

HOUSE BILL No. 4802

May 20, 1997, Introduced by Reps. Vaughn, Price, Martinez, Parks, Leland, Harder, Scott, Murphy, LaForge, DeHart, Hale, Gubow, Wallace, Agee, Cropsey, Walberg, Voorhees, Baade, Profit, Hanley, Kukuk, Kilpatrick, Stallworth, Hood and Willard and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
(MCL 760.1 to 776.22) by adding section 13 to chapter X.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER X

2

SEC. 13. (1) AN INDIVIDUAL CONVICTED OF FIRST DEGREE MURDER

3 IN VIOLATION OF SECTION 316 OF THE MICHIGAN PENAL CODE, 1931 PA

4 328, MCL 750.316, HAS A RIGHT TO APPEAL THAT CONVICTION TO THE

5 COURT OF APPEALS, REGARDLESS OF ANY OTHER APPEAL TAKEN OR NOT

6 TAKEN, IF THE INDIVIDUAL MEETS ALL OF THE FOLLOWING CONDITIONS,

7 AS APPLICABLE:

8

(A) THE INDIVIDUAL WAS CONVICTED BEFORE NOVEMBER 25, 1980 OF

9 MURDER COMMITTED IN THE PERPETRATION OF, OR ATTEMPT TO

10 PERPETRATE, ARSON, RAPE, CRIMINAL SEXUAL CONDUCT IN THE FIRST OR

1 THIRD DEGREE, ROBBERY, BURGLARY, BREAKING AND ENTERING OF A
2 DWELLING, LARCENY OF ANY KIND, EXTORTION, OR KIDNAPPING.

3 (B) THE INDIVIDUAL'S INTENTION TO KILL, INTENTION TO DO
4 GREAT BODILY HARM, OR WANTON AND WILLFUL DISREGARD OF THE LIKELI-
5 HOOD THAT THE NATURAL TENDENCY OF THE INDIVIDUAL'S BEHAVIOR WAS
6 TO CAUSE DEATH OR GREAT BODILY HARM WAS NOT SUBMITTED TO THE JURY
7 OR CONSIDERED BY THE JUDGE SITTING AS TRIER OF FACT.

8 (C) IF THE INDIVIDUAL WAS CONVICTED OF MURDER AS DESCRIBED
9 IN SUBDIVISION (A) BY AIDING AND ABETTING, THE INDIVIDUAL'S
10 KNOWLEDGE OF THE PRINCIPAL'S INTENTION TO KILL, INTENTION TO DO
11 GREAT BODILY HARM, OR WANTON AND WILLFUL DISREGARD OF THE LIKELI-
12 HOOD THAT THE NATURAL TENDENCY OF THE PRINCIPAL'S BEHAVIOR WAS TO
13 CAUSE DEATH OR GREAT BODILY HARM WAS NOT SUBMITTED TO THE JURY OR
14 CONSIDERED BY THE JUDGE SITTING AS TRIER OF FACT.

15 (2) IF THE COURT OF APPEALS DETERMINES THAT THE INDIVIDUAL
16 MEETS ALL APPLICABLE CONDITIONS DESCRIBED IN SUBSECTION (1), THE
17 COURT SHALL VACATE THE INDIVIDUAL'S FIRST DEGREE MURDER CONVIC-
18 TION AND REMAND THE CASE TO THE TRIAL COURT. THE TRIAL COURT
19 SHALL ENTER A CONVICTION OF SECOND DEGREE MURDER OR OF A LESSER
20 INCLUDED OFFENSE BASED ON THE TRANSCRIPT AND OTHER EVIDENCE IN
21 THE RECORD, CONDUCT A SENTENCING HEARING, AND SENTENCE THE INDI-
22 VIDUAL ON THAT CONVICTION. THE SENTENCING SHALL COMPLY WITH ALL
23 CURRENT SENTENCING STATUTES, COURT RULES, AND 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.

1 (4) THE COURT OF APPEALS SHALL DETERMINE AN APPEAL UNDER
2 THIS SECTION WITHIN 270 DAYS AFTER THE APPEAL UNDER THIS ACT IS
3 FILED.

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