

HOUSE BILL No. 5006

June 27, 1991, Introduced by Reps. Nye, Bartnik, DeMars, Walberg, Fitzgerald, Dalman, Dolan and Jaye and referred to the Committee on Judiciary.

A bill to amend sections 308, 309, and 8342 of Act No. 236 of the Public Acts of 1961, entitled as amended "Revised judicature act of 1961," sections 308 and 8342 as amended by Act No. 206 of the Public Acts of 1981, being sections 600.308, 600.309, and 600.8342 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 308, 309, and 8342 of Act No. 236 of
2 the Public Acts of 1961, sections 308 and 8342 as amended by Act
3 No. 206 of the Public Acts of 1981, being sections 600.308,
4 600.309, and 600.8342 of the Michigan Compiled Laws, are amended
5 to read as follows:

6 Sec. 308. (1) ~~The~~ EXCEPT AS PROVIDED IN SUBSECTION (2),
7 THE court of appeals has jurisdiction on appeals from the

1 following orders and judgments which shall be appealable as a
2 matter of right:

3 (a) All final judgments from the circuit court, court of
4 claims, and recorder's court, except judgments on ordinance vio-
5 lations in the traffic and ordinance division of recorder's
6 court.

7 (b) Those orders of the probate court from which an appeal
8 as of right may be taken under section 861.

9 (2) THE COURT OF APPEALS HAS JURISDICTION ON APPEALS OF
10 FINAL ORDERS AND JUDGMENTS FROM PLEAS OF GUILTY OR NOLO CONTEN-
11 DERE TAKEN UNDER SECTION 35A OF CHAPTER VIII OF THE CODE OF CRIM-
12 INAL PROCEDURE, ACT NO. 175 OF THE PUBLIC ACTS OF 1927, BEING
13 SECTION 768.35A OF THE MICHIGAN COMPILED LAWS, AS FOLLOWS:

14 (A) APPEALS OF DEPARTURE FROM SENTENCING GUIDELINES ARE
15 APPEALABLE AS A MATTER OF RIGHT.

16 (B) APPEALS OTHER THAN APPEALS PROVIDED FOR IN SUBDIVISION
17 (A) ARE REVIEWABLE ONLY UPON APPLICATION FOR LEAVE TO APPEAL
18 GRANTED BY THE COURT OF APPEALS.

19 (3) ~~(2) The~~ EXCEPT AS PROVIDED IN SUBSECTION (2), THE
20 court of appeals has jurisdiction on appeal from the following
21 orders and judgments which shall be reviewable only upon applica-
22 tion for leave to appeal granted by the court of appeals:

23 (a) A final judgment or order made by the circuit court
24 under any of the following circumstances:

25 (i) In an appeal from an order, sentence, or judgment of the
26 probate court under section 863(1) and (2).

1 (ii) In an appeal from a final judgment or order of the
2 district court appealed to the circuit court under section 8342.

3 (iii) An appeal from a final judgment or order of a municipi-
4 pal court.

5 (iv) In an appeal from an ordinance violation conviction in
6 the traffic and ordinance division of recorder's court of the
7 city of Detroit if the conviction occurred before September 1,
8 1981.

9 (b) An order, sentence, or judgment of the probate court if
10 the probate court certifies the issue or issues under section
11 863(3).

12 (c) A final judgment or order made by the recorder's court
13 of the city of Detroit in an appeal from the district court in
14 the thirty-sixth district pursuant to section 8342(2).

15 (d) Such other judgments or interlocutory orders as the
16 supreme court may by rule determine.

17 Sec. 309. ~~All~~ EXCEPT AS PROVIDED IN SECTION 308, ALL
18 appeals to the court of appeals from final judgments or decisions
19 permitted by this act shall be a matter of right. All other
20 appeals from other judgments or orders to the court of appeals
21 permitted by statute or supreme court rule shall be by right or
22 by leave as provided by the statute or the rules promulgated by
23 the supreme court.

24 Sec. 8342. (1) Except as provided in subsection (2),
25 appeals from the district court shall be to the circuit court for
26 the county in which the judgment is rendered.

1 (2) All appeals in misdemeanor or ordinance violation cases
2 tried in the district court in the thirty-sixth district, or in a
3 felony case over which the district court in the thirty-sixth
4 district has jurisdiction before trial, shall be to the
5 recorder's court of the city of Detroit. As used in this subsec-
6 tion, "ordinance violation" means ordinance violation as defined
7 in section 1 of chapter I of Act No. 175 of the Public Acts of
8 1927, as amended, being section 761.1 of the Michigan Compiled
9 Laws.

10 (3) ~~All~~ EXCEPT AS PROVIDED IN SUBSECTION (5), ALL appeals
11 from final judgments shall be as of right and all other appeals
12 shall be by application.

13 (4) All appeals to the court of appeals from judgments
14 entered by the circuit court or the recorder's court on appeals
15 from the district court shall be by application.

16 (5) THE CIRCUIT COURT HAS JURISDICTION ON APPEALS FROM THE
17 DISTRICT COURT OF FINAL ORDERS AND JUDGMENTS FROM PLEAS OF GUILTY
18 OR NOLO CONTENDERE TAKEN UNDER SECTION 35A OF CHAPTER VIII OF THE
19 CODE OF CRIMINAL PROCEDURE, ACT NO. 175 OF THE PUBLIC ACTS OF
20 1927, BEING SECTION 768.35A OF THE MICHIGAN COMPILED LAWS, AS
21 FOLLOWS:

22 (A) APPEALS OF DEPARTURE FROM SENTENCING GUIDELINES ARE
23 APPEALABLE AS A MATTER OF RIGHT.

24 (B) APPEALS OTHER THAN APPEALS PROVIDED FOR IN SUBDIVISION
25 (A) ARE REVIEWABLE ONLY UPON APPLICATION FOR LEAVE TO APPEAL
26 GRANTED BY THE CIRCUIT COURT.

1 Section 2. This amendatory act shall not take effect unless
2 Senate Bill No. _____ or House Bill No. _____ (request
3 no. 03173'91) of the 86th Legislature is enacted into law.