

# HOUSE BILL No. 4806

June 6, 2013, Introduced by Reps. Haveman, MacMaster, Walsh, Heise, Schmidt, Shirkey, Pscholka, Pettalia, Howrylak, Potvin, Robinson, Kesto, O'Brien, Cavanagh, Tlaib, Irwin, Lipton, Lori, Price, Haines, Victory, Kandreas, Foster, Lyons and Jacobsen 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 33 to chapter IX.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER IX

SEC. 33. (1) THIS SECTION APPLIES TO A PERSON WHO SATISFIES  
BOTH OF THE FOLLOWING CONDITIONS:

(A) THE PERSON IS A PRISONER CONFINED TO PRISON UNDER A  
MANDATORY SENTENCE OF IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY  
OF PAROLE FOR A FELONY THAT WAS COMMITTED WHEN THE PERSON WAS LESS  
THAN 18 YEARS OF AGE.

(B) THE SENTENCE DESCRIBED IN SUBDIVISION (A) WAS IMPOSED  
BEFORE JANUARY 1, 2014, AND SECTION 32 DOES NOT APPLY.

(2) THE PROSECUTING ATTORNEY OR THE PRISONER MAY FILE A MOTION

1 FOR RESENTENCING UNDER THIS SECTION AT ANY TIME AFTER JANUARY 1,  
2 2014.

3 (3) IF THE PROSECUTING ATTORNEY FILES A MOTION FOR  
4 RESENTENCING UNDER THIS SECTION TO SEEK IMPOSITION OF A SENTENCE OF  
5 IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE, THE PERSON  
6 MAY FILE A RESPONSE NOT MORE THAN 28 DAYS AFTER RECEIPT OF THE  
7 MOTION, SPECIFYING THE BASIS FOR SEEKING A SENTENCE OF IMPRISONMENT  
8 FOR LIFE WITH THE POSSIBILITY OF PAROLE OR FOR ANY TERM OF YEARS,  
9 RATHER THAN A SENTENCING OF IMPRISONMENT FOR LIFE WITHOUT THE  
10 POSSIBILITY OF PAROLE.

11 (4) IF THE PERSON FILES A MOTION FOR RESENTENCING TO SEEK  
12 IMPOSITION OF A SENTENCE OF IMPRISONMENT FOR LIFE WITH THE  
13 POSSIBILITY OF PAROLE OR FOR ANY TERM OF YEARS RATHER THAN A  
14 SENTENCE OF IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF  
15 PAROLE, THE PROSECUTING ATTORNEY MAY FILE A RESPONSE NOT MORE THAN  
16 28 DAYS AFTER RECEIPT OF THE MOTION, SPECIFYING THE BASIS FOR  
17 SEEKING A SENTENCE OF IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY  
18 OF PAROLE. IF THE PROSECUTING ATTORNEY DOES NOT FILE A RESPONSE,  
19 THE COURT SHALL RESENTENCE THE PRISONER TO IMPRISONMENT FOR LIFE  
20 WITH THE POSSIBILITY OF PAROLE OR FOR ANY TERM OF YEARS.

21 (5) IF THE PROSECUTING ATTORNEY FILES A MOTION FOR  
22 RESENTENCING UNDER SUBSECTION (3), WHETHER OR NOT THE PERSON FILES  
23 A RESPONSE, OR THE PROSECUTING ATTORNEY CONTESTS THE PERSON'S  
24 MOTION UNDER SUBSECTION (4), THE COURT SHALL CONDUCT A HEARING TO  
25 CONSIDER THE FOLLOWING FACTORS:

26 (A) THE INDIVIDUAL PERSON'S CHARACTER AND RECORD.

27 (B) THE CIRCUMSTANCES OF THE OFFENSE, INCLUDING THE EXTENT OF

1 THE PERSON'S PARTICIPATION IN THE CRIME FOR WHICH THE PERSON WAS  
2 SENTENCED AND WHETHER FAMILIAL OR PEER PRESSURE MAY HAVE AFFECTED  
3 THE PERSON.

4 (C) THE PERSON'S CHRONOLOGICAL AGE AT THE TIME THE PERSON  
5 COMMITTED THE CRIME FOR WHICH THE PERSON WAS SENTENCED.

6 (D) THE PERSON'S BACKGROUND AND MENTAL AND EMOTIONAL  
7 DEVELOPMENT AT THE TIME THE PERSON COMMITTED THE CRIME FOR WHICH  
8 THE PERSON WAS SENTENCED.

9 (E) THE PERSON'S FAMILY AND HOME AT THE TIME THE PERSON  
10 COMMITTED THE CRIME FOR WHICH THE PERSON WAS SENTENCED.

11 (F) WHETHER THE PERSON MIGHT HAVE BEEN CHARGED AND CONVICTED  
12 OF A LESSER OFFENSE IF NOT FOR INCOMPETENCY ASSOCIATED WITH YOUTH.

13 (G) THE PERSON'S POTENTIAL FOR REHABILITATION.

14 (H) ANY OTHER AGGRAVATING OR MITIGATING CIRCUMSTANCES BEARING  
15 UPON THE PERSON'S CULPABILITY OR POTENTIAL FOR REHABILITATION.

16 (6) A HEARING UNDER THIS SECTION CONSTITUTES A SENTENCING  
17 HEARING UNDER MICHIGAN RULE OF EVIDENCE 1101. THE COURT MAY  
18 CONSIDER EVIDENCE PRESENTED AT TRIAL AND ADDITIONAL EVIDENCE  
19 PRESENTED BY THE PROSECUTION OR DEFENSE AT THE SENTENCING HEARING.  
20 THE COURT SHALL SPECIFY ON THE RECORD THE AGGRAVATING AND  
21 MITIGATING CIRCUMSTANCES CONSIDERED BY THE COURT AND THE COURT'S  
22 REASONS SUPPORTING THE SENTENCE IMPOSED AS PROVIDED UNDER THIS  
23 SECTION.