

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 section 32 to chapter IX.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER IX

2 SEC. 32. (1) THIS SECTION APPLIES TO A CRIMINAL DEFENDANT WHO
3 WAS LESS THAN 18 YEARS OF AGE AT THE TIME HE OR SHE COMMITTED AN
4 OFFENSE DESCRIBED IN SUBSECTION (2) IF EITHER OF THE FOLLOWING
5 CIRCUMSTANCES EXISTS:

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

8 (B) THE DEFENDANT WAS CONVICTED OF THE OFFENSE BEFORE THE
9 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 SUBSECTION TO SENTENCE A DEFENDANT DESCRIBED IN SUBSECTION (1) TO
10 IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE IF THE
11 DEFENDANT 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), 200I(E), 204(E),
15 207(E), 209(E), 210(E), 211A(F), 316, 436(2)(E), OR 543F OF THE
16 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.16, 750.18, 750.200I,
17 750.204, 750.207, 750.209, 750.210, 750.211A, 750.316, 750.436, AND
18 750.543F.

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

22 (3) IF THE PROSECUTING ATTORNEY INTENDS TO SEEK A SENTENCE OF
23 IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE UNDER
24 SUBSECTION (2) FOR A CASE DESCRIBED IN SUBSECTION (1)(A), THE
25 PROSECUTING ATTORNEY SHALL FILE THE MOTION WITHIN 21 DAYS AFTER THE
26 DEFENDANT IS CONVICTED OF THAT VIOLATION. IF THE PROSECUTING
27 ATTORNEY INTENDS TO SEEK A SENTENCE OF IMPRISONMENT FOR LIFE

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

8 (4) IF THE PROSECUTING ATTORNEY DOES NOT FILE A MOTION UNDER
9 SUBSECTION (2) WITHIN THE TIME PERIODS PROVIDED FOR IN SUBSECTION
10 (3), THE COURT SHALL SENTENCE THE DEFENDANT TO A TERM OF YEARS AS
11 PROVIDED IN SUBSECTION (9).

12 (5) IF THE PROSECUTING ATTORNEY FILES A MOTION UNDER
13 SUBSECTION (2) REQUESTING THAT THE DEFENDANT BE SENTENCED TO
14 IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE, THE
15 DEFENDANT SHALL FILE A RESPONSE TO THE PROSECUTION'S MOTION WITHIN
16 14 DAYS AFTER RECEIVING NOTICE OF THE MOTION.

17 (6) IF THE PROSECUTING ATTORNEY FILES A MOTION UNDER
18 SUBSECTION (2), THE COURT SHALL CONDUCT A HEARING ON THE MOTION AT
19 WHICH MRE 1101 APPLIES. AT THE HEARING, THE TRIAL COURT SHALL
20 CONSIDER THE FACTORS LISTED IN MILLER V ALABAMA, _____ US _____;
21 183 L ED 2D 407; 132 S CT 2455 (2012) AND MAY CONSIDER ANY OTHER
22 CRITERIA RELEVANT TO ITS DECISION, INCLUDING THE DEFENDANT'S RECORD
23 WHILE INCARCERATED.

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

1 TRIAL TOGETHER WITH ANY EVIDENCE PRESENTED AT THE SENTENCING
2 HEARING.

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

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

13 (10) A DEFENDANT WHO IS SENTENCED UNDER THIS SECTION SHALL BE
14 GIVEN CREDIT FOR TIME ALREADY SERVED.

15 Enacting section 1. This amendatory act does not take effect
16 unless all of the following bills of the 97th Legislature are
17 enacted into law:

18 (a) Senate Bill No. 318.

19 (b) House Bill No. 4808.