

SENATE BILL No. 661

July 26, 2007, Introduced by Senators JANSEN, BARCIA, BIRKHOLZ, ANDERSON, GLEASON, PAPPAGEORGE, HARDIMAN, KUIPERS, RICHARDVILLE, GILBERT and ALLEN and referred to the Committee on Judiciary.

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:

CHAPTER XVII

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

M.C.L.	Category	Class	Description	Stat Max
750.410a	Person	G	Conspiracy to commit a person to state hospital unjustly	4
750.411a(1)(b)	Pub ord	F	False report of a felony	4

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

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

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

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

14 **(B) THE OFFENSE WAS PART OF A PATTERN OF**
15 **FELONIOUS CRIMINAL ACTIVITY DIRECTLY RELATED TO**
16 **MEMBERSHIP IN AN ORGANIZED CRIMINAL GROUP OR WAS**
17 **GANG-RELATED 50 POINTS**

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

21 **(D) ~~(e)~~**The offense was part of a pattern of
22 felonious criminal activity involving a combination
23 of 3 or more crimes against a person or property or
24 a violation of section 7401(2)(a)(i) to (iii) or
25 section 7403(2)(a)(i) to (iii) of the public health

1 **CODE, 1978 PA 368, MCL 333.7401 AND 333.7403** 10 points

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

5 (e) The offense was part of a pattern of
 6 felonious criminal activity involving a combination
 7 of 3 or more violations of section 7401(2)(a)(i) to
 8 (iii) or section 7403(2)(a)(i) to (iii) **OF THE PUBLIC**

9 **HEALTH CODE, 1978 PA 368, MCL 333.7401 AND**
 10 **333.7403** 10 points

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

14 (g) No pattern of felonious criminal activity
 15 existed 0 points

16 (2) All of the following apply to scoring offense variable
 17 13:

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

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

27 (c) Except for offenses related to membership in an
 28 organized criminal group **OR THAT ARE GANG-RELATED**, do not score

1 conduct scored in offense variable 11 or 12.

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

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

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

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

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

17 Enacting section 1. This amendatory act does not take effect
18 unless Senate Bill No. 660

19 of the 94th Legislature is enacted into law.