

HOUSE BILL No. 5946

June 29, 1990, Introduced by Reps. Kulchitsky, Rocca, Niederstadt, Jaye, Willis Bullard, Allen, Law, Walberg, Runco and Dunaskiss and referred to the Committee on Judiciary.

A bill to amend sections 9, 10, 11, and 12 of chapter IX of Act No. 175 of the Public Acts of 1927, entitled as amended "The code of criminal procedure," sections 10, 11, and 12 as amended by Act No. 90 of the Public Acts of 1988, being sections 769.9, 769.10, 769.11, and 769.12 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 9, 10, 11, and 12 of chapter IX of Act
2 No. 175 of the Public Acts of 1927, sections 10, 11, and 12 as
3 amended by Act No. 90 of the Public Acts of 1988, being sections
4 769.9, 769.10, 769.11, and 769.12 of the Michigan Compiled Laws,
5 are amended to read as follows:

CHAPTER IX

1
2 Sec. 9. (1) The provisions of this chapter ~~relative to~~
3 REGARDING indeterminate sentences shall not apply to a person
4 convicted for the commission of an offense for which the only
5 punishment prescribed by law is imprisonment for life.

6 (2) In all cases where the maximum sentence in the discre-
7 tion of the court may be imprisonment for life or any number or
8 term of years, the court may impose a sentence for life or may
9 impose a sentence for any term of years. If the sentence imposed
10 by the court is for any term of years, the court shall fix both
11 the minimum and the maximum of that sentence in terms of years
12 ~~or fraction thereof~~ AND FRACTIONS OF YEARS, and sentences so
13 imposed shall be considered indeterminate sentences. The court
14 shall not impose a sentence in which the maximum penalty is life
15 imprisonment with a minimum for a term of years included in the
16 same sentence. THE DURATION OF A SENTENCE OF IMPRISONMENT FOR
17 ANY TERM OF YEARS MAY EXCEED THE DURATION OF A SENTENCE OF
18 IMPRISONMENT FOR LIFE.

19 (3) In cases involving a major controlled substance offense
20 for which the court is directed by law to impose a sentence which
21 cannot be less than a specified term of years nor more than a
22 specified term of years, the court in imposing the sentence shall
23 fix the length of both the minimum and maximum sentence within
24 those specified limits, in terms of years or ~~fraction thereof~~
25 FRACTIONS OF YEARS, and the sentence so imposed shall be consid-
26 ered an indeterminate sentence.

1 Sec. 10. (1) If a person has been convicted of a felony, an
2 attempt to commit a felony, or both, whether the conviction
3 occurred in this state or would have been for a felony in this
4 state if the conviction obtained outside this state had been
5 obtained in this state, and that person commits a subsequent
6 felony within this state, the person shall be punished upon con-
7 viction as follows:

8 (a) If the subsequent felony is punishable upon a first con-
9 viction by imprisonment for a term less than life, then the
10 court, except as otherwise provided in this section or in section
11 1 of chapter 11, may place the person on probation or sentence
12 the person to imprisonment for a maximum term which is not more
13 than 1-1/2 times the longest term prescribed for a first convic-
14 tion of that offense or for a lesser term.

15 (b) If the subsequent felony is punishable upon a first con-
16 viction by imprisonment for life, then the court, except as oth-
17 erwise provided in this section or in section 1 of chapter 11,
18 may place the person on probation or sentence the person to
19 imprisonment for life, ANY TERM OF YEARS, or ~~for~~ a lesser
20 term.

21 (c) If the subsequent felony is a major controlled substance
22 offense, the person shall be punished as provided by part 74 of
23 the public health code, Act No. 368 of the Public Acts of 1978,
24 being sections 333.7401 to ~~333.7415~~ 333.7461 of the Michigan
25 Compiled Laws.

26 (2) If the court pursuant to this section imposes a sentence
27 of imprisonment for any term of years, the court shall fix the

1 length of both the minimum and maximum sentence within any
2 specified limits in terms of years or fraction ~~thereof~~ OF YEARS
3 and the sentence so imposed shall be considered an indeterminate
4 sentence. THE DURATION OF A SENTENCE OF IMPRISONMENT FOR ANY
5 TERM OF YEARS IMPOSED UNDER THIS SUBSECTION MAY EXCEED THE DURA-
6 TION OF A SENTENCE OF IMPRISONMENT FOR LIFE.

7 Sec. 11. (1) If a person has been convicted of 2 or more
8 felonies, attempts to commit felonies, or both, whether the con-
9 victions occurred in this state or would have been for felonies
10 in this state if the convictions obtained outside this state had
11 been obtained in this state, and that person commits a subsequent
12 felony within this state, the person shall be punished upon con-
13 viction as follows:

14 (a) If the subsequent felony is punishable upon a first con-
15 viction by imprisonment for a term less than life, then the
16 court, except as otherwise provided in this section or section 1
17 of chapter 11, may sentence the person to imprisonment for a max-
18 imum term which is not more than twice the longest term pre-
19 scribed by law for a first conviction of that offense or for a
20 lesser term.

21 (b) If the subsequent felony is punishable upon a first con-
22 viction by imprisonment for life, then the court, except as oth-
23 erwise provided in this section or section 1 of chapter 11, may
24 sentence the person to imprisonment for life, ANY TERM OF YEARS,
25 or ~~for~~ a lesser term.

26 (c) If the subsequent felony is a major controlled substance
27 offense, the person shall be punished as provided by part 74 of

1 the public health code, Act No. 368 of the Public Acts of 1978,
2 being sections 333.7401 to ~~333.7415~~ 333.7461 of the Michigan
3 Compiled Laws.

4 (2) If the court pursuant to this section imposes a sentence
5 of imprisonment for any term of years, the court shall fix the
6 length of both the minimum and maximum sentence within any speci-
7 fied limits in terms of years or fraction ~~thereof~~ OF YEARS, and
8 the sentence so imposed shall be considered an indeterminate
9 sentence. THE DURATION OF A SENTENCE OF IMPRISONMENT FOR ANY
10 TERM OF YEARS IMPOSED UNDER THIS SUBSECTION MAY EXCEED THE DURA-
11 TION OF A SENTENCE OF IMPRISONMENT FOR LIFE.

12 Sec. 12. (1) If a person has been convicted of 3 or more
13 felonies, attempts to commit felonies, or both, whether the con-
14 victions occurred in this state or would have been for felonies
15 in this state if the convictions obtained outside this state had
16 been obtained in this state, and that person commits a subsequent
17 felony within this state, the person shall be punished upon con-
18 viction as follows:

19 (a) If the subsequent felony is punishable upon a first con-
20 viction by imprisonment for a maximum term of 5 years or more, or
21 for life, then the court, except as otherwise provided in this
22 section or section 1 of chapter 11, may sentence the person upon
23 conviction of the fourth or subsequent offense to imprisonment in
24 a state prison for the term of life, ANY TERM OF YEARS, or ~~for~~
25 a lesser term.

26 (b) If the subsequent felony is punishable upon a first
27 conviction by imprisonment for a maximum term which is less than

1 5 years, then the court, except as otherwise provided in this
2 section or section 1 of chapter 11, may sentence the person to
3 imprisonment for a term of 15 years or a lesser term.

4 (c) If the subsequent felony is a major controlled substance
5 offense, the person shall be punished as provided by part 74 of
6 the public health code, Act No. 368 of the Public Acts of 1978,
7 being sections 333.7401 to ~~333.7415~~ 333.7461 of the Michigan
8 Compiled Laws.

9 (2) If the court pursuant to this section imposes a sentence
10 of imprisonment for any term of years, the court shall fix the
11 length of both the minimum and maximum sentence within any speci-
12 fied limits in terms of years or fraction ~~thereof~~ OF YEARS, and
13 the sentence so imposed shall be considered an indeterminate
14 sentence. THE DURATION OF A SENTENCE OF IMPRISONMENT FOR ANY
15 TERM OF YEARS IMPOSED UNDER THIS SUBSECTION MAY EXCEED THE DURA-
16 TION OF A SENTENCE OF IMPRISONMENT FOR LIFE.

17 (3) Offenders sentenced under this section or section 10 or
18 11 OF THIS CHAPTER for offenses other than a major controlled
19 substance offense shall not be eligible for parole before the
20 expiration of the minimum term fixed by the sentencing judge at
21 the time of sentence without the written approval of the sentenc-
22 ing judge or a successor. A person to be punished under this
23 section or section 10 or 11 OF THIS CHAPTER need not have been
24 indicted and convicted as a previous offender in order to receive
25 the increased punishment provided in this section or section 11
26 OF THIS CHAPTER, but may be proceeded against as provided in
27 section 13 OF THIS CHAPTER.

1 (4) This section and sections 10 and 11 OF THIS CHAPTER
2 govern the length of sentence to be imposed for the commission of
3 a subsequent felony and are not in derogation of other provisions
4 of law which permit or direct the imposition of a consecutive
5 sentence for a subsequent felony.