

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Reps. Brann, LaSata, Lucido, Marino, Green and Jones

ENROLLED HOUSE BILL No. 4333

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, 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:

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
750.43a	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

750.45a(1)	Pub saf	F	Using an unmanned aircraft in a manner that interferes with certain facilities	4
750.45a(2)	Pub saf	F	Flying over or causing an unmanned aircraft to hover over facility designated on federal registry	4
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 but fewer than 25 animals or with 2 prior convictions	4
750.50(4)(e)	Pub ord	E	Animal neglect or cruelty involving 25 or more animals or with 3 or more prior convictions	7
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
750.50b(3)	Property	D	First degree killing or torturing animals	10
750.50b(4)	Property	E	Second degree killing or torturing animals	7
750.50b(5)	Property	F	Third degree 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. 34. (1) Offense variable 4 is psychological injury to a victim. Score offense variable 4 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) 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) 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 vulnerability..... 0 points

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

(3) As used in this section:

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

(b) "Exploit" means to manipulate a victim for selfish or unethical purposes. Exploit also means to violate section 50b of the Michigan penal code, 1931 PA 328, MCL 750.50b, for the purpose of manipulating a victim for selfish or unethical purposes.

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

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

Sec. 46. (1) Offense variable 16 is property obtained, damaged, lost, or destroyed. Score offense variable 16 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) For a conviction under section 50 of the Michigan penal code, 1931 PA 328, MCL 750.50, the property was 25 or more animals 25 points
- (b) For a conviction under section 50 of the Michigan penal code, 1931 PA 328, MCL 750.50, the property was 10 or more animals but fewer than 25 animals 10 points
- (c) Wanton or malicious damage occurred beyond that necessary to commit the crime for which the offender is not charged and will not be charged..... 10 points
- (d) The property had a value of more than \$20,000.00 or had significant historical, social, or sentimental value 10 points
- (e) The property had a value of \$1,000.00 or more but not more than \$20,000.00 5 points
- (f) The property had a value of \$200.00 or more but not more than \$1,000.00 1 point
- (g) No property was obtained, damaged, lost, or destroyed or the property had a value of less than \$200.00 0 points

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

(a) In multiple offender or victim cases, the appropriate points may be determined by adding together the aggregate value of the property involved, including property involved in uncharged offenses or charges dismissed under a plea agreement.

(b) In cases in which the property was obtained unlawfully, 28 lost to the lawful owner, or destroyed, use the value of the property in scoring this variable. If the property was damaged, use the monetary amount appropriate to restore the property to pre-offense condition in scoring this variable.

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

Sec. 49. Offense variable 19 is threat to the security of a penal institution or court or interference with the administration of justice or the rendering of emergency services. 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, or directly or indirectly violated a personal protection order..... 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 or the rendering of emergency services by force or threat of force..... 0 points

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

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor