

HOUSE BILL No. 4886

June 24, 2003, Introduced by Reps. McConico and Hunter and referred to the Committee on Criminal Justice.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
(MCL 760.1 to 777.69) by adding section 13 to chapter X.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER X

Sec. 13. (1) An individual convicted of first degree murder in violation of section 316 of the Michigan penal code, 1931 PA 328, MCL 750.316, has a right to appeal that conviction to the court of appeals, regardless of any other appeal taken or not taken, if the individual meets all of the following conditions, as applicable:

(a) The individual was convicted before November 25, 1980 of murder committed in the perpetration of, or attempt to perpetrate, arson, rape, criminal sexual conduct in the first or third degree, robbery, burglary, breaking and entering of a

1 dwelling, larceny of any kind, extortion, or kidnapping.

2 (b) The individual's intention to kill, intention to do great
3 bodily harm, or wanton and willful disregard of the likelihood
4 that the natural tendency of the individual's behavior was to
5 cause death or great bodily harm was not submitted to the jury or
6 considered by the judge sitting as trier of fact.

7 (c) If the individual was convicted of murder as described in
8 subdivision (a) by aiding and abetting, the individual's
9 knowledge of the principal's intention to kill, intention to do
10 great bodily harm, or wanton and willful disregard of the
11 likelihood that the natural tendency of the principal's behavior
12 was to cause death or great bodily harm was not submitted to the
13 jury or considered by the judge sitting as trier of fact.

14 (2) If the court of appeals determines that the individual
15 meets all applicable conditions described in subsection (1), the
16 court shall vacate the individual's first degree murder
17 conviction and remand the case to the trial court. The trial
18 court shall enter a conviction of second degree murder or of a
19 lesser included offense based on the transcript and other
20 evidence in the record, conduct a sentencing hearing, and
21 sentence the individual on that conviction. The sentencing shall
22 comply with all current sentencing statutes, court rules, and
23 case law.

24 (3) An individual sentenced under subsection (2) shall
25 receive credit for time served on the vacated first degree murder
26 conviction.

27 (4) The court of appeals shall determine an appeal under this

1 section within 270 days after the appeal is filed.

2 Enacting section 1. The section added by this amendatory
3 act applies only to those persons convicted of first degree
4 murder before the Michigan supreme court's decision in People v
5 Aaron, 409 Mich 672; 299 NW2d 304 (1980).