

HOUSE BILL NO. 4711

June 08, 2023, Introduced by Reps. Posthumus, Rigas, Hoadley, Maddock, Carra, Smit, DeBoyer, Aragona, Fox, Jaime Greene, BeGole, Cavitt, Bierlein, Beeler, Borton, DeSana, Friske, Outman, Markkanen, Phil Green, Zorn, Prestin, Beson and Meerman and referred to the Committee on Government Operations.

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 and sections 11b and 16m of chapter XVII as amended by 2023 PA 22.

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

1 convictions occurred in this state or would have been for felonies
2 or attempts to commit felonies in this state if obtained in this
3 state, and that person commits a subsequent felony within this
4 state, the person ~~shall~~**must** be punished upon conviction of the
5 subsequent felony and sentencing under section 13 of this chapter
6 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 than 25 years. Not
11 more than 1 conviction arising out of the same transaction ~~shall be~~
12 **is** considered a prior felony conviction for the purposes of this
13 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 be~~**is** considered an indeterminate sentence. The court
3 shall not fix a maximum sentence that is less than the maximum term
4 for a first conviction.

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

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

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

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

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

23 (6) As used in this section:

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

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

28 (ii) Article 7 of the public health code, 1978 PA 368, MCL
29 333.7101 to 333.7545, that is punishable by imprisonment for more

1 than 4 years.

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

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

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

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

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

23 CHAPTER XVII

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

| 26 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 firearm | 4 |
| 15 | 28.422(13) | | | license application | |
| 16 | 28.422a(5) | Pub saf | F | False statement on | 4 |
| 17 | | | | firearm 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 | 28.429(4) | Pub saf | E | Failure to store a | 5 |
| 2 | | | | firearm resulting in | |
| 3 | | | | injury | |
| 4 | 28.429(5) | Pub saf | D | Failure to store a | 10 |
| 5 | | | | firearm resulting in | |
| 6 | | | | serious impairment of | |
| 7 | | | | body function | |
| 8 | 28.429(6) | Pub saf | C | Failure to store a | 15 |
| 9 | | | | firearm resulting in | |
| 10 | | | | death | |
| 11 | 28.435(14)(c) | Pub saf | G | Firearm sale without | 2 |
| 12 | | | | trigger lock, gun | |
| 13 | | | | case, or storage | |
| 14 | | | | container – third or | |
| 15 | | | | subsequent offense | |
| 16 | 28.468(1)(c) | Pub saf | E | Michigan fireworks | 5 |
| 17 | | | | safety act violation | |
| 18 | | | | causing serious | |
| 19 | | | | impairment | |
| 20 | 28.468(1)(d) | Pub saf | C | Michigan fireworks | 15 |
| 21 | | | | safety act violation | |
| 22 | | | | causing death | |
| 23 | 28.516(2) | Pub saf | F | False statement on | 4 |
| 24 | | | | concealed firearm | |
| 25 | | | | certificate | |
| 26 | | | | application | |
| 27 | 28.674 | Pub saf | F | False report of a | 4 |
| 28 | | | | public threat | |

| | | | | | |
|----|--------------|---------|---|------------------------|----|
| 1 | 28.729(1)(a) | Pub ord | F | Failure to register as | 4 |
| 2 | | | | a sex offender, first | |
| 3 | | | | offense | |
| 4 | 28.729(1)(b) | Pub ord | D | Failure to register as | 7 |
| 5 | | | | a sex offender, second | |
| 6 | | | | offense | |
| 7 | 28.729(1)(c) | Pub ord | D | Failure to register as | 10 |
| 8 | | | | a sex offender, third | |
| 9 | | | | or subsequent offense | |
| 10 | 28.729(2) | Pub ord | F | Failure to update sex | 2 |
| 11 | | | | offender registration | |
| 12 | | | | information | |
| 13 | 28.754(1) | Pub ord | F | False report of a | 4 |
| 14 | | | | child abduction | |

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

| 17 | M.C.L. | Category | Class | Description | Stat Max |
|----|---------------|-----------------|--------------|----------------------------|-----------------|
| 18 | 750.223(2) | Pub saf | F | Sale of firearm to minor – | 4 |
| 19 | | | | subsequent offense | |
| 20 | 750.223(3) | Pub ord | D | Sale of firearm to person | 10 |
| 21 | | | | prohibited from possessing | |
| 22 | 750.224 | Pub saf | E | Manufacture or sale of | 5 |
| 23 | | | | silencer, bomb, blackjack, | |
| 24 | | | | automatic weapon, gas | |
| 25 | | | | spray, etc. | |
| 26 | 750.224a(4) | Pub saf | F | Possession or sale of | 4 |
| 27 | | | | electrical current weapons | |
| 28 | 750.224a(6) | Pub saf | G | Improper use of electro- | 2 |
| 29 | | | | muscular disruption device | |

| | | | | | |
|----|---------------------|--------------------|--------------|----------------------------------------|--------------|
| 1 | 750.224b | Pub saf | E | Possession of short | 5 |
| 2 | | | | barreled shotgun or rifle | |
| 3 | 750.224c | Pub saf | F | Armor piercing ammunition | 4 |
| 4 | 750.224d(2) | Person | G | Using self-defense spray | 2 |
| 5 | | | | device | |
| 6 | 750.224e | Pub saf | F | Manufacture/sale/possession | 4 |
| 7 | | | | of devices to convert | |
| 8 | | | | semiautomatic weapons | |
| 9 | 750.224f(5) | Pub saf | E | Possession or sale of | 5 |
| 10 | | | | firearm by felon | |
| 11 | 750.224f(6) | Pub saf | E | Possession or sale of | 5 |
| 12 | | | | ammunition by felon | |
| 13 | 750.226 | Pub saf | E | Carrying firearm or | 5 |
| 14 | | | | dangerous weapon with | |
| 15 | | | | unlawful intent | |
| 16 | 750.227 | Pub saf | E | Carrying a concealed weapon | 5 |
| 17 | 750.227a | Pub saf | F | Unlawful possession of | 4 |
| 18 | | | | pistol | |
| 19 | 750.227e | Pub saf | G | Possessing a loaded firearm | 2 |
| 20 | | | | in or upon a vehicle | |
| 21 | 750.227f | Pub saf | F | Wearing body armor during | 4 |
| 22 | | | | commission of certain | |
| 23 | | | | crimes | |
| 24 | 750.227g(1) | Pub saf | F | Felon purchasing, owning, | 4 |
| 25 | | | | possessing, or using body | |
| 26 | | | | armor | |
| 27 | 750.230 | Pub saf | G | Altering ID mark on firearm | 2 |
| 28 | 750.232a(3) | Pub saf | G | False statement in a | 4 |
| 29 | | | | firearm application | |

| | | | | | |
|----|----------------|---------|---|----------------------------|------|
| 1 | 750.234a(1)(a) | Pub saf | D | Discharging firearm from | 10 |
| 2 | | | | vehicle | |
| 3 | 750.234a(1)(b) | Person | C | Discharging firearm from | 15 |
| 4 | | | | vehicle causing physical | |
| 5 | | | | injury | |
| 6 | 750.234a(1)(c) | Person | B | Discharging firearm from | 20 |
| 7 | | | | vehicle causing serious | |
| 8 | | | | impairment | |
| 9 | 750.234a(1)(d) | Person | A | Discharging firearm from | Life |
| 10 | | | | vehicle causing death | |
| 11 | 750.234b(1) | Pub saf | D | Discharging firearm at a | 10 |
| 12 | | | | dwelling or potentially | |
| 13 | | | | occupied structure | |
| 14 | 750.234b(2) | Pub saf | D | Discharging firearm in a | 10 |
| 15 | | | | dwelling or potentially | |
| 16 | | | | occupied structure | |
| 17 | 750.234b(3) | Pub saf | C | Discharging firearm in or | 15 |
| 18 | | | | at a dwelling or | |
| 19 | | | | potentially occupied | |
| 20 | | | | structure causing physical | |
| 21 | | | | injury | |
| 22 | 750.234b(4) | Person | B | Discharging firearm in or | 20 |
| 23 | | | | at a dwelling or | |
| 24 | | | | potentially occupied | |
| 25 | | | | structure causing serious | |
| 26 | | | | impairment | |

| | | | | | |
|----|-------------|---------|---|-----------------------------|------|
| 1 | 750.234b(5) | Person | A | Discharging firearm in or | Life |
| 2 | | | | at a dwelling or | |
| 3 | | | | potentially occupied | |
| 4 | | | | structure causing death | |
| 5 | 750.234c | Pub saf | F | Discharging firearm at | 4 |
| 6 | | | | emergency/police vehicle | |
| 7 | 750.235b(2) | Pub saf | D | Threatening to commit | 10 |
| 8 | | | | violent act against school | |
| 9 | | | | students or employees on | |
| 10 | | | | school property with an | |
| 11 | | | | overt act toward completion | |
| 12 | | | | or with specific intent | |
| 13 | 750.236 | Person | C | Setting spring gun – death | 15 |
| 14 | | | | resulting | |
| 15 | 750.237(3) | Person | E | Using firearm while under | 5 |
| 16 | | | | the influence or impaired | |
| 17 | | | | causing serious impairment | |
| 18 | 750.237(4) | Person | C | Using firearm while under | 15 |
| 19 | | | | the influence or impaired | |
| 20 | | | | causing death | |

21 Enacting section 1. This amendatory act does not take effect
 22 unless all of the following bills of the 102nd Legislature are
 23 enacted into law:

24 (a) Senate Bill No. _____ or House Bill No. 4710 (request no.
 25 03199'23).

26 (b) Senate Bill No. _____ or House Bill No. 4715 (request no.
 27 03222'23).