

1 would have been for felonies or attempts to commit felonies in this
2 state if obtained in this state, **and each felony conviction is for**
3 **an offense that occurred after the previous conviction was entered,**
4 and that person commits a subsequent felony within this state, the
5 person ~~shall~~**must** be punished upon conviction of the subsequent
6 felony and ~~sentencing~~**sentenced** under section 13 of this chapter as
7 follows:

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

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

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

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

28 (2) If the court imposes a sentence of imprisonment for any
29 term of years under this section, the court shall fix the length of

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

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

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

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

19 (6) ~~(4)~~An offender sentenced under this section or section 10
20 or 11 of this chapter for an offense other than a major controlled
21 substance offense is not eligible for parole until expiration of
22 the following:

23 (a) For a prisoner other than a prisoner subject to
24 disciplinary time, the minimum term fixed by the sentencing judge
25 at the time of sentence unless the sentencing judge or a successor
26 gives written approval for parole at an earlier date authorized by
27 law.

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

1 **(7)** ~~(5)~~—This section and ~~sections 10 and~~ **section** 11 of this
2 chapter are not in derogation of other provisions of law that
3 permit or direct the imposition of a consecutive sentence for a
4 subsequent felony.

5 **(8)** ~~(6)~~—As used in this section:

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

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

10 (ii) Article 7 of the public health code, 1978 PA 368, MCL
11 333.7101 to 333.7545, that is punishable by imprisonment for more
12 than 4 years.

13 (iii) Section 72, 82, 83, 84, 85, 86, 87, 88, 89, 91, 110a(2) or
14 (3), 136b(2) or (3), 145n(1) or (2), 157b, 197c, 226, 227, 234a,
15 234b, 234c, 317, 321, 329, 349, 349a, 350, 397, 411h(2)(b), 411i,
16 479a(4) or (5), 520b, 520c, 520d, 520g, 529, 529a, or 530 of the
17 Michigan penal code, 1931 PA 328, MCL 750.72, 750.82, 750.83,
18 750.84, 750.85, 750.86, 750.87, 750.88, 750.89, 750.91, 750.110a,
19 750.136b, 750.145n, 750.157b, 750.197c, 750.226, 750.227, 750.234a,
20 750.234b, 750.234c, 750.317, 750.321, 750.329, 750.349, 750.349a,
21 750.350, 750.397, 750.411h, 750.411i, 750.479a, 750.520b, 750.520c,
22 750.520d, 750.520g, 750.529, 750.529a, and 750.530.

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

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

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

28 (c) "Serious crime" means an offense against a person in
29 violation of section 83, 84, 86, 88, 89, 317, 321, 349, 349a, 350,

1 397, 520b, 520c, 520d, 520g(1), 529, or 529a of the Michigan penal
2 code, 1931 PA 328, MCL 750.83, 750.84, 750.86, 750.88, 750.89,
3 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b,
4 750.520c, 750.520d, 750.520g, 750.529, and 750.529a.