

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4333

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending sections 16b, 34, 40, 46, and 49 of chapter XVII (MCL
777.16b, 777.34, 777.40, 777.46, and 777.49), section 16b as
amended by 2017 PA 30, section 34 as added by 1998 PA 317,
section 40 as amended by 2014 PA 350, section 46 as amended by
1999 PA 227, and section 49 as amended by 2002 PA 137.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER XVII

2 Sec. 16b. 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
----------	----------	-------	-------------	----------

1	750.43a	Pub saf	E	Aiming a beam of directed energy emitted from a directed energy device at or into path of aircraft or a moving train	5
2	750.45A(1)	PUB SAF	F	USING AN UNMANNED AIRCRAFT IN A MANNER THAT INTERFERES WITH CERTAIN FACILITIES	4
3	750.45A(2)	PUB SAF	F	FLYING OVER OR CAUSING AN UNMANNED AIRCRAFT TO HOVER OVER FACILITY DESIGNATED ON FEDERAL REGISTRY	4
4	750.49(2) (a) to (d)	Pub ord	F	Fighting animals or providing facilities for animal fights	4
5	750.49(2) (e)	Pub ord	F	Organizing or promoting animal fights	4
6	750.49(2) (f)	Pub ord	H	Attending animal fight	4
7	750.49(2) (g)	Pub ord	F	Breeding or selling fighting animals	4
8	750.49(2) (h)	Pub ord	F	Selling or possessing equipment for animal fights	4
9	750.49(8)	Person	A	Inciting fighting animal resulting in death	Life
10	750.49(9)	Person	F	Inciting fighting animal to attack	4
11	750.49(10)	Person	D	Fighting animal attacking without provocation and death resulting	15
12	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

1	750.50(4)(d)	Pub ord	F	Animal neglect or cruelty involving 10 or more animals BUT FEWER THAN 25 ANIMALS or with 2 or more prior convictions	4
2	750.50(4)(E)	PUB ORD	E	ANIMAL NEGLECT OR CRUELTY INVOLVING 25 OR MORE ANIMALS OR WITH 3 OR MORE PRIOR CONVICTIONS	7
3	750.50(4)(F)	PUB ORD	G	ANIMAL NEGLECT OR CRUELTY BY BREEDER OR PET SHOP OPERATOR WITH 5 OR MORE PRIOR VIOLATIONS OF 1969 PA 287, MCL 287.331 TO 287.340	2
4	750.50b(3)	Property	FD	Killing FIRST DEGREE KILLING or torturing animals	410
5	750.50B(4)	PROPERTY	E	SECOND DEGREE KILLING OR TORTURING ANIMALS	7
6	750.50B(5)	PROPERTY	F	THIRD DEGREE KILLING OR TORTURING ANIMALS	4
7	750.50c(5)	Pub ord	E	Killing or causing serious physical harm to law enforcement animal or search and rescue dog	5
8	750.50c(7)	Pub saf	H	Harassing or causing harm to law enforcement animal or search and rescue dog while committing crime	2
9	750.68	Property	G	Changing brands with intent to steal	4

10 Sec. 34. (1) Offense variable 4 is psychological injury to a
11 victim. Score offense variable 4 by determining which of the
12 following apply and by assigning the number of points
13 attributable to the one that has the highest number of points:

(a) Serious psychological injury requiring professional treatment occurred to a victim..... 10 points

(B) FOR A CONVICTION UNDER SECTION 50B OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.50B, SERIOUS PSYCHOLOGICAL INJURY REQUIRING PROFESSIONAL TREATMENT OCCURRED TO THE OWNER OF A COMPANION ANIMAL..... 5 POINTS

(C) ~~(b)~~—No serious psychological injury requiring professional treatment occurred to a victim..... 0 points

(2) Score 10 points if the serious psychological injury may require professional treatment. In making this determination, the fact that treatment has not been sought is not conclusive.

Sec. 40. (1) Offense variable 10 is exploitation of a vulnerable victim. Score offense variable 10 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) Predatory conduct was involved..... 15 points

(b) The offender exploited a victim's physical disability, mental disability, youth or agedness, or a domestic relationship, or the offender abused his or her authority status..... 10 points

(c) The offender exploited a victim by his or her difference in size or strength, or both, or exploited a victim who was intoxicated, under the influence of drugs, asleep, or unconscious..... 5 points

(d) The offender did not exploit a victim's

1 vulnerability..... 0 points

2 (2) The mere existence of 1 or more factors described in
3 subsection (1) does not automatically equate with victim
4 vulnerability.

5 (3) As used in this section:

6 (a) "Predatory conduct" means preoffense conduct directed at
7 a victim, or a law enforcement officer posing as a potential
8 victim, for the primary purpose of victimization.

9 (b) "Exploit" means to manipulate a victim for selfish or
10 unethical purposes. **EXPLOIT ALSO MEANS TO VIOLATE SECTION 50B OF**
11 **THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.50B, FOR THE**
12 **PURPOSE OF MANIPULATING A VICTIM FOR SELFISH OR UNETHICAL**
13 **PURPOSES.**

14 (c) "Vulnerability" means the readily apparent
15 susceptibility of a victim to injury, physical restraint,
16 persuasion, or temptation.

17 (d) "Abuse of authority status" means a victim was exploited
18 out of fear or deference to an authority figure, including, but
19 not limited to, a parent, physician, or teacher.

20 Sec. 46. (1) Offense variable 16 is property obtained,
21 damaged, lost, or destroyed. Score offense variable 16 by
22 determining which of the following apply and by assigning the
23 number of points attributable to the one that has the highest
24 number of points:

25 **(A) FOR A CONVICTION UNDER SECTION 50 OF THE**

- 1 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.50, THE
 2 PROPERTY WAS 25 OR MORE ANIMALS..... 25 POINTS
 3 (B) FOR A CONVICTION UNDER SECTION 50 OF THE
 4 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.50, THE
 5 PROPERTY WAS 10 OR MORE ANIMALS BUT FEWER THAN 25
 6 ANIMALS..... 10 POINTS
 7 (C) ~~(a)~~ Wanton or malicious damage occurred
 8 beyond that necessary to commit the crime for
 9 which the offender is not charged and will not be
 10 charged..... 10 points
 11 (D) ~~(b)~~ The property had a value of more than
 12 \$20,000.00 or had significant historical, social,
 13 or sentimental value..... 10 points
 14 (E) ~~(c)~~ The property had a value of \$1,000.00
 15 or more but not more than \$20,000.00..... 5 points
 16 (F) ~~(d)~~ The property had a value of \$200.00
 17 or more but not more than \$1,000.00..... 1 point
 18 (G) ~~(e)~~ No property was obtained, damaged,
 19 lost, or destroyed or the property had a value of
 20 less than \$200.00..... 0 points
- 21 (2) All of the following apply to scoring offense variable
 22 16:
- 23 (a) In multiple offender or victim cases, the appropriate
 24 points may be determined by adding together the aggregate value
 25 of the property involved, including property involved in
 26 uncharged offenses or charges dismissed under a plea agreement.
- 27 (b) In cases in which the property was obtained unlawfully,
 28 lost to the lawful owner, or destroyed, use the value of the

1 property in scoring this variable. If the property was damaged,
 2 use the monetary amount appropriate to restore the property to
 3 pre-offense condition in scoring this variable.

4 (c) The amount of money or property involved in admitted but
 5 uncharged offenses or in charges that have been dismissed under a
 6 plea agreement may be considered.

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

13 (a) The offender by his or her conduct threatened
 14 the security of a penal institution or court..... 25 points

15 (b) The offender used force or the threat of
 16 force against another person or the property of
 17 another person to interfere with, attempt to interfere
 18 with, or that results in the interference with the
 19 administration of justice or the rendering of emergency
 20 services..... 15 points

21 (c) The offender otherwise interfered with or
 22 attempted to interfere with the administration of
 23 justice, **OR DIRECTLY OR INDIRECTLY VIOLATED A PERSONAL**
 24 **PROTECTION ORDER**..... 10 points

25 (d) The offender did not threaten the security
 26 of a penal institution or court or interfere with
 27 or attempt to interfere with the administration of

1 justice or the rendering of emergency services by
2 force or threat of force..... 0 points

3 Enacting section 1. This amendatory act takes effect 90 days
4 after the date it is enacted into law.

5 Enacting section 2. This amendatory act does not take effect
6 unless House Bill No. 4332 of the 99th Legislature is enacted
7 into law.