

SUBSTITUTE FOR
SENATE BILL NO. 661

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending sections 16t and 43 of chapter XVII (MCL 777.16t and
777.43), 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. 16t. 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	750.410a	Person	G	Conspiracy to commit a person to state hospital unjustly	4

1	750.411a(1)(b)	Pub ord	F	False report of a felony	4
2	750.411a(3)(a)	Pub ord	F	Threat or false report of an explosive or harmful device, substance, or material	4
3	750.411a(3)(b)	Pub ord	D	Threat or false report of an explosive or harmful device, substance, or material – subsequent offense	10
4	750.411b	Pub trst	G	Excess fees to members of legislature	4
5	750.411h(2)(b)	Person	E	Stalking of a minor	5
6	750.411i(3)(a)	Person	E	Aggravated stalking	5
7	750.411i(3)(b)	Person	D	Aggravated stalking of a minor	10
8	750.411l	Pub ord	H	Money laundering – fourth degree	2
9	750.411m	Pub ord	E	Money laundering – third degree	5
10	750.411n	Pub ord	D	Money laundering – second degree	10
11	750.411o	Pub ord	B	Money laundering – first degree	20
12	750.411p(2)(a)	Property	B	Money laundering of proceeds from controlled substance offense involving \$10,000 or more	20
13	750.411p(2)(b)	Property	D	Money laundering of proceeds from controlled substance offense or other proceeds involving \$10,000 or more	10
14	750.411p(2)(c)	Property	E	Money laundering – transactions involving represented proceeds	5

1	750.411s(2)(a)	Person	G	Unlawful posting of message	2
2	750.411s(2)(b)	Person	E	Unlawful posting of message with aggravating circumstances	5
3	750.411t(2)(b)	Person	E	Hazing resulting in serious impairment	5
4	750.411t(2)(c)	Person	C	Hazing resulting in death	15
5	750.411U(1)	PERSON	E	GANG RECRUITMENT	5
6	750.411U(2)	PERSON	B	RETALIATION FOR WITHDRAWAL FROM GANG	20

7 Sec. 43. (1) Offense variable 13 is continuing pattern of
8 criminal behavior. Score offense variable 13 by determining which
9 of the following apply and by assigning the number of points
10 attributable to the one that has the highest number of points:

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

15 **(B) THE OFFENSE WAS PART OF A PATTERN OF**
16 **FELONIOUS CRIMINAL ACTIVITY DIRECTLY RELATED TO**
17 **CAUSING, ENCOURAGING, RECRUITING, SOLICITING,**
18 **OR COERCING MEMBERSHIP IN A GANG OR COMMUNICATING**
19 **A THREAT WITH INTENT TO DETER, PUNISH, OR RETALIATE**
20 **AGAINST ANOTHER FOR WITHDRAWING FROM A GANG 50 POINTS**

21 **(C) ~~(b)~~**The offense was part of a pattern of
22 felonious criminal activity involving 3 or more
23 crimes against a person 25 points

24 **(D) ~~(c)~~**The offense was part of a pattern of
25 felonious criminal activity involving a combination

1 of 3 or more crimes against a person or property or
 2 a violation of section 7401(2)(a)(i) to (iii) or
 3 section 7403(2)(a)(i) to (iii) **OF THE PUBLIC HEALTH**
 4 **CODE, 1978 PA 368, MCL 333.7401 AND 333.7403** 10 points

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

8 (e) The offense was part of a pattern of
 9 felonious criminal activity involving a combination
 10 of 3 or more violations of section 7401(2)(a)(i) to
 11 (iii) or section 7403(2)(a)(i) to (iii) **OF THE PUBLIC**
 12 **HEALTH CODE, 1978 PA 368, MCL 333.7401 AND**
 13 **333.7403** 10 points

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

17 (g) No pattern of felonious criminal activity
 18 existed 0 points

19 (2) All of the following apply to scoring offense variable
 20 13:

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

25 (b) The presence or absence of multiple offenders, the age
 26 of the offenders, or the degree of sophistication of the
 27 organized criminal group is not as important as the fact of the
 28 group's existence, which may be reasonably inferred from the
 29 facts surrounding the sentencing offense.

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

4 (d) Score 50 points only if the sentencing offense is ~~first~~
5 **EITHER OF THE FOLLOWING:**

6 (i) **FIRST** degree criminal sexual conduct.

7 (ii) **RELATED TO MEMBERSHIP IN A GANG OR A PART OR PATTERN OF**
8 **GANG-RELATED CRIMINAL ACTIVITY AS THAT PHRASE IS DEFINED IN**
9 **SECTION 411U OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL**
10 **750.411U.**

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

14 (f) Do not count more than 1 crime involving the same
15 controlled substance. For example, do not count conspiracy and a
16 substantive offense involving the same amount of controlled
17 substances or possession and delivery of the same amount of
18 controlled substances.

19 Enacting section 1. This amendatory act does not take effect
20 unless Senate Bill No. 660 of the 94th Legislature is enacted
21 into law.

22 Enacting section 2. This amendatory act takes effect 90 days
23 after it is enacted.