

THE CODE OF CRIMINAL PROCEDURE (EXCERPT)
Act 175 of 1927

769.12 Punishment for subsequent felony following conviction of 3 or more felonies; sentence for term of years considered indeterminate sentence; use of conviction to enhance sentence prohibited; eligibility for parole; provisions not in derogation of consecutive sentence; definitions.

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 13 of this chapter as follows:

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

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

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

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

(2) If the court imposes a sentence of imprisonment for any term of years under this section, 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 be considered an indeterminate sentence. The court shall not fix a maximum sentence that is less than the maximum term for a first conviction.

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

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

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

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

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

(6) As used in this section:

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

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

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

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

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

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

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

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

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