TO APPEAR BEFORE THE COURT AND MAKE AN ORAL IMPACT
3 STATEMENT AT ANY RESENTENCING OF THE DEFENDANT UNDER THIS
4 SUBDIVISION.

5 (5) RESENTENCING HEARINGS UNDER SUBSECTION (4) SHALL BE HELD
6 IN THE FOLLOWING ORDER OF PRIORITY:

7 (A) CASES INVOLVING DEFENDANTS WHO HAVE SERVED 20 OR MORE
8 YEARS OF IMPRISONMENT SHALL BE HELD FIRST.

9 (B) CASES IN WHICH THE PROSECUTING ATTORNEY HAS FILED A MOTION
10 REQUESTING A SENTENCE OF IMPRISONMENT FOR LIFE WITHOUT THE
11 POSSIBILITY OF PAROLE SHALL BE HELD AFTER CASES DESCRIBED IN
12 SUBDIVISION (A) ARE HELD.

13 (C) CASES OTHER THAN THOSE DESCRIBED IN SUBDIVISIONS (A) AND
14 (B) SHALL BE HELD AFTER THE CASES DESCRIBED IN SUBDIVISIONS (A) AND
15 (B) ARE HELD.

16 (6) A DEFENDANT WHO IS RESENTENCED UNDER SUBSECTION (4) SHALL
17 BE GIVEN CREDIT FOR TIME ALREADY SERVED, BUT SHALL NOT RECEIVE ANY
18 GOOD TIME CREDITS, SPECIAL GOOD TIME CREDITS, DISCIPLINARY CREDITS,
19 OR ANY OTHER CREDITS THAT REDUCE THE DEFENDANT'S MINIMUM OR MAXIMUM
20 SENTENCE.

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