

DRAFT 2

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 11 of chapter IX (MCL 769.11), as amended by
2006 PA 655.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER IX

Sec. 11. (1) ~~If~~ **Subject to subsections (2), (4), (5), and (6),**
if a person has been convicted of any combination of 2 or more
felonies **of the same crime class** or attempts to commit felonies **of**
the same class, whether the convictions occurred in this state or



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

(a) If the subsequent felony is punishable upon a first conviction by imprisonment for a term less than life, the court, except as otherwise provided in this section or section 1 of chapter XI, may sentence the person to imprisonment for a maximum term that is not more than twice the longest term prescribed by law for a first conviction of that offense or for a lesser term.

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

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

(2) Not more than 1 conviction arising out of the same transaction may be considered a prior felony conviction for purposed of subsection (1).

(3) ~~(2)~~—If the court pursuant to this section imposes a sentence of imprisonment for any term of years, the court shall fix the length of both the minimum and maximum sentence within any specified limits in terms of years or a fraction of a year, and the sentence so imposed ~~shall~~**must** be considered an indeterminate sentence. The court shall not fix a maximum sentence that is less

1 than the maximum term for a first conviction.

2 **(4) ~~(3)~~**A conviction ~~shall~~**must** not be used to **score prior**
3 **record variables under part 5 of chapter XVII, or to** enhance a
4 sentence under this section if that conviction is used to enhance a
5 sentence under a statute that prohibits use of the conviction for
6 further enhancement under this section.

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

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

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

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

20 (b) Senate Bill No.____ or House Bill No.____ (request no.
21 03567'19).

