

HOUSE BILL NO. 5271

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending sections 2 and 3 of chapter X and sections 34, 43, and 44 of chapter XIV (MCL 770.2, 770.3, 774.34, 774.43, and 774.44), section 2 of chapter X as amended by 1981 PA 205, section 3 of chapter X as amended by 1994 PA 374, and sections 34, 43, and 44 of chapter XIV as amended by 1980 PA 506.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER X

2

Sec. 2. (1) In a case appealable as of right to the court

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of appeals, a motion for a new trial shall be made within 60 days

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after entry of the judgment or within any further time allowed by

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the trial court during the 60-day period.

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(2) In a misdemeanor or ordinance violation case appealable

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as of right from A MUNICIPAL COURT IN A CITY THAT ADOPTS A

1 RESOLUTION OF APPROVAL UNDER SECTION 23A OF THE MICHIGAN
2 MUNICIPAL COURT ACT, 1956 PA 5, MCL 730.523, OR FROM a court of
3 record to the circuit court or to the recorder's court of the
4 city of Detroit, a motion for a new trial shall be made within 20
5 days after entry of the judgment.

6 (3) In a misdemeanor or ordinance violation case appealable
7 de novo to the circuit court, a motion for a new trial shall be
8 made within 20 days after entry of the judgment.

9 (4) If the applicable period of time prescribed in subsec-
10 tion (1) or (2) has expired, a court of record may grant a motion
11 for a new trial for good cause shown. If the applicable time
12 period prescribed in subsection (3) has expired and the defendant
13 has not appealed, a municipal court may grant a motion for new
14 trial for good cause shown.

15 Sec. 3. (1) Subject to the limitations imposed by section
16 12 of this chapter, an aggrieved party shall have a right of
17 appeal from a final judgment or trial order as follows:

18 (a) Except as otherwise provided in subdivision (e), in a
19 felony or misdemeanor case tried in the circuit court or
20 recorder's court of the city of Detroit, there shall be a right
21 of appeal to the court of appeals.

22 (b) Except as otherwise provided in subdivision (e), in a
23 misdemeanor or ordinance violation case tried in A MUNICIPAL
24 COURT IN A CITY THAT ADOPTS A RESOLUTION OF APPROVAL UNDER SEC-
25 TION 23A OF THE MICHIGAN MUNICIPAL COURT ACT, 1956 PA 5, MCL
26 730.523, OR TRIED IN the district court in districts other than
27 the thirty-sixth district, there shall be a right of appeal to

1 the circuit court in the county in which the misdemeanor or
2 ordinance violation was committed.

3 (c) Except as otherwise provided in subdivision (e), in a
4 misdemeanor or ordinance violation case tried in the district
5 court in the thirty-sixth district, or in a felony case over
6 which the district court in the thirty-sixth district has juris-
7 diction before trial, there shall be a right of appeal to the
8 recorder's court of the city of Detroit.

9 (d) In a misdemeanor or ordinance violation case tried in a
10 municipal court IN A CITY THAT DOES NOT ADOPT A RESOLUTION OF
11 APPROVAL UNDER SECTION 23A OF THE MICHIGAN MUNICIPAL COURT ACT,
12 1956 PA 5, MCL 730.523, there shall be a right of appeal as pro-
13 vided in chapter XIV.

14 (e) All appeals from final orders and judgments based upon
15 pleas of guilty or nolo contendere shall be by application for
16 leave to appeal.

17 (2) An appeal from an interlocutory judgment or order in a
18 felony, misdemeanor, or ordinance violation may be taken, in the
19 manner provided by court rules, by application for leave to
20 appeal to the same court of which a final judgment in that case
21 would be appealable as a matter of right under subsection (1).

22 (3) After expiration of the period prescribed for timely
23 appeal, the appellate court may grant leave to appeal from any
24 order or judgment from which timely appeal would have been avail-
25 able as of right, or by leave, upon conditions prescribed by
26 court rules.

1 (4) Further appellate review of matters appealed to the
2 circuit court under subsection (1)(b), (1)(d), or (2) may be had
3 only upon application for leave to appeal granted by the court of
4 appeals.

5 (5) Further appellate review of matters appealed to the
6 recorder's court under subsection (1)(c) may be had only upon
7 application for leave to appeal granted by the court of appeals.

8 (6) Further review of any matter appealed to the court of
9 appeals under this section may be had only upon application for
10 leave to appeal granted by the supreme court.

11 (7) An appeal as of right and an appeal by application for
12 leave to appeal provided for in this section shall be taken pur-
13 suant to and within the time prescribed by court rules.

14 CHAPTER XIV

15 Sec. 34. (1) A defendant who is convicted of a misdemeanor
16 or ordinance violation in a municipal court IN A CITY THAT DOES
17 NOT ADOPT A RESOLUTION OF APPROVAL UNDER SECTION 23A OF THE
18 MICHIGAN MUNICIPAL COURT ACT, 1956 PA 5, MCL 730.523, may appeal
19 to the circuit court for a trial de novo even if the sentence has
20 been suspended or the fine or costs, or both, have been paid.

21 (2) To appeal by right, the defendant shall file a claim of
22 appeal with the circuit court clerk within 20 days after the
23 entry of judgment. A copy of the claim of appeal shall be filed
24 with the municipal court. All applicable fees required by sec-
25 tions 2529 and 6536 of ~~Act No. 236 of the Public Acts of 1961,~~
26 ~~as amended, being sections 600.2529 and 600.6536 of the Michigan~~
27 ~~Compiled Laws~~ THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236,

1 MCL 600.2529 AND 600.6536, shall be paid when filing the claim of
2 appeal. The defendant shall also enter into a recognizance to
3 the people of the state in a sum not less than \$50.00 nor more
4 than \$500.00 within 20 days after the entry of the judgment, con-
5 ditioned upon the defendant prosecuting the appeal to effect and
6 abiding by the orders and judgment of the court. If the
7 defendant enters into a recognizance, the municipal judge from
8 whose judgment the appeal is taken shall discharge the defendant
9 or order the defendant's discharge, shall make a special return
10 of the proceedings held before the judge, and shall file the com-
11 plaint, warrant, and the return together with the recognizance
12 with the circuit court.

13 (3) The practice and procedure for appeals from a municipal
14 court shall be as provided by supreme court rule.

15 Sec. 43. If the defendant who appeals a conviction in
16 municipal court IN A CITY THAT DOES NOT ADOPT A RESOLUTION OF
17 APPROVAL UNDER SECTION 23A OF THE MICHIGAN MUNICIPAL COURT ACT,
18 1956 PA 5, MCL 730.523, is found not guilty on appeal in circuit
19 court, the circuit court shall discharge the defendant. If the
20 defendant is convicted on appeal to circuit court, the circuit
21 court has the authority to enter judgment, sentence, and impose
22 costs as provided in section 22 of this chapter. If the
23 defendant was released on recognizance as provided in section 34
24 or ~~43~~ 42 of this chapter and is sentenced to jail by the cir-
25 cuit court, the defendant shall be remanded back to the county
26 jail for the length of time determined by the circuit court, less
27 any time served under the sentence imposed by the municipal court

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1 and less any time spent in jail awaiting trial. The defendant
2 shall also be given credit for any fine paid under the sentence
3 of the municipal court against any fine imposed by the circuit
4 court on appeal.

5 Sec. 44. If a defendant takes an appeal from a municipal
6 court IN A CITY THAT DOES NOT ADOPT A RESOLUTION OF APPROVAL
7 UNDER SECTION 23A OF THE MICHIGAN MUNICIPAL COURT ACT, 1956 PA 5,
8 MCL 730.523, and withdraws the appeal, or if the circuit court
9 dismisses the appeal leaving the municipal court conviction in
10 effect, the circuit court may enter an order revoking a recogni-
11 zance and may also direct that the sentence of the municipal
12 court be carried out.

13 [Enacting section 1. The changes made by this amendatory act
14 to appellate procedures for a municipal court in a city that adopts
15 a resolution of approval under section 23a of the municipal court
16 act, 1956 PA 5, MCL 730.523, apply only to cases commenced on or
after the date on which that resolution is submitted to the state
court administrative office.

Enacting section 2. This amendatory act takes effect January
1, 1999.

Enacting section 3. This amendatory act does not take effect
unless Senate Bill No. 752 of the 89th Legislature is enacted into
law.]