

Act No. 562
Public Acts of 2008
Approved by the Governor
January 15, 2009
Filed with the Secretary of State
January 16, 2009
EFFECTIVE DATE: January 16, 2009

STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008

Introduced by Senators Jansen, Barcia, Birkholz, Anderson, Gleason, Pappageorge, Hardiman, Kuipers,
Richardville, Gilbert and Allen

ENROLLED SENATE BILL No. 661

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 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:

CHAPTER XVII

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

M.C.L.	Category	Class	Description	Stat Max
750.49(2)(a) to (d)	Pub ord	F	Fighting animals or providing facilities for animal fights	4
750.49(2)(e)	Pub ord	F	Organizing or promoting animal fights	4
750.49(2)(f)	Pub ord	H	Attending animal fight	4
750.49(2)(g)	Pub ord	F	Breeding or selling fighting animals	4
750.49(2)(h)	Pub ord	F	Selling or possessing equipment for animal fights	4
750.49(8)	Person	A	Inciting fighting animal resulting in death	Life
750.49(9)	Person	F	Inciting fighting animal to attack	4

750.49(10)	Person	D	Fighting animal attacking without provocation and death resulting	15
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
750.50(4)(d)	Pub ord	F	Animal neglect or cruelty involving 10 or more animals or with 2 or more prior convictions	4
750.50b(3)	Property	F	Killing or torturing animals	4
750.50c(5)	Pub ord	E	Killing or causing serious physical harm to law enforcement animal or search and rescue dog	5
750.50c(7)	Pub saf	H	Harassing or causing harm to law enforcement animal or search and rescue dog while committing crime	2
750.68	Property	G	Changing brands with intent to steal	4

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
750.411a(3)(a)	Pub ord	F	Threat or false report of an explosive or harmful device, substance, or material	4
750.411a(3)(b)	Pub ord	D	Threat or false report of an explosive or harmful device, substance, or material — subsequent offense	10
750.411b	Pub trst	G	Excess fees to members of legislature	4
750.411h(2)(b)	Person	E	Stalking of a minor	5
750.411i(3)(a)	Person	E	Aggravated stalking	5
750.411i(3)(b)	Person	D	Aggravated stalking of a minor	10
750.411l	Pub ord	H	Money laundering — fourth degree	2
750.411m	Pub ord	E	Money laundering — third degree	5
750.411n	Pub ord	D	Money laundering — second degree	10
750.411o	Pub ord	B	Money laundering — first degree	20
750.411p(2)(a)	Property	B	Money laundering of proceeds from controlled substance offense involving \$10,000 or more	20
750.411p(2)(b)	Property	D	Money laundering of proceeds from controlled substance offense or other proceeds involving \$10,000 or more	10
750.411p(2)(c)	Property	E	Money laundering — transactions involving represented proceeds	5
750.411s(2)(a)	Person	G	Unlawful posting of message	2
750.411s(2)(b)	Person	E	Unlawful posting of message with aggravating circumstances	5
750.411t(2)(b)	Person	E	Hazing resulting in serious impairment	5
750.411t(2)(c)	Person	C	Hazing resulting in death	15
750.411u	Pub ord	B	Gang membership felonies	20
750.411v(1)	Person	E	Gang recruitment	5
750.411v(2)	Person	B	Retaliation for withdrawal from gang	20

Sec. 43. (1) Offense variable 13 is continuing pattern of criminal behavior. Score offense variable 13 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 offense was part of a pattern of felonious criminal activity involving 3 or more sexual penetrations against a person or persons less than 13 years of age..... 50 points

(b) The offense was part of a pattern of felonious criminal activity directly related to causing, encouraging, recruiting, soliciting, or coercing membership in a gang or communicating a threat with intent to deter, punish, or retaliate against another for withdrawing from a gang 25 points

- (c) The offense was part of a pattern of felonious criminal activity involving 3 or more crimes against a person..... 25 points
- (d) The offense was part of a pattern of felonious criminal activity involving a combination of 3 or more crimes against a person or property or a violation of section 7401(2)(a)(i) to (iii) or section 7403(2)(a)(i) to (iii) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403 10 points
- (e) The offense was part of a pattern of felonious criminal activity involving a combination of 3 or more violations of section 7401(2)(a)(i) to (iii) or section 7403(2)(a)(i) to (iii) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403..... 10 points
- (f) The offense was part of a pattern of felonious criminal activity involving 3 or more crimes against property 5 points
- (g) No pattern of felonious criminal activity existed..... 0 points
- (2) All of the following apply to scoring offense variable 13:
 - (a) For determining the appropriate points under this variable, all crimes within a 5-year period, including the sentencing offense, shall be counted regardless of whether the offense resulted in a conviction.
 - (b) The presence or absence of multiple offenders, the age of the offenders, or the degree of sophistication of the organized criminal group is not as important as the fact of the group's existence, which may be reasonably inferred from the facts surrounding the sentencing offense.
 - (c) Except for offenses related to membership in an organized criminal group or that are gang-related, do not score conduct scored in offense variable 11 or 12.
 - (d) Score 50 points only if the sentencing offense is first degree criminal sexual conduct.
 - (e) Do not count more than 1 controlled substance offense arising out of the criminal episode for which the person is being sentenced.
 - (f) Do not count more than 1 crime involving the same 1 controlled substance. For example, do not count conspiracy and a substantive offense involving the same amount of controlled substances or possession and delivery of the same amount of controlled substances.

Enacting section 1. (1) Section 16b of chapter XVII of the code of 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.

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

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Richard J. Brown

Clerk of the House of Representatives

Approved

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Governor