

HOUSE BILL NO. 4672

April 21, 2021, Introduced by Reps. Posthumus, Kahle, Slagh, Tyrone Carter and Calley and referred to the Committee on Rules and Competitiveness.

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 a person has been convicted of any combination
3 of 3 or more felonies or attempts to commit felonies, whether the
4 convictions occurred in this state or would have been for felonies

1 or attempts to commit felonies in this state if obtained in this
2 state, and that person commits a subsequent felony within this
3 state, the person ~~shall~~**must** be punished upon conviction of the
4 subsequent felony and ~~sentencing~~**sentenced** under section 13 of this
5 chapter as follows:

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

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

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

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

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

1 imposed ~~shall be~~**is** considered an indeterminate sentence. The court
2 shall not fix a maximum sentence that is less than the maximum term
3 for a first conviction.

4 (3) A conviction ~~shall~~**must** not be used to enhance a sentence
5 under this section if that conviction is used to enhance a sentence
6 under a statute that prohibits use of the conviction for further
7 enhancement under this section.

8 (4) An offender sentenced under this section or section 10 or
9 11 of this chapter for an offense other than a major controlled
10 substance offense is not eligible for parole until expiration of
11 the following:

12 (a) For a prisoner other than a prisoner ~~subject to~~
13 ~~disciplinary time,~~**described under subdivision (b)**, the minimum
14 term fixed by the sentencing judge at the time of sentence unless
15 the sentencing judge or a successor gives written approval for
16 parole at an earlier date authorized by law.

17 (b) For a prisoner subject to disciplinary time **who is**
18 **sentenced before the effective date of the amendatory act that**
19 **amended this subdivision**, the minimum term fixed by the sentencing
20 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 Enacting section 1. This amendatory act does not take effect
25 unless Senate Bill No.____ or House Bill No.4670 (request no.
26 00291'21 *) of the 101st Legislature is enacted into law.