

DRAFT 2

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 12 of chapter IX (MCL 769.12), as amended by
2012 PA 319.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER IX

2 Sec. 12. (1) ~~If~~ **Subject to subsection (3), (4), and (5), if a**
3 person has been convicted of any combination of 3 or more felonies
4 **of the same crime class** or attempts to commit felonies **of the same**
5 **crime class**, whether the convictions occurred in this state or



1 would have been for felonies or attempts to commit felonies in this
 2 state if obtained in this state, **and each felony conviction is for**
 3 **an offense that occurred after the previous conviction was entered,**
 4 and that person commits a subsequent felony within this state, the
 5 person ~~shall~~**must** be punished upon conviction of the subsequent
 6 felony and sentencing under section 13 of this chapter as follows:

7 (a) If the subsequent felony is a serious crime or a
 8 conspiracy to commit a serious crime, and 1 or more of the prior
 9 felony convictions are listed prior felonies, the court shall
 10 sentence the person to imprisonment for not ~~less~~**more** than 25
 11 years. Not more than 1 conviction arising out of the same
 12 transaction ~~shall~~**must** be considered a prior felony conviction for
 13 the purposes of this subsection only.

14 (b) If the subsequent felony is punishable upon a first
 15 conviction by imprisonment for a maximum term of 5 years or more or
 16 for life, the court, except as otherwise provided in this section
 17 or section 1 of chapter XI, may sentence the person to imprisonment
 18 for life or for a lesser term.

19 (c) If the subsequent felony is punishable upon a first
 20 conviction by imprisonment for a maximum term that is less than 5
 21 years, the court, except as otherwise provided in this section or
 22 section 1 of chapter XI, may sentence the person to imprisonment
 23 for a maximum term of not more than 15 years.

24 (d) If the subsequent felony is a major controlled substance
 25 offense, the person ~~shall~~**must** be punished as provided by part 74
 26 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461.

27 (2) If the court imposes a sentence of imprisonment for any
 28 term of years under this section, the court shall fix the length of
 29 both the minimum and maximum sentence within any specified limits



1 in terms of years or a fraction of a year, and the sentence so
 2 imposed ~~shall~~**must** be considered an indeterminate sentence. The
 3 court shall not fix a maximum sentence that is less than the
 4 maximum term for a first conviction.

5 (3) A conviction ~~shall~~**must** not be used to **score prior record**
 6 **variables under part 5 of chapter XVII, or to** enhance a sentence
 7 under this section if that conviction is used to enhance a sentence
 8 under a statute that prohibits use of the conviction for further
 9 enhancement under this section.

10 (4) **If a conviction is used in scoring a person's prior record**
 11 **under part 5 of chapter XVII, it must not be used as a basis to**
 12 **enhance a person's sentence under this section.**

13 (5) **A conviction that precedes a period of 10 or more years**
 14 **between the discharge date from a conviction or adjudication and**
 15 **the defendant's commission of a subsequent offense that results in**
 16 **a conviction or adjudication must not be used to enhance a sentence**
 17 **under this section.**

18 (6) ~~(4)~~An offender sentenced under this section or section 10
 19 or 11 of this chapter for an offense other than a major controlled
 20 substance offense is not eligible for parole until expiration of
 21 the following:

22 (a) For a prisoner other than a prisoner subject to
 23 disciplinary time, the minimum term fixed by the sentencing judge
 24 at the time of sentence unless the sentencing judge or a successor
 25 gives written approval for parole at an earlier date authorized by
 26 law.

27 (b) For a prisoner subject to disciplinary time, the minimum
 28 term fixed by the sentencing judge.

29 (7) ~~(5)~~This section and ~~sections 10 and~~**section** 11 of this



1 chapter are not in derogation of other provisions of law that
2 permit or direct the imposition of a consecutive sentence for a
3 subsequent felony.

4 (8) ~~(6)~~—As used in this section:

5 (a) "Listed prior felony" means a violation or attempted
6 violation of any of the following:

7 (i) Section 602a(4) or (5) or 625(4) of the Michigan vehicle
8 code, 1949 PA 300, MCL 257.602a and 257.625.

9 (ii) Article 7 of the public health code, 1978 PA 368, MCL
10 333.7101 to 333.7545, that is punishable by imprisonment for more
11 than 4 years.

12 (iii) Section 72, 82, 83, 84, 85, 86, 87, 88, 89, 91, 110a(2) or
13 (3), 136b(2) or (3), 145n(1) or (2), 157b, 197c, 226, 227, 234a,
14 234b, 234c, 317, 321, 329, 349, 349a, 350, 397, 411h(2)(b), 411i,
15 479a(4) or (5), 520b, 520c, 520d, 520g, 529, 529a, or 530 of the
16 Michigan penal code, 1931 PA 328, MCL 750.72, 750.82, 750.83,
17 750.84, 750.85, 750.86, 750.87, 750.88, 750.89, 750.91, 750.110a,
18 750.136b, 750.145n, 750.157b, 750.197c, 750.226, 750.227, 750.234a,
19 750.234b, 750.234c, 750.317, 750.321, 750.329, 750.349, 750.349a,
20 750.350, 750.397, 750.411h, 750.411i, 750.479a, 750.520b, 750.520c,
21 750.520d, 750.520g, 750.529, 750.529a, and 750.530.

22 (iv) A second or subsequent violation or attempted violation of
23 section 227b of the Michigan penal code, 1931 PA 328, MCL 750.227b.

24 (v) Section 2a of 1968 PA 302, MCL 752.542a.

25 (b) "Prisoner subject to disciplinary time" means that term as
26 defined in section 34 of 1893 PA 118, MCL 800.34.

27 (c) "Serious crime" means an offense against a person in
28 violation of section 83, 84, 86, 88, 89, 317, 321, 349, 349a, 350,
29 397, 520b, 520c, 520d, 520g(1), 529, or 529a of the Michigan penal

1 code, 1931 PA 328, MCL 750.83, 750.84, 750.86, 750.88, 750.89,
2 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b,
3 750.520c, 750.520d, 750.520g, 750.529, and 750.529a.

4 Enacting section 1. This amendatory act does not take effect
5 unless all of the following bills of the 100th Legislature are
6 enacted into law:

7 (a) Senate Bill No.____ or House Bill No.____ (request no.
8 03565'19).

9 (b) Senate Bill No.____ or House Bill No.____ (request no.
10 03566'19).

