

SENATE BILL NO. 311

May 02, 2023, Introduced by Senators JOHNSON, LINDSEY, HOITENGA, THEIS, DAMOOSE, NESBITT, BUMSTEAD, OUTMAN and VICTORY and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 12 of chapter IX and sections 11b and 16m of chapter XVII (MCL 769.12, 777.11b, and 777.16m), section 12 of chapter IX as amended by 2012 PA 319, section 11b of chapter XVII as amended by 2016 PA 234, and section 16m of chapter XVII as amended by 2018 PA 637.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER IX

2

Sec. 12. (1) If a person has been convicted of any combination

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

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

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

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

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

28 (2) If the court imposes a sentence of imprisonment for any
29 term of years under this section, the court shall fix the length of

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

6 (3) A conviction ~~shall~~**must** not be used 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) An offender sentenced under this section or section 10 or
11 11 of this chapter for an offense other than a major controlled
12 substance offense is not eligible for parole until expiration of
13 the following:

14 (a) For a prisoner other than a prisoner subject to
15 disciplinary time, the minimum term fixed by the sentencing judge
16 at the time of sentence unless the sentencing judge or a successor
17 gives written approval for parole at an earlier date authorized by
18 law.

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

21 (5) This section and sections 10 and 11 of this chapter are
22 not in derogation of other provisions of law that permit or direct
23 the imposition of a consecutive sentence for a subsequent felony.

24 (6) As used in this section:

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

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

29 (ii) Article 7 of the public health code, 1978 PA 368, MCL

1 333.7101 to 333.7545, that is punishable by imprisonment for more
2 than 4 years.

3 (iii) Section 72, 82, 83, 84, 85, 86, 87, 88, 89, 91, 110a(2) or
4 (3), 136b(2) or (3), 145n(1) or (2), 157b, 197c, 226, ~~227~~, 234a,
5 234b, 234c, 317, 321, 329, 349, 349a, 350, 397, 411h(2)(b), 411i,
6 479a(4) or (5), 520b, 520c, 520d, 520g, 529, 529a, or 530 of the
7 Michigan penal code, 1931 PA 328, MCL 750.72, 750.82, 750.83,
8 750.84, 750.85, 750.86, 750.87, 750.88, 750.89, 750.91, 750.110a,
9 750.136b, 750.145n, 750.157b, 750.197c, 750.226, ~~750.227~~, 750.234a,
10 750.234b, 750.234c, 750.317, 750.321, 750.329, 750.349, 750.349a,
11 750.350, 750.397, 750.411h, 750.411i, 750.479a, 750.520b, 750.520c,
12 750.520d, 750.520g, 750.529, 750.529a, and 750.530.

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

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

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

18 (c) "Serious crime" means an offense against a person in
19 violation of section 83, 84, 86, 88, 89, 317, 321, 349, 349a, 350,
20 397, 520b, 520c, 520d, 520g(1), 529, or 529a of the Michigan penal
21 code, 1931 PA 328, MCL 750.83, 750.84, 750.86, 750.88, 750.89,
22 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b,
23 750.520c, 750.520d, 750.520g, 750.529, and 750.529a.

24 CHAPTER XVII

25 Sec. 11b. This chapter applies to the following felonies
26 enumerated in chapter 28 of the Michigan Compiled Laws:

27 **M.C.L. Category Class Description Stat Max**

1	28.214(6)(b)	Pub trst	F	Unauthorized	4
2				disclosure of	
3				information from LEIN	
4				– subsequent offense	
5	28.293(1)	Pub ord	E	False information when	5
6				applying for state ID	
7	28.293(2)	Pub ord	D	False information when	7
8				applying for state ID	
9				– second offense	
10	28.293(3)	Pub ord	C	False information when	15
11				applying for state ID	
12				– third or subsequent	
13				offense	
14	28.295(1)(a)	Pub ord	D	Counterfeiting or	10
15				forging state ID card	
16				or using counterfeited	
17				or forged state ID	
18				card to commit felony	
19				punishable by	
20				imprisonment for 10	
21				years or more	

1	28.295(1)(b)	Pub ord	E	Counterfeiting or	5
2				forging state ID card	
3				or using counterfeited	
4				or forged state ID	
5				card to commit felony	
6				punishable by	
7				imprisonment for less	
8				than 10 years or a	
9				misdemeanor punishable	
10				by more than 6 months	
11	28.295(2)	Pub ord	E	Selling counterfeited	5
12				or forged state ID	
13				card or possessing	
14				counterfeited or	
15				forged state ID card	
16				with intent to deliver	
17				to another person or	
18				possessing 2 or more	
19				counterfeited or	
20				forged state ID cards	
21	28.295(5)	Property	H	Using stolen state ID	Variable
22				card to commit felony	
23	28.295a(1)	Pub ord	H	False representation	4
24				to obtain or misuse	
25				personal information	
26	28.295a(2)	Pub ord	G	False representation	7
27				to obtain or misuse	
28				personal information –	
29				second offense	

1	28.295a(3)	Pub ord	C	False representation	15
2				to obtain or misuse	
3				personal information –	
4				third or subsequent	
5				offense	
6	28.308	Pub saf	E	False certification or	5
7				statement in	
8				application for	
9				enhanced driver	
10				license or enhanced	
11				official state	
12				personal	
13				identification card	
14	28.422(14)	Pub saf	F	Forgery on pistol	4
15	28.422(13)			license application	
16	28.422a(5)	Pub saf	F	False statement on	4
17				pistol sales record	
18	28.425b(3)	Pub saf	F	False statement on	4
19				concealed pistol	
20				permit application	
21	28.425j(3)	Pub saf	F	Unlawful granting or	4
22				presenting of pistol	
23				training certificate	
24	28.425o(6)(c)	Pub saf	F	Carrying concealed	4
25				pistol or electro-	
26				muscular disruption	
27				device in prohibited	
28				place – third or	
29				subsequent offense	

1	28.435(14)(c)	Pub saf	G	Firearm sale without	2
2				trigger lock, gun	
3				case, or storage	
4				container – third or	
5				subsequent offense	
6	28.454(1)	Pub saf	G	Consumer fireworks	2
7				certificate violation	
8	28.468(1)(c)	Pub saf	E	Michigan fireworks	5
9				safety act violation	
10				causing serious	
11				impairment	
12	28.468(1)(d)	Pub saf	C	Michigan fireworks	15
13				safety act violation	
14				causing death	
15	28.516(2)	Pub saf	F	False statement on	4
16				concealed firearm	
17				certificate	
18				application	
19	28.674	Pub saf	F	False report of a	4
20				public threat	
21	28.729(1)(a)	Pub ord	F	Failure to register as	4
22				a sex offender, first	
23				offense	
24	28.729(1)(b)	Pub ord	D	Failure to register as	7
25				a sex offender, second	
26				offense	
27	28.729(1)(c)	Pub ord	D	Failure to register as	10
28				a sex offender, third	
29				or subsequent offense	

1	28.729(2)	Pub ord	F	Failure to update sex	2
2				offender registration	
3				information	
4	28.734(2)(b)	Pub trst	G	Student safety zone	2
5				violation involving	
6				work or loitering --	
7				subsequent offense	
8	28.735(2)(b)	Pub trst	G	Student safety zone	2
9				violation involving	
10				residency -- subsequent	
11				offense	
12	28.754(1)	Pub ord	F	False report of a	4
13				child abduction	

14 Sec. 16m. This chapter applies to the following felonies
 15 enumerated in chapter 750 of the Michigan Compiled Laws:

16	M.C.L.	Category	Class	Description	Stat Max
17	750.223(2)	Pub saf	F	Sale of firearm to	
18				minor -- subsequent	
19				offense	4
20	750.223(3)	Pub ord	D	Sale of firearm to	
21				person prohibited from	
22				possessing	10
23	750.224	Pub saf	E	Manufacture or sale of	
24				silencer, bomb,	
25				blackjack, automatic	
26				weapon, gas spray,	
27				etc.	5

1	750.224a(4)	Pub saf	F	Possession or sale of	
2				electrical current	
3				weapons	4
4	750.224a(6)	Pub saf	G	Improper use of	
5				electro-muscular	
6				disruption device	2
7	750.224b	Pub saf	E	Possession of short	
8				barreled shotgun or	
9				rifle	5
10	750.224c	Pub saf	F	Armor piercing	
11				ammunition	4
12	750.224d(2)	Person	G	Using self-defense	
13				spray device	2
14	750.224e	Pub saf	F	Manufacture/sale/posse	
15				ssion of devices to	
16				convert semiautomatic	
17				weapons	4
18	750.224f(5)	Pub saf	E	Possession or sale of	
19				firearm by felon	5
20	750.224f(6)	Pub saf	E	Possession or sale of	
21				ammunition by felon	5
22	750.226	Pub saf	E	Carrying firearm or	
23				dangerous weapon with	
24				unlawful intent	5
25	750.227	Pub saf	E	Carrying a concealed	
26				weapon	5
27	750.227a	Pub saf	F	Unlawful possession of	
28				pistol	4

1	750.227e	Pub saf	G	Possessing a loaded	
2				firearm in or upon a	
3				vehicle	2
4	750.227f	Pub saf	F	Wearing body armor	
5				during commission of	
6				certain crimes	4
7	750.227g(1)	Pub saf	F	Felon purchasing,	
8				owning, possessing, or	
9				using body armor	4
10	750.230	Pub saf	G	Altering ID mark on	
11				firearm	2
12	750.232a(3)	Pub saf	G	False statement in a	
13				pistol application	4
14	750.234a(1)(a)	Pub saf	D	Discharging firearm	
15				from vehicle	10
16	750.234a(1)(b)	Person	C	Discharging firearm	
17				from vehicle causing	
18				physical injury	15
19	750.234a(1)(c)	Person	B	Discharging firearm	
20				from vehicle causing	
21				serious impairment	20
22	750.234a(1)(d)	Person	A	Discharging firearm	
23				from vehicle causing	
24				death	Life
25	750.234b(1)	Pub saf	D	Discharging firearm at	
26				a dwelling or	
27				potentially occupied	
28				structure	10

1	750.234b(2)	Pub saf	D	Discharging firearm in	
2				a dwelling or	
3				potentially occupied	
4				structure	10
5	750.234b(3)	Pub saf	C	Discharging firearm in	
6				or at a dwelling or	
7				potentially occupied	
8				structure causing	
9				physical injury	15
10	750.234b(4)	Person	B	Discharging firearm in	
11				or at a dwelling or	
12				potentially occupied	
13				structure causing	
14				serious impairment	20
15	750.234b(5)	Person	A	Discharging firearm in	
16				or at a dwelling or	
17				potentially occupied	
18				structure causing	
19				death	Life
20	750.234c	Pub saf	F	Discharging firearm at	
21				emergency/police	
22				vehicle	4

1	750.235b(2)	Pub saf	D	Threatening to commit	
2				violent act against	
3				school students or	
4				employees on school	
5				property with an overt	
6				act toward completion	
7				or with specific	
8				intent	10
9	750.236	Person	C	Setting spring gun –	
10				death resulting	15
11	750.237(3)	Person	E	Using firearm while	
12				under the influence or	
13				impaired causing	
14				serious impairment	5
15	750.237(4)	Person	C	Using firearm while	
16				under the influence or	
17				impaired causing death	15

18 Enacting section 1. This amendatory act does not take effect
 19 unless Senate Bill No. 308 of the 102nd Legislature is enacted into
 20 law.