

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 661

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending sections 16b, 16t, and 43 of chapter XVII (MCL
777.16b, 777.16t, and 777.43), section 16b as amended by 2007 PA
151, section 16t as amended by 2004 PA 112, and section 43 as
amended by 2002 PA 666.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER XVII

2 Sec. 16b. This chapter applies to the following felonies
3 enumerated in chapter 750 of the Michigan Compiled Laws:

4 M.C.L.	Category	Class	Description	Stat Max
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1	750.49(2) (a) to (d)	Pub ord	F	Fighting animals or providing facilities for animal fights	4
2	750.49(2) (e)	Pub ord	F	Organizing or promoting animal fights	4
3	750.49(2) (f)	Pub ord	H	Attending animal fight	4
4	750.49(2) (g)	Pub ord	F	Breeding or selling fighting animals	4
5	750.49(2) (h)	Pub ord	F	Selling or possessing equipment for animal fights	4
6	750.49(8)	Person	A	Inciting fighting animal resulting in death	Life
7	750.49(9)	Person	F	Inciting fighting animal to attack	4
8	750.49(10)	Person	D	Fighting animal attacking without provocation and death resulting	15
9	750.50(4) (c)	Pub ord	G	Animal neglect or cruelty involving 4 or more animals but fewer than 10 animals or with 1 prior conviction	2
10	750.50(4) (d)	Pub ord	F	Animal neglect or cruelty involving 10 or more animals or with 2 or more prior convictions	4
11	750.50b(2) 750.50B(3)	Property	F	Killing or torturing animals	4

1	750.50c(5)	Pub ord	E	Killing or causing serious physical harm to law enforcement animal or search and rescue dog	5
2	750.50c(7)	Pub saf	H	Harassing or causing harm to law enforcement animal or search and rescue dog while committing crime	2
3	750.68	Property	G	Changing brands with intent to steal	4

4 Sec. 16t. This chapter applies to the following felonies
5 enumerated in chapter 750 of the Michigan Compiled Laws:

6	M.C.L.	Category	Class	Description	Stat Max
7	750.410a	Person	G	Conspiracy to commit a person to state hospital unjustly	4
8	750.411a(1)(b)	Pub ord	F	False report of a felony	4
9	750.411a(3)(a)	Pub ord	F	Threat or false report of an explosive or harmful device, substance, or material	4
10	750.411a(3)(b)	Pub ord	D	Threat or false report of an explosive or harmful device, substance, or material – subsequent offense	10
11	750.411b	Pub trst	G	Excess fees to members of legislature	4
12	750.411h(2)(b)	Person	E	Stalking of a minor	5
13	750.411i(3)(a)	Person	E	Aggravated stalking	5

1	750.411i(3)(b)	Person	D	Aggravated stalking of a minor	10
2	750.411l	Pub ord	H	Money laundering – fourth degree	2
3	750.411m	Pub ord	E	Money laundering – third degree	5
4	750.411n	Pub ord	D	Money laundering – second degree	10
5	750.411o	Pub ord	B	Money laundering – first degree	20
6	750.411p(2)(a)	Property	B	Money laundering of proceeds from controlled substance offense involving \$10,000 or more	20
7	750.411p(2)(b)	Property	D	Money laundering of proceeds from controlled substance offense or other proceeds involving \$10,000 or more	10
8	750.411p(2)(c)	Property	E	Money laundering – transactions involving represented proceeds	5
9	750.411s(2)(a)	Person	G	Unlawful posting of message	2
10	750.411s(2)(b)	Person	E	Unlawful posting of message with aggravating circumstances	5
11	750.411t(2)(b)	Person	E	Hazing resulting in serious impairment	5
12	750.411t(2)(c)	Person	C	Hazing resulting in death	15
13	750.411U	PUB ORD	B	GANG MEMBERSHIP FELONIES	20
14	750.411V(1)	PERSON	E	GANG RECRUITMENT	5
15	750.411V(2)	PERSON	B	RETALIATION FOR WITHDRAWAL FROM GANG	20
16	Sec. 43. (1) Offense variable 13 is continuing pattern of				

1 criminal behavior. Score offense variable 13 by determining which
 2 of the following apply and by assigning the number of points
 3 attributable to the one that has the highest number of points:

4 (a) The offense was part of a pattern of
 5 felonious criminal activity involving 3 or more
 6 sexual penetrations against a person or persons less
 7 than 13 years of age 50 points

8 **(B) THE OFFENSE WAS PART OF A PATTERN OF**
 9 **FELONIOUS CRIMINAL ACTIVITY DIRECTLY RELATED TO**
 10 **CAUSING, ENCOURAGING, RECRUITING, SOLICITING,**
 11 **OR COERCING MEMBERSHIP IN A GANG OR COMMUNICATING**
 12 **A THREAT WITH INTENT TO DETER, PUNISH, OR RETALIATE**
 13 **AGAINST ANOTHER FOR WITHDRAWING FROM A GANG 25 POINTS**

14 (C) ~~(b)~~ The offense was part of a pattern of
 15 felonious criminal activity involving 3 or more
 16 crimes against a person 25 points

17 (D) ~~(e)~~ The offense was part of a pattern of
 18 felonious criminal activity involving a combination
 19 of 3 or more crimes against a person or property or
 20 a violation of section 7401(2)(a)(i) to (iii) or
 21 section 7403(2)(a)(i) to (iii) **OF THE PUBLIC HEALTH**
 22 **CODE, 1978 PA 368, MCL 333.7401 AND 333.7403 10 points**

23 ~~—— (d) The offense was part of a pattern of~~
 24 ~~felonious criminal activity directly related to~~
 25 ~~membership in an organized criminal group 10 points~~

26 (e) The offense was part of a pattern of
 27 felonious criminal activity involving a combination
 28 of 3 or more violations of section 7401(2)(a)(i) to
 29 (iii) or section 7403(2)(a)(i) to (iii) **OF THE PUBLIC**

1 **HEALTH CODE, 1978 PA 368, MCL 333.7401 AND**

2 **333.7403** 10 points

3 (f) The offense was part of a pattern of
 4 felonious criminal activity involving 3 or more
 5 crimes against property 5 points

6 (g) No pattern of felonious criminal activity
 7 existed 0 points

8 (2) All of the following apply to scoring offense variable
 9 13:

10 (a) For determining the appropriate points under this
 11 variable, all crimes within a 5-year period, including the
 12 sentencing offense, shall be counted regardless of whether the
 13 offense resulted in a conviction.

14 (b) The presence or absence of multiple offenders, the age
 15 of the offenders, or the degree of sophistication of the
 16 organized criminal group is not as important as the fact of the
 17 group's existence, which may be reasonably inferred from the
 18 facts surrounding the sentencing offense.

19 (c) Except for offenses related to membership in an
 20 organized criminal group **OR THAT ARE GANG-RELATED**, do not score
 21 conduct scored in offense variable 11 or 12.

22 (d) Score 50 points only if the sentencing offense is first
 23 degree criminal sexual conduct.

24 (e) Do not count more than 1 controlled substance offense
 25 arising out of the criminal episode for which the person is being
 26 sentenced.

27 (f) Do not count more than 1 crime involving the same

Senate Bill No. 661 (H-1) as amended December 19, 2008

1 controlled substance. For example, do not count conspiracy and a
2 substantive offense involving the same amount of controlled
3 substances or possession and delivery of the same amount of
4 controlled substances.

5 [Enacting section 1. (1) Section 16b of chapter XVII of the code of
6 criminal procedure, 1927 PA 175, MCL 777.16b, as amended by this
amendatory act, takes effect January 1, 2009.

(2) Sections 16t and 43 of chapter XVII of the code of criminal
procedure, 1927 PA 175, MCL 777.16t and 777.43, as amended by this
amendatory act, takes effect April 1, 2009.]

7 Enacting section 2. This amendatory act does not take effect
8 unless Senate Bill No. 660 of the 94th Legislature is enacted
9 into law.