

SENATE BILL No. 1109

May 2, 2012, Introduced by Senators JONES, BRANDENBURG, PAPPAGEORGE, HILDENBRAND, ROCCA and SCHUITMAKER and referred to the Committee on Judiciary.

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:

CHAPTER IX

Sec. 12. (1) If a person has been convicted of any combination
of 3 or more felonies or attempts to commit felonies, 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 that person commits a subsequent felony within this
state, the person shall be punished upon conviction of the
subsequent felony and sentencing under section 13 of this chapter
as follows:

(A) IF THE SUBSEQUENT FELONY IS PUNISHABLE UPON A FIRST CONVICTION BY IMPRISONMENT FOR A SERIOUS CRIME OR A CONSPIRACY TO COMMIT A SERIOUS CRIME, THE COURT SHALL SENTENCE THE PERSON TO IMPRISONMENT FOR NOT LESS THAN 25 YEARS. AS USED IN THIS SUBDIVISION, "SERIOUS CRIME" MEANS AN OFFENSE AGAINST A PERSON IN VIOLATION OF SECTION 83, 84, 86, 88, 89, 317, 321, 349, 349A, 350, 397, 520B, 520C, 520D, 520G(1), 529, 529A, OR 530 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.83, 750.84, 750.86, 750.88, 750.89, 750.317, 750.321, 750.349, 750.349A, 750.350, 750.397, 750.520B, 750.520C, 750.520D, 750.520G, 750.529, 750.529A, AND 750.530.

(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

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

6 (3) A conviction shall not be used to enhance a sentence under
7 this section if that conviction is used to enhance a sentence under
8 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, "prisoner subject to disciplinary
25 time" means that term as defined in section 34 of 1893 PA 118, MCL
26 800.34.