

HOUSE BILL No. 4777

July 14, 2015, Introduced by Reps. Gamrat and Courser 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 and section 16m of chapter
XVII (MCL 769.12 and 777.16m), section 12 of chapter IX as
amended by 2012 PA 319 and section 16m of chapter XVII as amended
by 2014 PA 192.

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

1 13 of this chapter as follows:

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

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

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

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

22 (2) If the court imposes a sentence of imprisonment for any
23 term of years under this section, the court shall fix the length
24 of both the minimum and maximum sentence within any specified
25 limits in terms of years or a fraction of a year, and the
26 sentence so imposed shall be considered an indeterminate
27 sentence. The court shall not fix a maximum sentence that is less

1 than the maximum term for a first conviction.

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

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

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

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

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

1 than 4 years.

2 (iii) Section 72, 82, 83, 84, 85, 86, 87, 88, 89, 91, 110a(2)
 3 or (3), 136b(2) or (3), 145n(1) or (2), 157b, 197c, 226, ~~227~~,
 4 234a, 234b, 234c, 317, 321, 329, 349, 349a, 350, 397, 411h(2)(b),
 5 411i, 479a(4) or (5), 520b, 520c, 520d, 520g, 529, 529a, or 530
 6 of the Michigan penal code, 1931 PA 328, MCL 750.72, 750.82,
 7 750.83, 750.84, 750.85, 750.86, 750.87, 750.88, 750.89, 750.91,
 8 750.110a, 750.136b, 750.145n, 750.157b, 750.197c, 750.226,
 9 ~~750.227~~, 750.234a, 750.234b, 750.234c, 750.317, 750.321, 750.329,
 10 750.349, 750.349a, 750.350, 750.397, 750.411h, 750.411i,
 11 750.479a, 750.520b, 750.520c, 750.520d, 750.520g, 750.529,
 12 750.529a, and 750.530.

13 (iv) A second or subsequent violation or attempted violation
 14 of section 227b of the Michigan penal code, 1931 PA 328, MCL
 15 750.227b.

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

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

19 (c) "Serious crime" means an offense against a person in
 20 violation of section 83, 84, 86, 88, 89, 317, 321, 349, 349a,
 21 350, 397, 520b, 520c, 520d, 520g(1), 529, or 529a of the Michigan
 22 penal code, 1931 PA 328, MCL 750.83, 750.84, 750.86, 750.88,
 23 750.89, 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397,
 24 750.520b, 750.520c, 750.520d, 750.520g, 750.529, and 750.529a.

25 CHAPTER XVII

26 Sec. 16m. This chapter applies to the following felonies
 27 enumerated in chapter 750 of the Michigan Compiled Laws:

1	M.C.L.	Category	Class	Description	Stat Max
2	750.223(2)	Pub saf	F	Sale of firearm to minor—subsequent offense	4
3	750.223(3)	Pub ord	D	Sale of firearm to person prohibited from possessing	10
4	750.224	Pub saf	E	Manufacture or sale of silencer, bomb, blackjack, automatic weapon, gas spray, etc.	5
5	750.224a(4)	Pub saf	F	Possession or sale of electrical current weapons	4
6	750.224a(6)	Pub saf	G	Improper use of electro-muscular disruption device	2
7	750.224b	Pub saf	E	Possession of short barreled shotgun or rifle	5
8	750.224c	Pub saf	F	Armor piercing ammunition	4
9	750.224d(2)	Person	G	Using self-defense spray device	2
10	750.224e	Pub saf	F	Manufacture/sale/possession of devices to convert semiautomatic weapons	4
11	750.224f(5)	Pub saf	E	Possession or sale of firearm by felon	5
12	750.224f(6)	Pub saf	E	Possession or sale of ammunition by felon	5
13	750.226	Pub saf	E	Carrying firearm or dangerous weapon with unlawful intent	5
14	750.227	Pub saf	E	Carrying a concealed weapon	5
15	750.227a	Pub saf	F	Unlawful possession of pistol	4

1	750.227e	Pub saf	G	Possessing a loaded firearm in or upon a vehicle	2
2	750.227f	Pub saf	F	Wearing body armor during commission of certain crimes	4
3	750.227g(1)	Pub saf	F	Felon purchasing, owning, possessing, or using body armor	4
4	750.230	Pub saf	G	Altering ID mark on firearm	2
5	750.232a(3)	Pub saf	G	False statement in a pistol application	4
6	750.234a(1)(a)	Pub saf	D	Discharging firearm from vehicle	10
7	750.234a(1)(b)	Person	C	Discharging firearm from vehicle causing physical injury	15
8	750.234a(1)(c)	Person	B	Discharging firearm from vehicle causing serious impairment	20
9	750.234a(1)(d)	Person	A	Discharging firearm from vehicle causing death	Life
10	750.234b(1)	Pub saf	D	Discharging firearm at a dwelling or potentially occupied structure	10
11	750.234b(2)	Pub saf	D	Discharging firearm in a dwelling or potentially occupied structure	10
12	750.234b(3)	Pub saf	C	Discharging firearm in or at a dwelling or potentially occupied structure causing physical injury	15
13	750.234b(4)	Person	B	Discharging firearm in or at a dwelling or potentially occupied structure causing serious impairment	20

1	750.234b(5)	Person	A	Discharging firearm in or at a dwelling or potentially occupied structure causing death	Life
2	750.234c	Pub saf	F	Discharging firearm at emergency/police vehicle	4
3	750.236	Person	C	Setting spring gun – death resulting	15
4	750.237(3)	Person	E	Using firearm while under the influence or impaired causing serious impairment	5
5	750.237(4)	Person	C	Using firearm while under the influence or impaired causing death	15