

HOUSE BILL No. 4499

March 3, 2009, Introduced by Rep. Cushingberry 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
2006 PA 655.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER IX

1
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
6 state, and that person commits a subsequent felony within this
7 state, the person shall be punished upon conviction of the
8 subsequent felony and sentencing under section 13 of this chapter
9 as follows:

10 (a) If the subsequent felony is punishable upon a first

1 conviction by imprisonment for a maximum term of 5 years or more or
2 for life, the court, except as otherwise provided in this section
3 or section 1 of chapter XI, may sentence the person to imprisonment
4 for life or for a lesser term.

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

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

13 (2) If the court pursuant to this section imposes a sentence
14 of imprisonment for any term of years, the court shall fix the
15 length of both the minimum and maximum sentence within any
16 specified limits in terms of years or a fraction of a year, and the
17 sentence so imposed shall be considered an indeterminate sentence.
18 The court shall not fix a maximum sentence that is less than the
19 maximum term for a first conviction.

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

24 (4) An offender sentenced under this section or section 10 or
25 11 of this chapter for an offense other than a major controlled
26 substance offense is not eligible for parole until expiration of
27 ~~the following:~~

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

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

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

11 ~~—— (6) As used in this section, "prisoner subject to disciplinary~~
12 ~~time" means that term as defined in section 34 of 1893 PA 118, MCL~~
13 ~~800.34.~~

14 Enacting section 1. This amendatory act does not take effect
15 unless Senate Bill No. ____ or House Bill No. 4497 (request no.
16 01437'09) of the 95th Legislature is enacted into law.