

# SENATE BILL No. 246

April 9, 1991, Introduced by Senators DINGELL and WELBORN  
and referred to the Committee on Family Law, Criminal  
Law, and Corrections.

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 FRACTION 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  
21 ~~which~~ THAT cannot be less than a specified term of years ~~nor~~  
22 OR more than a specified term of years, the court in imposing the  
23 sentence shall fix the length of both the minimum and maximum  
24 sentence within those specified limits, in terms of years or  
25 fraction ~~thereof, and the~~ OF YEARS. THE sentence ~~so imposed~~  
26 shall be considered 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~~ XI, may place the person on probation or sen-  
12 tence the person to imprisonment for a maximum term which is not  
13 more than 1-1/2 times the longest term prescribed for a first  
14 conviction 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  
17 otherwise provided in this section or in section 1 of chapter  
18 ~~11~~ XI, may place the person on probation or sentence the person  
19 to 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~~ IN part 74  
23 of the public health code, Act No. 368 of the Public Acts of  
24 1978, being sections 333.7401 to ~~333.7415~~ 333.7461 of the  
25 Michigan 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 and the~~  
3 OF YEARS. THE sentence ~~so imposed~~ shall be considered an inde-  
4 terminate sentence. THE DURATION OF A SENTENCE OF IMPRISONMENT  
5 FOR ANY TERM OF YEARS IMPOSED UNDER THIS SUBSECTION MAY EXCEED  
6 THE DURATION 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~~ XI, may sentence the person to imprisonment for a  
18 maximum 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  
23 otherwise provided in this section or section 1 of chapter ~~11~~  
24 XI, may sentence the person to imprisonment for life, ANY TERM OF  
25 YEARS, 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, and the~~ OF  
8 YEARS. THE sentence ~~so imposed~~ shall be considered an indeter-  
9 minate sentence. THE DURATION OF A SENTENCE OF IMPRISONMENT FOR  
10 ANY TERM OF YEARS IMPOSED UNDER THIS SUBSECTION MAY EXCEED THE  
11 DURATION 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~~ XI, may sentence the person  
23 upon conviction of the fourth or subsequent offense to imprison-  
24 ment in a state prison for the term of life, ANY TERM OF YEARS,  
25 or ~~for~~ 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~~ IX, may sentence the person  
3 to 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, and the~~ OF  
13 YEARS. THE sentence ~~so imposed~~ shall be considered an indeter-  
14 minate sentence. THE DURATION OF A SENTENCE OF IMPRISONMENT FOR  
15 ANY TERM OF YEARS IMPOSED UNDER THIS SUBSECTION MAY EXCEED THE  
16 DURATION 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.