

SENATE BILL NO. 825

January 19, 2022, Introduced by Senators HOLLIER, CHANG, IRWIN and STAMAS and referred to the Committee on Judiciary and Public Safety.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 25 (MCL 769.25), as added by 2014 PA 22; and to
repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 25. (1) This section applies to a criminal defendant who
2 was less than 18 years of age at the time he or she committed ~~an~~
3 ~~offense described in subsection (2) if either of the following~~
4 ~~circumstances exists:~~
5 ~~(a) The defendant is convicted of the offense on or after the~~

~~effective date of the amendatory act that added this section.~~

~~(b) The defendant was convicted of the offense before the effective date of the amendatory act that added this section and either of the following applies:~~

~~(i) The case is still pending in the trial court or the applicable time periods for direct appellate review by state or federal courts have not expired.~~

~~(ii) On June 25, 2012 the case was pending in the trial court or the applicable time periods for direct appellate review by state or federal courts had not expired.~~

~~(2) The prosecuting attorney may file a motion under this section to sentence a defendant described in subsection (1) to imprisonment for life without the possibility of parole if the individual is or was convicted of any of the following violations:~~

~~(a) A violation of section 17764(7) of the public health code, 1978 PA 368, MCL 333.17764.~~

~~(b) A violation of section 16(5), 18(7), 316, 436(2)(e), or 543f of the Michigan penal code, 1931 PA 328, MCL 750.16, 750.18, 750.316, 750.436, and 750.543f.~~

~~(c) A violation of chapter XXXIII of the Michigan penal code, 1931 PA 328, MCL 750.200 to 750.212a.~~

~~(d) Any violation of law involving the death of another person for which parole eligibility is expressly denied under state law.~~

~~(3) If the prosecuting attorney intends to seek a sentence of imprisonment for life without the possibility of parole for a case described in subsection (1)(a), the prosecuting attorney shall file the motion within 21 days after the defendant is convicted of that violation. If the prosecuting attorney intends to seek a sentence of imprisonment for life without the possibility of parole for a~~

~~ease described under subsection (1) (b), the prosecuting attorney shall file the motion within 90 days after the effective date of the amendatory act that added this section. The motion shall specify the grounds on which the prosecuting attorney is requesting the court to impose a sentence of imprisonment for life without the possibility of parole.~~

~~(4) If the prosecuting attorney does not file a motion under subsection (3) within the time periods provided for in that subsection, the court shall sentence the defendant to a term of years as provided in subsection (9).~~

~~(5) If the prosecuting attorney files a motion under subsection (2) requesting that the individual be sentenced to imprisonment for life without parole eligibility, the individual shall file a response to the prosecution's motion within 14 days after receiving notice of the motion.~~

~~(6) If the prosecuting attorney files a motion under subsection (2), the~~

(2) If a criminal defendant to whom this section applies is convicted of an offense listed in subsection (1), the court shall conduct a **sentencing** hearing ~~on the motion as part of the sentencing process. At the hearing, at which~~ the trial court shall consider the factors listed in *Miller v Alabama*, 576-567 US _____ **460**; 183 L Ed 2d 407; 132 S Ct 2455; **183 L Ed 2d 407** (2012), and may consider any other criteria relevant to its decision, including the individual's record while incarcerated.

(3) ~~(7)~~ At the hearing under subsection ~~(6)~~, **(2)**, the court shall specify on the record the aggravating and mitigating circumstances considered by the court and the court's reasons supporting the sentence imposed. The court may consider evidence

1 presented at trial together with any evidence presented at the
2 sentencing hearing.

3 (4) ~~(8)~~ Each victim ~~shall~~ **must** be afforded the right under
4 section 15 of the William Van Regenmorter crime victim's rights
5 act, 1985 PA 87, MCL 780.765, to appear before the court and make
6 an oral impact statement at any sentencing or resentencing of the
7 defendant under this section.

8 (5) ~~(9)~~ If the court decides not to sentence the individual to
9 imprisonment for life without parole eligibility, ~~the~~ **The** court
10 shall sentence the individual to a term of imprisonment for which
11 the maximum term ~~shall~~ **must** be ~~not less than~~ 60 years and the
12 minimum term ~~shall~~ **must** be not less than ~~25~~ **20** years or more than
13 40 years.

14 (6) ~~(10)~~ A defendant who is sentenced under this section ~~shall~~
15 **must** be given credit for time already served. ~~but shall not receive~~
16 ~~any good time credits, special good time credits, disciplinary~~
17 ~~credits, or any other credits that reduce the defendant's minimum~~
18 ~~or maximum sentence.~~

19 Enacting section 1. Section 25a of the code of criminal
20 procedure, 1927 PA 175, MCL 769.25a, is repealed.

21 Enacting section 2. This amendatory act does not take effect
22 unless Senate Bill No. 824 of the 101st Legislature is enacted into
23 law.