

SUBSTITUTE FOR
HOUSE BILL NO. 4542

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 227b (MCL 750.227b), as amended by 1990 PA
321.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 227b. (1) ~~A~~ EXCEPT AS PROVIDED IN SUBSECTION (2), A
2 person who carries or has in his or her possession a firearm when
3 he or she commits or attempts to commit a felony, ~~except~~ OTHER
4 THAN a violation of section 223, ~~section~~ 227, 227a, ~~or~~ 230,
5 230A, 233, 234, 234D, 235, 237, OR 357B, OR WHEN HE OR SHE COM-
6 MITS OR ATTEMPTS TO COMMIT A VIOLATION OF SECTION 81(1), (2), OR
7 (3), 81A(1) OR (2), OR 411H(2) is guilty OF A CRIME AS FOLLOWS:
8 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE PERSON
9 IS GUILTY of a felony ~~—~~ and shall be imprisoned for 2 years.
10 ~~Upon a second conviction under this section~~

HB4542, As Passed House, May 20, 1999

House Bill No. 4542

2

1 (B) IF THE VIOLATION INVOLVED THE DISCHARGE OF A FIREARM,
2 THE PERSON IS GUILTY OF A FELONY AND SHALL BE IMPRISONED FOR NOT
3 LESS THAN 2 YEARS OR MORE THAN 4 YEARS.

4 (C) IF THE VIOLATION INVOLVED THE DISCHARGE OF A FIREARM AND
5 THAT DISCHARGE RESULTED IN PHYSICAL INJURY TO ANY PERSON, THE
6 PERSON IS GUILTY OF A FELONY AND SHALL BE IMPRISONED FOR NOT LESS
7 THAN 2 YEARS OR MORE THAN 7 YEARS.

8 (D) IF THE PERSON HAS 1 PRIOR CONVICTION UNDER THIS SUBSEC-
9 TION OR SUBSECTION (2), the person IS GUILTY OF A FELONY AND
10 shall be imprisoned for 5 years. ~~Upon a third or subsequent~~
11 ~~conviction under this subsection~~

12 (E) IF THE PERSON HAS 2 OR MORE PRIOR CONVICTIONS IN ANY
13 COMBINATION UNDER THIS SUBSECTION OR SUBSECTION (2), the person
14 IS GUILTY OF A FELONY AND shall be imprisoned for 10 years.

15 (F) IF THE VIOLATION INVOLVED THE DISCHARGE OF A FIREARM AND
16 THE PERSON HAS 1 PRIOR CONVICTION UNDER THIS SUBDIVISION, SUBDI-
17 VISION (G), (H), OR (I), OR SUBSECTION (2)(B) OR (C), THE PERSON
18 IS GUILTY OF A FELONY AND SHALL BE IMPRISONED FOR NOT LESS THAN 5
19 YEARS OR MORE THAN 7 YEARS.

20 (G) IF THE VIOLATION INVOLVED THE DISCHARGE OF A FIREARM AND
21 THE PERSON HAS 2 OR MORE PRIOR CONVICTIONS IN ANY COMBINATION
22 UNDER THIS SUBDIVISION, SUBDIVISION (F), (H), OR (I), OR SUBSEC-
23 TION (2)(B) OR (C), THE PERSON IS GUILTY OF A FELONY AND SHALL BE
24 IMPRISONED FOR NOT LESS THAN 10 YEARS OR MORE THAN 12 YEARS.

25 (H) IF THE VIOLATION INVOLVED THE DISCHARGE OF A FIREARM,
26 THAT DISCHARGE RESULTED IN PHYSICAL INJURY TO ANY PERSON, AND THE
27 PERSON HAS 1 PRIOR CONVICTION UNDER THIS SUBDIVISION, SUBDIVISION

HB4542, As Passed House, May 20, 1999

House Bill No. 4542

3

1 (F), (G), OR (I), OR SUBSECTION (2)(B) OR (C), THE PERSON IS
2 GUILTY OF A FELONY AND SHALL BE IMPRISONED FOR NOT LESS THAN 5
3 YEARS OR MORE THAN 10 YEARS.

4 (I) IF THE VIOLATION INVOLVED THE DISCHARGE OF A FIREARM,
5 THAT DISCHARGE RESULTED IN PHYSICAL INJURY TO ANY PERSON, AND THE
6 PERSON HAS 2 OR MORE PRIOR CONVICTIONS IN ANY COMBINATION UNDER
7 THIS SUBDIVISION OR SUBDIVISION (F), (G), OR (H) OR SUBSECTION
8 (2)(B) OR (C), THE PERSON IS GUILTY OF A FELONY AND SHALL BE
9 IMPRISONED FOR NOT LESS THAN 10 YEARS OR MORE THAN 15 YEARS.

10 (2) AN INDIVIDUAL WHO IS LICENSED TO CARRY A CONCEALED
11 PISTOL AND WHO IS CARRYING A PISTOL CONCEALED OR OTHERWISE WHEN
12 HE OR SHE COMMITS OR ATTEMPTS TO COMMIT A FELONY OTHER THAN A
13 VIOLATION OF SECTION 223, 227, 227A, 230, 230A, 233, 234, 234D,
14 235, 237, 317(2) OR (3), 321(2) OR (3), OR 357B, OR WHEN HE OR
15 SHE COMMITS OR ATTEMPTS TO COMMIT A VIOLATION OF SECTION 81(1),
16 (2), OR (3), 81A(1) OR (2), OR 411H(2) IS GUILTY OF A CRIME AS
17 FOLLOWS:

18 (A) EXCEPT AS PROVIDED IN SUBDIVISIONS (B) AND (C), THE
19 PERSON IS GUILTY OF A FELONY AND SHALL BE IMPRISONED FOR NOT LESS
20 THAN 2 YEARS OR MORE THAN 4 YEARS.

21 (B) IF THE VIOLATION INVOLVED THE DISCHARGE OF A FIREARM,
22 THE PERSON IS GUILTY OF A FELONY AND SHALL BE IMPRISONED FOR NOT
23 LESS THAN 2 YEARS OR MORE THAN 5 YEARS.

24 (C) IF THE VIOLATION INVOLVED THE DISCHARGE OF A FIREARM AND
25 THAT DISCHARGE RESULTED IN PHYSICAL INJURY TO ANY PERSON, THE
26 PERSON IS GUILTY OF A FELONY AND SHALL BE IMPRISONED FOR NOT LESS
27 THAN 2 YEARS OR MORE THAN 8 YEARS.

HB4542, As Passed House, May 20, 1999

House Bill No. 4542

4

1 (3) ~~—(2)—~~ A term of imprisonment prescribed by this section
2 is in addition to the sentence imposed for the conviction of the
3 felony or the attempt to commit the felony, and shall be served
4 consecutively with and preceding any term of imprisonment imposed
5 for the conviction of the felony or attempt to commit the
6 felony.

7 (4) ~~—(3)—~~ A term of imprisonment imposed under this section
8 shall not be suspended. The person subject to the sentence man-
9 dated by this section is not eligible for parole or probation
10 during the mandatory term imposed ~~pursuant to~~ UNDER subsection
11 (1) OR (2).

12 (5) ~~—(4)—~~ This section does not apply to a law enforcement
13 officer who is authorized to carry a firearm while in the offi-
14 cial performance of his or her duties, and who is in the per-
15 formance of those duties. As used in this subsection, "law
16 enforcement officer" means a person who is regularly employed as
17 a member of a duly authorized police agency or other organization
18 of the United States, this state, or a city, county, township, or
19 village of this state, and who is responsible for the prevention
20 and detection of crime and the enforcement of the general crimi-
21 nal laws of this state.

22 Enacting section 1. This amendatory act takes effect
23 September 30, 1999.

24 Enacting section 2. This amendatory act does not take
25 effect unless House Bill No. 4530 of the 90th Legislature is
26 enacted into law.