

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1109

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
2006 PA 655.

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
5 or attempts to commit felonies in this state if obtained in this
6 state, and that person commits a subsequent felony within this
7 state, the person shall be punished upon conviction of the
8 subsequent felony and sentencing under section 13 of this chapter

Senate Bill No. 1109 (H-2) as amended September 12, 2012
as follows:

(A) IF THE SUBSEQUENT FELONY IS A SERIOUS CRIME OR A CONSPIRACY TO COMMIT A SERIOUS CRIME, AND 1 OR MORE OF THE PRIOR FELONY CONVICTIONS ARE LISTED PRIOR FELONIES, THE COURT SHALL SENTENCE THE PERSON TO IMPRISONMENT FOR NOT LESS THAN 25 YEARS. [NOT MORE THAN 1 CONVICTION ARISING OUT OF THE SAME TRANSACTION SHALL BE CONSIDERED A PRIOR FELONY CONVICTION FOR THE PURPOSES OF THIS SUBSECTION ONLY.]

(B) ~~(a)~~—If the subsequent felony is punishable upon a first conviction by imprisonment for a maximum term of 5 years or more or 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) ~~(b)~~—If the subsequent felony is punishable upon a first conviction by imprisonment for a maximum term that is less than 5 years, 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 of not more than 15 years.

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

(2) If the court ~~pursuant to this section~~ imposes a sentence of imprisonment for any term of years **UNDER THIS SECTION**, 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 be considered an indeterminate sentence. The court shall not fix a maximum sentence that is less than the maximum term for a first conviction.

(3) A conviction shall not be used to enhance a sentence under

1 this section if that conviction is used to enhance a sentence under
2 a statute that prohibits use of the conviction for further
3 enhancement under this section.

4 (4) An offender sentenced under this section or section 10 or
5 11 of this chapter for an offense other than a major controlled
6 substance offense is not eligible for parole until expiration of
7 the following:

8 (a) For a prisoner other than a prisoner subject to
9 disciplinary time, the minimum term fixed by the sentencing judge
10 at the time of sentence unless the sentencing judge or a successor
11 gives written approval for parole at an earlier date authorized by
12 law.

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

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

18 ~~—— (6) As used in this section, "prisoner subject to disciplinary~~
19 ~~time" means that term as defined in section 34 of 1893 PA 118, MCL~~
20 ~~800.34.~~

21 (6) AS USED IN THIS SECTION:

22 (A) "LISTED PRIOR FELONY" MEANS A VIOLATION OR ATTEMPTED
23 VIOLATION OF ANY OF THE FOLLOWING:

24 (i) SECTION 602A(4) OR (5) OR 625(4) OF THE MICHIGAN VEHICLE
25 CODE, 1949 PA 300, MCL 257.602A AND 257.625.

26 (ii) ARTICLE 7 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL
27 333.7101 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 Enacting section 1. This amendatory act takes effect October
 24 1, 2012.