

HOUSE BILL No. 4305

February 15, 1991, Introduced by Reps. Pitoniak, Ciaramitaro, Leland, Kilpatrick, Wallace, Clack, DeMars, Baade, Dalman, Weeks, McNutt, Gire, Perry Bullard and Olshove and referred to the Committee on Corrections.

A bill to amend section 8 of chapter IX of Act No. 175 of the Public Acts of 1927, entitled as amended

"The code of criminal procedure,"

being section 769.8 of the Michigan Compiled Laws; and to add section 8a to chapter IX.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 8 of chapter IX of Act No. 175 of the
2 Public Acts of 1927, being section 769.8 of the Michigan Compiled
3 Laws, is amended and section 8a is added to chapter IX to read as
4 follows:

5 CHAPTER IX

6 Sec. 8. (1) ~~When~~ EXCEPT AS PROVIDED IN SECTION 8A, WHEN a
7 person is convicted for the first time for the commission of a
8 felony, and the punishment prescribed by law for that offense may
9 be imprisonment in a state prison, the court imposing sentence

1 shall not fix a ~~definite~~ DETERMINATE term of imprisonment, but
2 shall fix a minimum term, except as otherwise provided in this
3 chapter. The maximum penalty provided by law shall be the maxi-
4 mum sentence in all cases except as provided in this chapter and
5 shall be stated by the judge in imposing the sentence.

6 (2) Before or at the time of imposing the sentence, the
7 judge shall ascertain by examination of the ~~convict~~ PERSON
8 CONVICTED on oath, or otherwise, and by other evidence as can be
9 obtained, ~~tending to indicate briefly~~ A BRIEF INDICATION OF the
10 causes of the criminal character or conduct of the ~~convict,~~
11 ~~which facts and other facts which appear to be pertinent in the~~
12 ~~case, the~~ PERSON CONVICTED. THE judge shall cause THE RESULTS
13 OF THE EXAMINATION OR OTHER INQUIRY, AND ANY OTHER FACTS THAT
14 APPEAR TO THE JUDGE TO BE PERTINENT IN THE CASE, to be entered
15 upon the minutes of the court.

16 SEC. 8A. (1) SUBJECT TO SUBSECTIONS (2) AND (3), THE COURT
17 MAY FIX A DETERMINATE TERM OF IMPRISONMENT OF NOT MORE THAN 24
18 MONTHS FOR A CONVICTION DESCRIBED IN SECTION 8(1) IF THE PERSON
19 BEING SENTENCED RECEIVES A SENTENCING GUIDELINES SCORE IN WHICH
20 THE UPPER LIMIT FOR THAT OFFENSE IS MORE THAN 12 MONTHS, AND IF
21 THE MAXIMUM STATUTORY PENALTY FOR THAT OFFENSE DOES NOT EXCEED
22 5 YEARS. A DETERMINATE TERM OF IMPRISONMENT UNDER THIS SUBSEC-
23 TION SHALL BE SERVED IN A COUNTY JAIL, MINIMUM SECURITY CAMP,
24 LOCAL COMMUNITY CORRECTIONS CENTER, OR A COMBINATION OF THOSE
25 FACILITIES, AND SHALL NOT BE SERVED IN A STATE CORRECTIONAL
26 FACILITY.

1 (2) A COURT MAY NOT IMPOSE A DETERMINATE TERM OF
2 IMPRISONMENT AS PROVIDED IN THIS SECTION UNLESS THE COUNTY IN
3 WHICH THE COURT IS LOCATED MEETS BOTH OF THE FOLLOWING
4 REQUIREMENTS:

5 (A) THE COUNTY HAS AGREED TO PARTICIPATE IN THE SENTENCING
6 GUIDELINES REIMBURSEMENT PROGRAM OR THE JAIL CONSTRUCTION ASSIST-
7 ANCE PROGRAM, OR BOTH, AS ESTABLISHED UNDER THE STATE AND LOCAL
8 PARTNERSHIP ON CORRECTIONS ACT.

9 (B) THE COUNTY BOARD OF COMMISSIONERS OF THE COUNTY ANNUALLY
10 ADOPTS A MAJORITY RESOLUTION BY OCTOBER 1 OF EACH YEAR APPROVING
11 THE USE OF THE JAIL, MINIMUM SECURITY CAMPS, OR LOCAL COMMUNITY
12 CORRECTIONS CENTERS IN THAT COUNTY FOR THE PURPOSES REQUIRED
13 UNDER SUBSECTION (1), AND, IF THE COUNTY HAS AN ELECTED COUNTY
14 EXECUTIVE, THE COUNTY EXECUTIVE ALSO ANNUALLY APPROVES THAT USE
15 OF THOSE COUNTY FACILITIES BY OCTOBER 1 OF EACH YEAR.

16 (3) THE COURT SHALL NOT IMPOSE A DETERMINATE TERM OF IMPRIS-
17 ONMENT AS PROVIDED IN THIS SECTION UNLESS THE STATE APPROPRIATES
18 FUNDS TO PAY FOR THE EXPENSE OF MAINTAINING PRISONERS WHO ARE
19 SUBJECT TO DETERMINATE SENTENCES UNDER THIS SECTION.

20 Section 2. This amendatory act shall not take effect unless
21 Senate Bill No. _____ or House Bill No. 4306 (request
22 no. 00987'91) of the 86th Legislature is enacted into law.