

REPRINT

SUBSTITUTE FOR

HOUSE BILL NO. 4625

(As passed the House, October 7, 1999)

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
(MCL 760.1 to 777.69) by adding section 3a to chapter X.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER X

2 SEC. 3A. (1) EXCEPT AS PROVIDED IN SUBSECTIONS (2) AND (3), A
3 DEFENDANT WHO PLEADS GUILTY, GUILTY BUT MENTALLY ILL, OR NOLO
4 CONTENDERE SHALL NOT HAVE APPELLATE COUNSEL APPOINTED FOR REVIEW
5 OF THE DEFENDANT'S CONVICTION OR SENTENCE.

6 (2) THE TRIAL COURT SHALL APPOINT APPELLATE COUNSEL FOR AN
INDIGENT

7 DEFENDANT WHO PLEADS GUILTY, GUILTY BUT MENTALLY ILL, OR NOLO
8 CONTENDERE IF ANY OF THE FOLLOWING APPLY:

9 (A) THE PROSECUTING ATTORNEY SEEKS LEAVE TO APPEAL.

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as amended by the Senate November 9, 1999

1 (B) THE DEFENDANT'S SENTENCE EXCEEDS THE UPPER LIMIT OF THE
2 MINIMUM SENTENCE RANGE OF THE APPLICABLE SENTENCING
3 GUIDELINES.

4 (C) THE COURT OF APPEALS OR THE SUPREME COURT GRANTS THE
5 DEFENDANT'S APPLICATION FOR LEAVE TO APPEAL.

6 (D) THE DEFENDANT SEEKS LEAVE TO APPEAL A CONDITIONAL PLEA
7 UNDER MICHIGAN COURT RULE 6.301(C)(2) OR ITS SUCCESSOR RULE.

(3) THE TRIAL COURT MAY APPOINT APPELLATE COUNSEL FOR AN
INDIGENT DEFENDANT WHO PLEADS GUILTY, GUILTY BUT MENTALLY ILL, OR
NOLO CONTENDERE IF ALL OF THE FOLLOWING APPLY:

(A) THE DEFENDANT SEEKS LEAVE TO APPEAL A SENTENCE BASED UPON
AN ALLEGED IMPROPER SCORING OF AN OFFENSE VARIABLE OR A PRIOR RECORD
VARIABLE.

(B) THE DEFENDANT OBJECTED TO THE SCORING OR OTHERWISE
PRESERVED THE MATTER FOR APPEAL.

(C) THE SENTENCE IMPOSED BY THE COURT CONSTITUTES AN UPWARD
DEPARTURE FROM THE UPPER LIMIT OF THE MINIMUM SENTENCE RANGE THAT
THE DEFENDANT ALLEGES SHOULD HAVE BEEN SCORED.

(4) WHILE ESTABLISHING THAT A PLEA OF GUILTY, GUILTY BUT
MENTALLY ILL, OR NOLO CONTENDERE WAS MADE UNDERSTANDINGLY AND
VOLUNTARILY UNDER MICHIGAN COURT RULE 6.302 OR ITS SUCCESSOR RULE,
AND BEFORE ACCEPTING THE PLEA, THE COURT SHALL ADVISE THE DEFENDANT
THAT, EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IF THE PLEA IS
ACCEPTED BY THE COURT, THE DEFENDANT WAIVES THE RIGHT TO HAVE AN
ATTORNEY APPOINTED AT PUBLIC EXPENSE TO ASSIST IN FILING AN
APPLICATION FOR LEAVE TO APPEAL OR TO ASSIST WITH OTHER
POSTCONVICTION REMEDIES, AND SHALL DETERMINE WHETHER THE DEFENDANT
UNDERSTANDS THE WAIVER. UPON SENTENCING, THE COURT SHALL FURNISH
THE DEFENDANT WITH A FORM DEVELOPED BY THE STATE COURT
ADMINISTRATIVE OFFICE THAT IS NONTECHNICAL AND EASILY UNDERSTOOD AND
THAT THE DEFENDANT MAY COMPLETE AND FILE AS AN APPLICATION FOR LEAVE
TO APPEAL.

Enacting section 1. This amendatory act takes effect April 1,
2000.

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Final page.

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