

**SUBSTITUTE FOR
HOUSE BILL NO. 4163**

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending sections 1 and 1b of chapter IX (MCL 769.1 and 769.1b),
section 1 as amended by 2023 PA 293 and section 1b as amended by
1998 PA 520; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER IX

Sec. 1. (1) A judge of a court having jurisdiction may
pronounce judgment against and pass sentence upon a person
convicted of an offense in that court. The sentence must not exceed
the sentence prescribed by law. ~~The~~ **Subject to subsection (14), the**
court shall sentence a juvenile convicted of any of the following
crimes in the same manner as an adult:



1 (a) First degree arson in violation of section 72 of the
2 Michigan penal code, 1931 PA 328, MCL 750.72.

3 (b) Assault with intent to commit murder in violation of
4 section 83 of the Michigan penal code, 1931 PA 328, MCL 750.83.

5 (c) Assault with intent to maim in violation of section 86 of
6 the Michigan penal code, 1931 PA 328, MCL 750.86.

7 (d) Attempted murder in violation of section 91 of the
8 Michigan penal code, 1931 PA 328, MCL 750.91.

9 (e) Conspiracy to commit murder in violation of section 157a
10 of the Michigan penal code, 1931 PA 328, MCL 750.157a.

11 (f) Solicitation to commit murder in violation of section 157b
12 of the Michigan penal code, 1931 PA 328, MCL 750.157b.

13 (g) First degree murder in violation of section 316 of the
14 Michigan penal code, 1931 PA 328, MCL 750.316.

15 (h) Second degree murder in violation of section 317 of the
16 Michigan penal code, 1931 PA 328, MCL 750.317.

17 (i) Kidnapping in violation of section 349 of the Michigan
18 penal code, 1931 PA 328, MCL 750.349.

19 (j) First degree criminal sexual conduct in violation of
20 section 520b of the Michigan penal code, 1931 PA 328, MCL 750.520b.

21 (k) Armed robbery in violation of section 529 of the Michigan
22 penal code, 1931 PA 328, MCL 750.529.

23 (l) Carjacking in violation of section 529a of the Michigan
24 penal code, 1931 PA 328, MCL 750.529a.

25 (2) A person convicted of a felony or of a misdemeanor
26 punishable by imprisonment for more than 92 days must not be
27 sentenced until the court has examined the court file and has
28 determined that the person's fingerprints have been taken.

29 (3) Unless a juvenile is required to be sentenced in the same



1 manner as an adult under subsection (1), a judge of a court having
2 jurisdiction over a juvenile shall conduct a hearing at the
3 juvenile's sentencing to determine if the best interests of the
4 public would be served by placing the juvenile on probation and
5 committing the juvenile to an institution or agency described in
6 the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to
7 803.309, or by imposing any other sentence provided by law for an
8 adult offender. Except as provided in ~~subsection~~ **subsections** (5)
9 **and (14)**, the court shall sentence the juvenile in the same manner
10 as an adult unless the court determines by a preponderance of the
11 evidence that the interests of the public would be best served by
12 placing the juvenile on probation and committing the juvenile to an
13 institution or agency described in the youth rehabilitation
14 services act, 1974 PA 150, MCL 803.301 to 803.309. The rules of
15 evidence do not apply to a hearing under this subsection. In making
16 the determination required under this subsection, the judge shall
17 consider all of the following, giving greater weight to the
18 seriousness of the alleged offense and the juvenile's prior record
19 of delinquency:

20 (a) The seriousness of the alleged offense in terms of
21 community protection, including, but not limited to, the existence
22 of any aggravating factors recognized by the sentencing guidelines,
23 the use of a firearm or other dangerous weapon, and the impact on
24 any victim.

25 (b) The juvenile's culpability in committing the alleged
26 offense, including, but not limited to, the level of the juvenile's
27 participation in planning and carrying out the offense and the
28 existence of any aggravating or mitigating factors recognized by
29 the sentencing guidelines.



1 (c) The juvenile's prior record of delinquency including, but
2 not limited to, any record of detention, any police record, any
3 school record, or any other evidence indicating prior delinquent
4 behavior.

5 (d) The juvenile's programming history, including, but not
6 limited to, the juvenile's past willingness to participate
7 meaningfully in available programming.

8 (e) The adequacy of the punishment or programming available in
9 the juvenile justice system.

10 (f) The dispositional options available for the juvenile.

11 (4) With the consent of the prosecutor and the defendant, the
12 court may waive the hearing required under subsection (3). If the
13 court waives the hearing required under subsection (3), the court
14 may place the juvenile on probation and commit the juvenile to an
15 institution or agency described in the youth rehabilitation
16 services act, 1974 PA 150, MCL 803.301 to 803.309, but shall not
17 impose any other sentence provided by law for an adult offender.

18 (5) If a juvenile is convicted of a violation or conspiracy to
19 commit a violation of section 7403(2)(a)(i) of the public health
20 code, 1978 PA 368, MCL 333.7403, the court shall determine whether
21 the best interests of the public would be served by imposing the
22 sentence provided by law for an adult offender, by placing the
23 individual on probation and committing the individual to an
24 institution or agency under subsection (3), or by imposing a
25 sentence of imprisonment for any term of years but not less than 25
26 years. If the court determines by clear and convincing evidence
27 that the best interests of the public would be served by imposing a
28 sentence of imprisonment for any term of years but not less than 25
29 years, the court may impose that sentence. In making its



1 determination, the court shall use the criteria specified in
2 subsection (3).

3 (6) The court shall state on the record the court's findings
4 of fact and conclusions of law for the probation and commitment
5 decision or sentencing decision made under subsection (3). If a
6 juvenile is committed under subsection (3) to an institution or
7 agency described in the youth rehabilitation services act, 1974 PA
8 150, MCL 803.301 to 803.309, a transcript of the court's findings
9 must be sent to the department of health and human services or
10 county juvenile agency, as applicable.

11 (7) Money collected for juveniles placed with or committed to
12 the department of health and human services or a county juvenile
13 agency must be accounted for and reported on an individual basis.

14 (8) An order directed to a person responsible for the
15 juvenile's support under this section is not binding on the person
16 unless an opportunity for a hearing has been given and until a copy
17 of the order is served on the person, personally or by first-class
18 mail to the person's last known address.

19 (9) If a juvenile is placed on probation and committed under
20 subsection (3) or (4) to an institution or agency described in the
21 youth rehabilitation services act, 1974 PA 150, MCL 803.301 to
22 803.309, the court shall retain jurisdiction over the juvenile
23 while the juvenile is on probation and committed to that
24 institution or agency.

25 (10) If the court has retained jurisdiction over a juvenile
26 under subsection (9), the court shall conduct an annual review of
27 the services being provided to the juvenile, the juvenile's
28 placement, and the juvenile's progress in that placement. In
29 conducting this review, the court shall examine the juvenile's



1 annual report prepared under section 3 of the juvenile facilities
2 act, 1988 PA 73, MCL 803.223. The court may order changes in the
3 juvenile's placement or treatment plan including, but not limited
4 to, committing the juvenile to the jurisdiction of the department
5 of corrections, based on the review.

6 (11) If an individual who is under the court's jurisdiction
7 under section 4 of chapter XIIIA of the probate code of 1939, 1939
8 PA 288, MCL 712A.4, is convicted of a violation or conspiracy to
9 commit a violation of section 7403(2)(a)(i) of the public health
10 code, 1978 PA 368, MCL 333.7403, the court shall determine whether
11 the best interests of the public would be served by imposing the
12 sentence provided by law for an adult offender or by imposing a
13 sentence of imprisonment for any term of years but not less than 25
14 years. If the court determines by clear and convincing evidence
15 that the best interests of the public would be served by imposing a
16 sentence of imprisonment for any term of years but not less than 25
17 years, the court may impose that sentence. In making its
18 determination, the court shall use the criteria specified in
19 subsection (3) to the extent they apply.

20 (12) If the defendant is sentenced for an offense other than a
21 listed offense as defined in section 2 of the sex offenders
22 registration act, 1994 PA 295, MCL 28.722, the court shall
23 determine if the offense is a violation of a law of this state or a
24 local ordinance of a municipality of this state that by its nature
25 constitutes a sexual offense against an individual who is less than
26 18 years of age. If so, the conviction is for a listed offense as
27 defined in section 2 of the sex offenders registration act, 1994 PA
28 295, MCL 28.722, and the court shall include the basis for that
29 determination on the record and include the determination in the



1 judgment of sentence.

2 (13) When sentencing a person convicted of a misdemeanor
3 involving the illegal delivery, possession, or use of alcohol or a
4 controlled substance or a felony, the court shall examine the
5 presentence investigation report and determine if the person being
6 sentenced is licensed or registered under article 15 of the public
7 health code, 1978 PA 368, MCL 333.16101 to 333.18838. The court
8 shall also examine the court file and determine if a report of the
9 conviction upon which the person is being sentenced has been
10 forwarded to the department of licensing and regulatory affairs as
11 provided in section 16a of this chapter. If the report has not been
12 forwarded to the department of licensing and regulatory affairs,
13 the court shall order the clerk of the court to immediately prepare
14 and forward the report as provided in section 16a of this chapter.

15 **(14) The court shall not sentence an individual who was less**
16 **than 19 years of age when the crime was committed to imprisonment**
17 **for life without parole eligibility.**

18 Sec. 1b. (1) If a juvenile is placed on probation and
19 committed under section 1(3) or (4) of this chapter to an
20 institution or agency described in the youth rehabilitation
21 services act, 1974 PA 150, MCL 803.301 to 803.309, the court shall
22 conduct a review hearing to determine whether the juvenile has been
23 rehabilitated and whether the juvenile presents a serious risk to
24 public safety. If the court determines that the juvenile has not
25 been rehabilitated or that the juvenile presents a serious risk to
26 public safety, jurisdiction over the juvenile ~~shall~~**may** be
27 continued or the court may commit the juvenile to the department of
28 corrections as provided in this section. In making this
29 determination, the court shall consider the following:



1 (a) The extent and nature of the juvenile's participation in
2 education, counseling, or work programs.

3 (b) The juvenile's willingness to accept responsibility for
4 prior behavior.

5 (c) The juvenile's behavior in ~~his or her~~ **the juvenile's**
6 current placement.

7 (d) The juvenile's prior record and character and ~~his or her~~
8 **the juvenile's** physical and mental maturity.

9 (e) The juvenile's potential for violent conduct as
10 demonstrated by prior behavior.

11 (f) The recommendations of the institution or agency charged
12 with the juvenile's care for the juvenile's release or continued
13 custody.

14 (g) Other information the prosecuting attorney or juvenile may
15 submit.

16 (2) A review hearing ~~shall~~ **must** be scheduled and held unless
17 adjourned for good cause as near as possible to, but before, the
18 juvenile's nineteenth birthday. If the institution or agency to
19 which the juvenile was committed believes that the juvenile has
20 been rehabilitated and that the juvenile does not present a serious
21 risk to public safety, that institution or agency may petition the
22 court to conduct a review hearing at any time before the juvenile
23 becomes 19 years of age or, if the court has continued jurisdiction
24 under subsection (1), at any time before the juvenile becomes 21
25 years of age.

26 (3) Not less than 14 days before a review hearing is to be
27 conducted, the prosecuting attorney, juvenile, and, if addresses
28 are known, the juvenile's parent or guardian ~~shall~~ **must** be
29 notified. The notice ~~shall~~ **must** state that the court may extend



1 jurisdiction over the juvenile and ~~shall~~**must** advise the juvenile
2 and the juvenile's parent or guardian of the right to legal
3 counsel. If legal counsel has not been retained or appointed to
4 represent the juvenile, the court shall appoint legal counsel and
5 may assess the cost of providing counsel as costs against the
6 juvenile or those responsible for the juvenile's support, or both,
7 if the persons to be assessed are financially able to comply.

8 (4) The institution or agency charged with the care of the
9 juvenile shall prepare commitment reports as provided in section 5
10 of the juvenile facilities act, 1988 PA 73, MCL 803.225, for use by
11 the court at a review hearing held under this section.

12 (5) The court shall conduct a final review of the juvenile's
13 probation and commitment under section 1(3) or (4) of this chapter
14 not less than 3 months before the end of the period that the
15 juvenile is on probation and committed to the institution or
16 agency. If the court determines at this review that the best
17 interests of the public would be served by imposing any other
18 sentence provided by law for an adult offender, the court may,
19 **subject to section 1(15) of this chapter**, impose the sentence. In
20 making its determination, the court shall consider the criteria
21 specified in subsection (1) and all of the following criteria:

22 (a) The effect of treatment on the juvenile's rehabilitation.

23 (b) Whether the juvenile is likely to be dangerous to the
24 public if released.

25 (c) The best interests of the public welfare and the
26 protection of public security.

27 (6) Not less than 14 days before a final review hearing under
28 subsection (5) is to be conducted, the prosecuting attorney,
29 juvenile, and, if addresses are known, the juvenile's parent or



guardian ~~shall~~**must** be notified. The notice ~~shall~~**must** state that the court may impose a sentence upon the juvenile under subsection (5) and ~~shall~~**must** advise the juvenile and the juvenile's parent or guardian of the right to legal counsel. If legal counsel has not been retained or appointed to represent the juvenile, the court shall appoint legal counsel and may assess the cost of providing counsel as costs against the juvenile or those responsible for the juvenile's support, or both, if the persons to be assessed are financially able to comply.

(7) After a sentence is imposed under subsection (1) or (5), the juvenile ~~shall~~**must** receive credit for the period of time served on probation and committed to an agency or institution under section 1(3) or (4) of this chapter.

Enacting section 1. Sections 25 and 25a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.25 and 769.25a, are repealed.

Enacting section 2. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 3. This amendatory act does not take effect unless all of the following bills of the 102nd Legislature are enacted into law:

- (a) House Bill No. 4160.
- (b) House Bill No. 4161.
- (c) House Bill No. 4162.
- (d) House Bill No. 4164.

