

# HOUSE BILL NO. 6455

October 11, 2022, Introduced by Reps. Carra, Meerman, LaFave, Berman and Marino 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 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  
5 or attempts to commit felonies in this state if obtained in this

1 state, and that person commits a subsequent felony within this  
2 state, the person ~~shall~~**must** be punished upon conviction of the  
3 subsequent felony and ~~sentencing~~**sentenced** under section 13 of this  
4 chapter as follows:

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

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

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

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

25 (2) If the court imposes a sentence of imprisonment for any  
26 term of years under this section, the court shall fix the length of  
27 both the minimum and maximum sentence within any specified limits  
28 in terms of years or a fraction of a year, and the sentence so  
29 imposed ~~shall be~~**is** considered an indeterminate sentence. The court

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

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

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

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

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

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

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  
28 than 4 years.

29 (iii) Section 72, 82, 83, 84, 85, 86, 87, 88, 89, 91, 110a(2) or

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

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

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

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

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

21 Enacting section 1. This amendatory act takes effect 90 days  
 22 after it is enacted into law.

23 Enacting section 2. This amendatory act does not take effect  
 24 unless Senate Bill No. \_\_\_\_\_ or House Bill No. 6454 (request no.  
 25 06453'22 \*) of the 101st Legislature is enacted into law.