

SENATE BILL No. 286

March 21, 2013, Introduced by Senators JONES, ROCCA, BIEDA, KOWALL, ANDERSON, JANSEN, HOOD, YOUNG and JOHNSON and referred to the Committee on Judiciary.

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 2008 PA 562, sections 34 and 40 as added by 1998 PA
 317, 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
750.49(2)(a) to (d)	Pub ord	F	Fighting animals or providing facilities for animal fights	4

1	750.49(2)(e)	Pub ord	F	Organizing or promoting animal fights	4
2	750.49(2)(f)	Pub ord	H	Attending animal fight	4
3	750.49(2)(g)	Pub ord	F	Breeding or selling fighting animals	4
4	750.49(2)(h)	Pub ord	F	Selling or possessing equipment for animal fights	4
5	750.49(8)	Person	A	Inciting fighting animal resulting in death	Life
6	750.49(9)	Person	F	Inciting fighting animal to attack	4
7	750.49(10)	Person	D	Fighting animal attacking without provocation and death resulting	15
8	750.50(4)(c)	Pub ord	GF	Animal neglect or cruelty involving 4 or more animals but fewer than 10 animals or with 1 prior conviction	2
9	750.50(4)(d)	Pub ord	FE	Animal neglect or cruelty involving 10 or more animals BUT FEWER THAN 25 ANIMALS or with 2 or more prior convictions	4
10	750.50(4)(E)	PUB ORD	E	ANIMAL NEGLECT OR CRUELTY INVOLVING 25 OR MORE ANIMALS OR WITH 3 OR MORE PRIOR CONVICTIONS	7

1	750.50 (4) (F)	PUB ORD	E	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
2	750.50b(3) 750.50B(6)	Property	FD	Killing FIRST DEGREE KILLING or torturing animals	410
3	750.50B(7)	PROPERTY	E	SECOND DEGREE KILLING OR TORTURING ANIMALS	7
4	750.50B(8)	PROPERTY	F	THIRD DEGREE KILLING OR TORTURING ANIMALS	4
5	750.50c(5)	Pub ord	E	Killing or causing serious physical harm to law enforcement animal or search and rescue dog	5
6	750.50c(7)	Pub saf	H	Harassing or causing harm to law enforcement animal or search and rescue dog while committing crime	2
7	750.68	Property	G	Changing brands with intent to steal	4

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

12 (a) Serious psychological injury requiring
13 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
 vulnerability..... 0 points

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

1 vulnerability.

2 (3) As used in this section:

3 (a) "Predatory conduct" means preoffense conduct directed at
4 a victim for the primary purpose of victimization.

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

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

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

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

21 (A) FOR A CONVICTION UNDER SECTION 50 OF THE
22 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.50, THE
23 PROPERTY WAS 25 OR MORE ANIMALS..... 25 POINTS

24 (B) FOR A CONVICTION UNDER SECTION 50 OF THE
25 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.50, THE
26 PROPERTY WAS 10 OR MORE ANIMALS BUT FEWER THAN 25
27 ANIMALS..... 10 POINTS

1 (C) ~~(a)~~ Wanton or malicious damage occurred
 2 beyond that necessary to commit the crime for
 3 which the offender is not charged and will not be
 4 charged..... 10 points

5 (D) ~~(b)~~ The property had a value of more than
 6 \$20,000.00 or had significant historical, social,
 7 or sentimental value..... 10 points

8 (E) ~~(c)~~ The property had a value of \$1,000.00
 9 or more but not more than \$20,000.00..... 5 points

10 (F) ~~(d)~~ The property had a value of \$200.00
 11 or more but not more than \$1,000.00..... 1 point

12 (G) ~~(e)~~ No property was obtained, damaged,
 13 lost, or destroyed or the property had a value of
 14 less than \$200.00..... 0 points

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

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

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

26 (c) The amount of money or property involved in admitted but
 27 uncharged offenses or in charges that have been dismissed under a
 28 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 does not take effect unless Senate Bill No. 285

of the 97th Legislature is enacted into law.