

Act No. 136
Public Acts of 2001
Approved by the Governor
October 23, 2001
Filed with the Secretary of State
October 23, 2001
EFFECTIVE DATE: October 23, 2001

**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2001**

Introduced by Senators Van Regenmorter, Shugars, Gougeon and North

ENROLLED SENATE BILL No. 675

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending sections 12, 16k, 17, 31, 32, and 49 of chapter XVII (MCL 777.12, 777.16k, 777.17, 777.31, 777.32, and 777.49), section 12 as amended by 2001 PA 104, section 16k as amended by 2000 PA 279, section 17 as amended by 2000 PA 300, section 31 as amended by 1999 PA 227, and sections 32 and 49 as added by 1998 PA 317.

The People of the State of Michigan enact:

CHAPTER XVII

Sec. 12. This chapter applies to the following felonies enumerated in chapters 200 to 299 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
205.27(1)(a)	Pub trst	G	Failure to file or false tax return or payment	5
205.27(1)(b)	Pub trst	G	Aiding and abetting tax evasion or filing false returns	5
205.27(1)(c)	Pub trst	G	Making/permitting false tax returns or payments	5
205.27(3)	Pub trst	G	False tax returns/perjury	15
205.28(1)(e)	Pub trst	G	State employee compromising taxes	5
205.28(1)(f)	Pub trst	G	Unauthorized disclosure of tax information	5
205.428(2)	Pub trst	G	Tobacco products tax act violations	5

205.428(3)	Pub trst	G	Illegal sale of cigarettes or other tobacco products with wholesale price of \$250.00 or more	5
205.428(6)	Pub trst	F	Illegal tobacco stamp or tobacco stamp device	10
205.428(7)	Pub trst	G	Illegal vending machine license, disk, or marker	5
207.118a	Pub ord	G	Gasoline tax—embezzlement over \$100	10
207.119	Pub trst	G	Gasoline or motor fuel tax violation	4
207.127c	Pub ord	G	Diesel fuel tax—embezzlement over \$100	10
207.754(3)	Pub trst	G	State treasurer—municipality tax—divulging confidential information	5
252.311	Property	H	Destroying a tree or shrub to make a sign more visible	2
257.233a(7)	Pub ord	G	Odometer tampering	5
257.254	Property	E	Possessing stolen vehicle title	10
257.257(1)	Property	G	Altering or forging vehicle documents—first offense	5
257.257(2)	Property	G	Altering or forging vehicle documents—second offense	7
257.257(3)	Property	E	Altering or forging vehicle documents—third or subsequent offense	15
257.309(6)	Pub ord	F	Corrupting an examining officer	5
257.309(7)	Pub ord	F	Deviating from road test criteria	5
257.309(8)	Pub ord	F	Forging, counterfeiting, or altering road test certification	5
257.312b(6)	Pub ord	F	Corrupting a person or agency conducting a motorcycle driving test	5
257.312b(7)	Pub ord	F	Deviating from motorcycle road test criteria	5
257.312b(8)	Pub ord	F	Forging, counterfeiting, or altering motorcycle road test certification	5
257.329(1)	Property	G	Possession/sale of stolen or counterfeit insurance certificates	5
257.329(2)	Property	E	Possession/sale of stolen or counterfeit insurance certificates—second offense	7
257.329(3)	Property	E	Possession/sale of stolen or counterfeit insurance certificates—third or subsequent offense	15
257.601b(3)	Person	C	Moving violation causing death to construction worker	15
257.601c(2)	Person	C	Moving violation causing death to operator of implement of husbandry	15
257.602a(2)	Pub saf	G	Fleeing and eluding—fourth degree	2
257.602a(3)	Pub saf	E	Fleeing and eluding—third degree	5
257.602a(4)	Person	D	Fleeing and eluding—second degree	10
257.602a(5)	Person	C	Fleeing and eluding—first degree	15
257.617	Person	E	Failure to stop at scene of a serious personal injury accident	5
257.625(4)(a)	Person	C	Operating a vehicle under the influence or while impaired causing death	15
257.625(4)(b)	Person	B	Operating a vehicle under the influence or while impaired causing death to certain persons	20
257.625(5)	Person	E	Operating a vehicle under the influence or while impaired causing serious impairment	5
257.625(7)(a)(ii)	Person	E	Operating a vehicle under the influence or while impaired with a minor in the vehicle —subsequent offense	5
257.625(8)(c)	Pub saf	E	Operating a vehicle under the influence—third or subsequent offense	5
257.625(9)(b)	Person	E	Allowing a vehicle to be operated while under the influence or impaired causing death	5

257.625(9)(c)	Person	G	Allowing a vehicle to be operated while under the influence or impaired causing serious impairment	2
257.625(10)(c)	Pub saf	E	Impaired driving—third or subsequent offense	5
257.625k(7)	Pub saf	D	Knowingly providing false information concerning an ignition interlock device	10
257.625k(9)	Pub saf	D	Failure to report illegal ignition interlock device	10
257.625m(5)	Pub saf	E	Commercial drunk driving—third or subsequent offense	5
257.626c	Person	G	Felonious driving	2
257.653a(3)	Person	G	Failure to use due care and caution causing injury to emergency personnel	2
257.653a(4)	Person	C	Failure to use due care and caution causing death to emergency personnel	15
257.744a	Pub saf	D	False statement in citation—perjury	15
257.902	Pub saf	E	Motor vehicle code violations	5
257.903(1)	Property	E	Motor vehicle code—false certification—first offense	5
257.903(2)	Property	E	Motor vehicle code—false certification—second offense	7
257.903(3)	Property	D	Motor vehicle code—false certification—third or subsequent offense	15
257.904(4)	Person	C	Operating a vehicle without a license causing death	15
257.904(5)	Person	E	Operating a vehicle without a license causing serious impairment	5
257.904(7)	Person	G	Allowing a vehicle to be operated without a license causing serious impairment	2
	Person	E	Allowing a vehicle to be operated without a license causing death	5
257.1353(2)	Pub trst	H	Motor vehicle—fail to record material matter—subsequent offense	2
257.1354(2)	Pub trst	H	Motor vehicle—general violations— subsequent offense	2
257.1355	Pub trst	H	Motor vehicle—fail to record transaction/falsify records	2
259.183	Property	E	Aircraft—unlawful taking or tampering	5
259.185(4)	Person	C	Operating or serving as crew of aircraft while under the influence causing death	15
259.185(5)	Person	E	Operating or serving as crew of aircraft while under the influence causing serious impairment	5
259.185(8)	Pub saf	E	Operating or serving as crew of aircraft while under the influence—third or subsequent offense	5
285.82	Pub trst	H	Grain dealers act violations	5
285.279(c)	Property	E	False pretenses under Michigan family farm development act involving \$1,000 to \$20,000 or with prior convictions	5
285.279(d)	Property	D	False pretenses under Michigan family farm development act involving \$20,000 or more or with prior convictions	10
286.455(2)	Pub saf	G	Agriculture—hazardous substance	5
286.929(4)	Pub trst	G	Organic products act violations	4
287.323(1)	Person	C	Dangerous animal causing death	15
287.323(2)	Person	G	Dangerous animal causing serious injury	4
287.679	Pub ord	H	Dead animals—third or subsequent violation	1
287.744(1)	Pub ord	G	Animal industry act violations	5
287.855	Pub saf	G	Agriculture—contaminating livestock/false statement/violation of quarantine	5
287.967(5)	Pub ord	G	Cervidae producer violations	4
288.223	Pub saf	G	Sale or labeling of oleomargarine violations	3

288.257	Pub saf	G	Margarine violations	3
288.284	Pub trst	H	Selling falsely branded cheese	2
289.5107(2)	Pub saf	F	Adulterated, misbranded, or falsely identified food	4
290.629(1)	Person	G	Weights and measures—assaults enforcement officer	2
290.631(3)	Pub trst	G	Weights and measures	5
290.650	Person	G	Motor fuels—assaulting/obstructing director or authorized representative	2
290.650b(3)	Pub trst	H	Motor fuels violations	2

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

M.C.L.	Category	Class	Description	Stat Max
750.200	Pub saf	E	Transporting an explosive by common carrier	5
750.200i(2)(a)	Pub saf	C	Manufacturing or using a harmful device	15
750.200i(2)(b)	Property	B	Harmful device causing property damage	20
750.200i(2)(c)	Person	A	Harmful device causing personal injury	25
750.200i(2)(d)	Person	A	Harmful device causing serious impairment	Life
750.200j(2)(a)	Person	E	Irritant or irritant device	5
750.200j(2)(b)	Property	E	Irritant or irritant device causing property damage	7
750.200j(2)(c)	Person	D	Irritant or irritant device causing personal injury	10
750.200j(2)(d)	Person	A	Irritant or irritant device causing serious impairment	25
750.200j(2)(e)	Person	A	Irritant or irritant device causing death	Life
750.200l	Person	E	Falsely exposing person to harmful substance or device	5
750.201	Pub saf	E	Transporting certain types of explosives	5
750.202	Pub saf	F	Shipping an explosive with false markings or invoice	4
750.204(2)(a)	Pub saf	C	Sending an explosive with malicious intent	15
750.204(2)(b)	Property	B	Sending an explosive causing property damage	20
750.204(2)(c)	Person	A	Sending an explosive causing physical injury	25
750.204(2)(d)	Person	A	Sending an explosive causing serious impairment	Life
750.204a	Pub saf	E	Sending or transporting an imitation explosive device with malicious intent	5
750.207(2)(a)	Pub saf	C	Placing an explosive with malicious intent	15
750.207(2)(b)	Property	B	Placing an explosive causing property damage	20
750.207(2)(c)	Person	A	Placing an explosive causing physical injury	25
750.207(2)(d)	Person	A	Placing an explosive causing serious impairment	Life
750.209(1)(a)	Pub saf	C	Placing an offensive or injurious substance with intent to injure	15
750.209(1)(b)	Property	B	Placing an offensive or injurious substance causing property damage	20
750.209(1)(c)	Person	A	Placing an offensive or injurious substance causing physical injury	25
750.209(1)(d)	Person	A	Placing an offensive or injurious substance causing serious impairment	Life
750.209(2)	Pub saf	E	Placing an offensive or injurious substance with intent to alarm or annoy	5
750.209a	Pub saf	D	Possessing an explosive device in public place	10
750.210(2)(a)	Pub saf	C	Possessing or carrying an explosive or combustible substance with malicious intent	15
750.210(2)(b)	Property	B	Possessing or carrying an explosive or combustible substance causing property damage	20
750.210(2)(c)	Person	A	Possessing or carrying an explosive or combustible substance causing physical injury	25
750.210(2)(d)	Person	A	Possessing or carrying an explosive or combustible substance causing serious impairment	Life

750.210a	Pub saf	H	Sale of valerium	5
750.211a(2)(a)	Pub saf	C	Manufacturing or possessing an explosive or incendiary device with malicious intent	15
750.211a(2)(b)	Property	B	Manufacturing or possessing an explosive or incendiary device causing property damage	20
750.211a(2)(c)	Person	A	Manufacturing or possessing an explosive or incendiary device causing physical injury	25
750.211a(2)(d)	Person	A	Manufacturing or possessing an explosive or incendiary device causing serious impairment	Life
750.212a	Person	B	Explosives violation involving a vulnerable target causing death or injury	20

Sec. 17. (1) This chapter applies to the following felonies enumerated in chapters 751 to 830 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
752.272a(2)(c)	Pub saf	F	Sale or distribution of nitrous oxide device—2 or more prior convictions	4
752.365(3)	Pub ord	G	Obscenity—subsequent offense	2
752.541	Pub saf	D	Riot	10
752.542	Pub saf	D	Incitement to riot	10
752.542a	Pub saf	D	Riot in state correctional facilities	10
752.543	Pub saf	G	Unlawful assembly	5
752.797(1)(c)	Property	E	Computer fraud—2 prior convictions or value of \$1,000 to \$20,000	5
752.797(1)(d)	Property	D	Computer fraud—3 or more prior convictions or value of \$20,000 or more	10
752.797(2)(a)	Property	E	Unlawfully accessing computer, computer system, or computer program	5
752.797(2)(b)	Property	D	Unlawfully accessing computer, computer system, or computer program, with prior conviction	10
752.797(3)(b)	Variable	G	Using computer to commit crime punishable by a maximum term of imprisonment of more than 1 year but less than 2 years	2
752.797(3)(c)	Variable	F	Using computer to commit crime punishable by a maximum term of imprisonment of at least 2 years but less than 4 years	4
752.797(3)(d)	Variable	D	Using computer to commit crime punishable by a maximum term of imprisonment of at least 4 years but less than 10 years	7
752.797(3)(e)	Variable	D	Using computer to commit crime punishable by a maximum term of imprisonment of at least 10 years but less than 20 years	10
752.797(3)(f)	Variable	B	Using computer to commit crime punishable by a maximum term of imprisonment of at least 20 years or for life	20
752.802	Property	H	Vending machines—manufacture/sale of slugs	5
752.811	Property	H	Breaking and entering a coin operated device	3
752.861	Person	G	Careless discharge of firearm causing injury or death	2
752.881	Person	G	Reckless use of bow and arrow resulting in injury or death	2
752.1003	Property	F	Health care fraud—false claim/state, unnecessary, conceal information	4
752.1004	Property	F	Health care fraud—kickbacks/referral fees	4
752.1005	Property	H	Health care fraud—conspiracy	10
752.1006	Property	D	Health care fraud—subsequent offense	20

752.1054(2)	Property	G	Copying audio/video recordings for gain	5
764.1e	Pub trst	C	Peace officer—false statement in a complaint	15
767.4a	Pub trst	F	Disclosing or possessing grand jury information	4
767a.9(1)(a)	Pub trst	C	Perjury committed in prosecutor's investigative hearing—noncapital crime	15
767a.9(1)(b)	Pub trst	B	Perjury committed in prosecutor's investigative hearing—capital crime	Life
800.281(1)	Pub saf	H	Furnishing prisoner with contraband	5
800.281(2)	Pub saf	H	Furnishing prisoner with contraband outside	5
800.281(3)	Pub saf	H	Bringing contraband into prisons	5
800.281(4)	Pub saf	E	Prisoner possessing contraband	5
800.283(1)	Pub saf	E	Furnishing weapon to prisoner in prison	5
800.283(2)	Pub saf	E	Prisons—knowledge of a weapon in a correctional facility	5
800.283(3)	Pub saf	E	Bringing weapon into prison	5
800.283(4)	Pub saf	E	Prisoner possessing weapon	5
801.262(1)(a)	Pub saf	E	Bringing weapon into jail	5
801.262(1)(b)	Pub saf	E	Furnishing weapon to prisoner in jail	5
801.262(2)	Pub saf	E	Prisoner in jail possessing weapon	5
801.263(1)	Pub saf	H	Furnishing contraband to prisoner in jail	5
801.263(2)	Pub saf	H	Prisoner in jail possessing contraband	5

(2) For a violation of section 797(3) of 1979 PA 53, MCL 752.797, determine the offense category, offense variable level, and prior record variable level based on the underlying offense.

Sec. 31. (1) Offense variable 1 is aggravated use of a weapon. Score offense variable 1 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- (a) A firearm was discharged at or toward a human being or a victim was cut or stabbed with a knife or other cutting or stabbing weapon 25 points
- (b) A firearm was pointed at or toward a victim or the victim had a reasonable apprehension of an immediate battery when threatened with a knife or other cutting or stabbing weapon 15 points
- (c) The victim was touched by any other type of weapon 10 points
- (d) A weapon was displayed or implied 5 points
- (e) No aggravated use of a weapon occurred 0 points

(2) All of the following apply to scoring offense variable 1:

- (a) Count each person who was placed in danger of injury or loss of life as a victim.
- (b) In multiple offender cases, if 1 offender is assessed points for the presence or use of a weapon, all offenders shall be assessed the same number of points.
- (c) Score 5 points if an offender used an object to suggest the presence of a weapon.
- (d) Score 5 points if the offender used a chemical irritant, chemical irritant device, smoke device, or imitation harmful substance or device.
- (e) Do not score 5 points if the conviction offense is a violation of section 82 or 529 of the Michigan penal code, 1931 PA 328, MCL 750.82 and 750.529.

(3) As used in this section, “chemical irritant”, “chemical irritant device”, and “imitation harmful substance or device” mean those terms as defined in section 200h of the Michigan penal code, 1931 PA 328, MCL 750.200h.

Sec. 32. (1) Offense variable 2 is lethal potential of the weapon possessed or used. Score offense variable 2 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- (a) The offender possessed or used a harmful biological substance, harmful biological device, harmful chemical substance, harmful chemical device, harmful radioactive material, or harmful radioactive device 15 points
- (b) The offender possessed or used an incendiary device, an explosive device, or a fully automatic weapon 15 points
- (c) The offender possessed or used a short-barreled rifle or a short-barreled shotgun 10 points

- (d) The offender possessed or used a pistol, rifle, shotgun, or knife or other cutting or stabbing weapon..... 5 points
- (e) The offender possessed or used any other potentially lethal weapon..... 1 point
- (f) The offender possessed or used no weapon 0 points

(2) In multiple offender cases, if 1 offender is assessed points for possessing a weapon, all offenders shall be assessed the same number of points.

(3) As used in this section:

(a) "Harmful biological substance", "harmful biological device", "harmful chemical substance", "harmful chemical device", "harmful radioactive material", and "harmful radioactive device" mean those terms as defined in section 200h of the Michigan penal code, 1931 PA 328, MCL 750.200h.

(b) "Fully automatic weapon" means a firearm employing gas pressure or force of recoil or other means to eject an empty cartridge from the firearm after a shot, and to load and fire the next cartridge from the magazine, without renewed pressure on the trigger for each successive shot.

(c) "Pistol", "rifle", or "shotgun" includes a revolver, semi-automatic pistol, rifle, shotgun, combination rifle and shotgun, or other firearm manufactured in or after 1898 that fires fixed ammunition, but does not include a fully automatic weapon or short-barreled shotgun or short-barreled rifle.

(d) "Incendiary device" includes gasoline or any other flammable substance, a blowtorch, fire bomb, Molotov cocktail, or other similar device.

Sec. 49. Offense variable 19 is threat to the security of a penal institution or court or interference with the administration of justice. Score offense variable 19 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- (a) The offender by his or her conduct threatened the security of a penal institution or court 25 points
- (b) The offender used force or the threat of force against another person or the property of another person to interfere with, attempt to interfere with, or that results in the interference with the administration of justice or the rendering of emergency services..... 15 points
- (c) The offender otherwise interfered with or attempted to interfere with the administration of justice 10 points
- (d) The offender did not threaten the security of a penal institution or court or interfere with or attempt to interfere with the administration of justice..... 0 points

Enacting section 1. Sections 12 and 17 of chapter XVII of 1927 PA 175, as amended by this amendatory act, take effect February 1, 2002.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

- (a) Senate Bill No. 497.
- (b) House Bill No. 4813.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Ray E. Randall

Clerk of the House of Representatives.

Approved

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Governor.