

# SENATE BILL NO. 699

January 08, 2020, Introduced by Senator IRWIN and referred to the Committee on Judiciary and Public Safety.

A bill to amend 1927 PA 175, entitled  
"The code of criminal procedure,"  
by amending section 10 of chapter IX (MCL 769.10), as amended by  
2006 PA 655.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER IX  
2 Sec. 10. (1) ~~If~~ **Subject to subsections (2), (4), (5), and (6),**  
3 **if** a person has been convicted of a felony **of the same crime class**  
4 or an attempt to commit a felony **of the same crime class**, whether  
5 the conviction occurred in this state or would have been for a

felony or attempt to commit a felony in this state if obtained in this state, and ~~that the~~ person commits a subsequent felony within this state, **and the felony conviction is for an offense that occurred after the previous conviction was entered**, the person ~~shall must~~ be punished upon conviction of the subsequent felony and ~~sentencing sentenced~~ under section 13 of this chapter as follows:

(a) If the subsequent felony is punishable upon a first conviction by imprisonment for a term less than life, the court, except as otherwise provided in this section or section 1 of chapter XI, may place the person on probation or sentence the person to imprisonment for a maximum term that is not more than 1-1/2 times the longest term prescribed for a first conviction of that offense or for a lesser term.

(b) If the subsequent felony is punishable upon a first conviction by imprisonment for life, the court, except as otherwise provided in this section or section 1 of chapter XI, may place the person on probation or sentence the person to imprisonment for life or for a lesser term.

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

**(2) Not more than 1 conviction arising out of the same transaction may be considered a prior felony conviction for purposes of subsection (1).**

**(3)** ~~(2)~~ If the court pursuant to this section imposes a sentence of imprisonment for any term of years, 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 must~~ be considered an indeterminate

1 sentence. The court shall not fix a maximum sentence that is less  
2 than the maximum term for a first conviction.

3       **(4) ~~(3)~~**A conviction ~~shall~~**must** not be used to **score prior**  
4 **record variables under part 5 of chapter XVII, or to** enhance a  
5 sentence under this section if that conviction is used to enhance a  
6 sentence under a statute that prohibits use of the conviction for  
7 further enhancement under this section.

8       **(5) If a conviction is used in scoring a person's prior record**  
9 **under part 5 of chapter XVII, it must not be used as a basis to**  
10 **enhance a person's sentence under this section.**

11       **(6) A conviction that precedes a period of 10 or more years**  
12 **between the discharge date from a conviction or adjudication and**  
13 **the defendant's commission of a subsequent offense that results in**  
14 **a conviction or adjudication must not be used to enhance a sentence**  
15 **under this section.**