

# HOUSE BILL No. 4835

April 28, 2009, Introduced by Reps. Stanley, Robert Jones, Bledsoe, Young, Geiss, Jackson, Durhal, Tlaib, Switalski, Nathan, Slavens, Leland, Scripps, Gregory, Warren, Roy Schmidt and Cushingberry and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending sections 16g and 21 of chapter XVII (MCL 777.16g and 777.21), section 16g as amended by 2008 PA 521 and section 21 as amended by 2006 PA 655.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 CHAPTER XVII

2 Sec. 16g. (1) 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
5 750.135	Person	D	Exposing children with intent to injure or abandon	10

1	750.135a(2)(c)	Person	D	Leaving child unattended in vehicle resulting in serious physical harm	10
2	750.135a(2)(d)	Person	B	Leaving child unattended in vehicle resulting in death	15
3	750.136b(2)	Person	B	<del>Child</del> <b>FIRST-DEGREE CHILD</b> abuse — <del>first degree</del>	15
4	750.136b(4)	Person	F	<del>Child</del> <b>SECOND-DEGREE CHILD</b> abuse — <del>second degree</del>	4
5	750.136b(6)	Person	G	<del>Child</del> <b>THIRD-DEGREE CHILD</b> abuse — <del>third degree</del>	2
6	750.136c	Person	B	Buying or selling an individual	20
7	750.145a	Person	F	Soliciting child to commit an immoral act	4
8	750.145b	Person	D	Accosting children for immoral purposes with prior conviction	10
9	750.145c(2)	Person	B	<del>Child</del> <b>PRODUCING CHILD</b> sexually abusive activity or materials — <del>active involvement</del> <b>MATERIAL</b>	20
10	750.145c(3)	Person	D	<del>Child</del> <b>DISTRIBUTING, PROMOTING, OR FINANCING THE DISTRIBUTION OF CHILD</b> sexually abusive activity or materials — <del>distributing, promoting, or financing</del> <b>MATERIAL</b>	7
11	750.145c(4)	Person	F	<del>Child</del> <b>POSSESSING CHILD</b> sexually abusive activities or materials — <del>possession</del> <b>MATERIAL</b>	4

1	750.145d(2) (b)	Variable	G	Using internet or computer to commit crime punishable by a maximum term of imprisonment of at least 1 year but less than 2 years	2
2	750.145d(2) (c)	Variable	F	Using internet or computer to commit crime punishable by a maximum term of imprisonment of at least 2 years but less than 4 years	4
3	750.145d(2) (d)	Variable	D	Using internet or computer to commit crime punishable by a maximum term of imprisonment of at least 4 years but less than 10 years	10
4	750.145d(2) (e)	Variable	C	Using internet or computer to commit crime punishable by a maximum term of imprisonment of at least 10 years but less than 15 years	15
5	750.145d(2) (f)	Variable	B	Using internet or computer to commit crime punishable by a maximum term of imprisonment of at least 15 years or for life	20
6	750.145n(1)	Person	C	<del>Vulnerable</del> <b>FIRST-DEGREE VULNERABLE</b> adult abuse — <del>first degree</del>	15
7	750.145n(2)	Person	F	<del>Vulnerable</del> <b>SECOND-DEGREE VULNERABLE</b> adult abuse — <del>second degree</del>	4
8	750.145n(3)	Person	G	<del>Vulnerable</del> <b>THIRD-DEGREE VULNERABLE</b> adult abuse — <del>third degree</del>	2

1	750.145o	Person	E	Death of vulnerable adult caused by unlicensed caretaker	5
2	750.145p(1)	Person	G	<del>Vulnerable adult— commingling</del> <b>COMMINGLING</b> funds <b>OF</b> , obstructing investigation <b>REGARDING</b> , or filing false information <b>REGARDING</b> , <b>VULNERABLE ADULT</b>	2
3	750.145p(2)	Person	G	Retaliation or discrimination by caregiver against vulnerable adult	2
4	750.145p(5)	Person	E	<del>Vulnerable adult— caregiver violations</del> <b>CAREGIVER OR LICENSEE VIOLATION AGAINST VULNERABLE ADULT</b> – subsequent offense	5
5	750.147b	Person	<b>G VARI- ABLE</b>	<del>Ethnic intimidation</del> <b>BIAS-MOTIVATED CRIME</b>	<del>2</del> <b>VARIABLE</b>

6 (2) For a violation of section 145d of the Michigan penal  
7 code, 1931 PA 328, MCL 750.145d, determine the offense category,  
8 offense variable level, and prior record variable level based on  
9 the underlying offense.

10 (3) **FOR A VIOLATION OF SECTION 147B OF THE MICHIGAN PENAL**  
11 **CODE, 1931 PA 328, MCL 750.147B, DETERMINE THE CRIME CLASS,**  
12 **OFFENSE VARIABLE LEVEL, AND PRIOR RECORD VARIABLE LEVEL BASED ON**  
13 **THE PREDICATE CRIME.**

14 Sec. 21. (1) Except as otherwise provided in this section,  
15 for an offense enumerated in part 2 of this chapter, determine  
16 the recommended minimum sentence range as follows:

1 (a) Find the offense category for the offense from part 2 of  
2 this chapter. From section 22 of this chapter, determine the  
3 offense variables to be scored for that offense category and  
4 score only those offense variables for the offender as provided  
5 in part 4 of this chapter. Total those points to determine the  
6 offender's offense variable level.

7 (b) Score all prior record variables for the offender as  
8 provided in part 5 of this chapter. Total those points to  
9 determine the offender's prior record variable level.

10 (c) Find the offense class for the offense from part 2 of  
11 this chapter. Using the sentencing grid for that offense class in  
12 part 6 of this chapter, determine the recommended minimum  
13 sentence range from the intersection of the offender's offense  
14 variable level and prior record variable level. The recommended  
15 minimum sentence within a sentencing grid is shown as a range of  
16 months or life.

17 (2) If the defendant was convicted of multiple offenses,  
18 subject to section 14 of chapter XI, score each offense as  
19 provided in this part.

20 (3) If the offender is being sentenced under section 10, 11,  
21 or 12 of chapter IX, determine the offense category, offense  
22 class, offense variable level, and prior record variable level  
23 based on the underlying offense. To determine the recommended  
24 minimum sentence range, increase the upper limit of the  
25 recommended minimum sentence range determined under part 6 for  
26 the underlying offense as follows:

27 (a) If the offender is being sentenced for a second felony,

1 25%.

2 (b) If the offender is being sentenced for a third felony,  
3 50%.

4 (c) If the offender is being sentenced for a fourth or  
5 subsequent felony, 100%.

6 (4) If the offender is being sentenced for a violation  
7 described in section 18 of this chapter, both of the following  
8 apply:

9 (a) Determine the offense variable level by scoring the  
10 offense variables for the underlying offense and any additional  
11 offense variables for the offense category indicated in section  
12 18 of this chapter.

13 (b) Determine the offense class based on the underlying  
14 offense. If there are multiple underlying felony offenses, the  
15 offense class is the same as that of the underlying felony  
16 offense with the highest crime class. If there are multiple  
17 underlying offenses but only 1 is a felony, the offense class is  
18 the same as that of the underlying felony offense. If no  
19 underlying offense is a felony, the offense class is G.

20 (5) If the offender is being sentenced for an attempted  
21 felony described in section 19 of this chapter, determine the  
22 offense variable level and prior record variable level based on  
23 the underlying attempted offense.

24 **(6) IF THE OFFENDER IS BEING SENTENCED FOR A VIOLATION OF**  
25 **SECTION 147B OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL**  
26 **750.147B, DETERMINE THE OFFENSE CATEGORY, OFFENSE CLASS, AND**  
27 **PRIOR RECORD VARIABLE LEVEL BASED ON THE PREDICATE CRIME. TO**

1 DETERMINE THE RECOMMENDED MINIMUM SENTENCE RANGE, INCREASE BOTH  
2 THE LOWER AND THE UPPER LIMIT OF THE RECOMMENDED MINIMUM SENTENCE  
3 RANGE FOR THE PREDICATE CRIME BY 50%.

4 Enacting section 1. This amendatory act does not take effect  
5 unless Senate Bill No. \_\_\_\_\_ or House Bill No. 4836 (request no.  
6 01144'09) of the 95th Legislature is enacted into law.