

SENATE BILL No. 344

(As amended May 29, 2007)

March 13, 2007, Introduced by Senator KUIPERS and referred to the Committee on Judiciary.

[A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 1 of chapter I and sections 16 and 16z of chapter XVII (MCL 761.1, 777.16, and 777.16z), section 1 as amended by 1999 PA 76, section 16 as added by 1998 PA 317, and section 16z as amended by 2006 PA 655, by amending the headings of chapter XVII and part 2 of chapter XVII, and by adding sections 16aa and 16bb to chapter XVII.]

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

[CHAPTER I

Sec. 1. As used in this act:

- (a) "Person", "accused", or a similar word means an individual or, unless a contrary intention appears, a public or private corporation, partnership, or unincorporated or voluntary association.
- (b) "Act" or "doing of an act" includes "omission to act".
- (c) "Property" includes any matter or thing upon or in respect to which an offense may be committed.
- (d) "Indictment" means 1 or more of the following:
 - (i) An indictment.
 - (ii) An information.
 - (iii) A presentment.
 - (iv) A complaint.
 - (v) A warrant.

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(vi) A formal written accusation.

(vii) Unless a contrary intention appears, a count contained in any document described in subparagraphs (i) through (vi).

(e) "Writing", "written", or a similar term refers to words printed, painted, engraved, lithographed, photographed, copied, traced, or otherwise made visible to the eye.

(f) "Magistrate" means a judge of the district court or a judge of a municipal court. Magistrate does not include a district court magistrate, except that a district court magistrate may exercise the powers, jurisdiction, and duties of a magistrate if specifically provided in this act, the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to ~~600.9948~~ 600.9947, or any other statute. This definition does not limit the power of a justice of the supreme court, a circuit judge, or a judge of a court of record having jurisdiction of criminal cases under this act, or deprive him or her of the power to exercise the authority of a magistrate.

(g) "Felony" means a violation of a penal law of this state for which the offender, upon conviction, may be punished by death or by imprisonment for more than 1 year or an offense expressly designated by law to be a felony.

(h) "Misdemeanor" means a violation of a penal law of this state that is not a felony or a violation of an order, rule, or regulation of a state agency that is punishable by imprisonment or a fine that is not a civil fine.

(j) "Ordinance violation" means either of the following:

(i) A violation of an ordinance or charter of a city, village, township, or county that is punishable by imprisonment or a fine that is not a civil fine.

(ii) A violation of an ordinance, rule, or regulation of any other governmental entity authorized by law to enact ordinances, rules, or regulations that is punishable by imprisonment or a fine that is not a civil fine.

(k) "Minor offense" means a misdemeanor or ordinance violation for which the maximum permissible imprisonment does not exceed 92 days and the maximum permissible fine does not exceed \$1,000.00.

(l) "Prosecuting attorney" means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, a special prosecuting attorney, or, in connection with the prosecution of an ordinance violation, an attorney for the political subdivision or governmental entity that enacted the ordinance, charter, rule, or regulation upon which the ordinance violation is based.

(m) "Judicial district" means the following:

(i) With regard to the circuit court, the county.

(ii) With regard to municipal courts, the city in which the municipal court functions or the village served by a municipal court under section 9928 of the revised judicature act of 1961, 1961 PA 236, MCL 600.9928.

(iii) With regard to the district court, the county, district, or

political subdivision in which venue is proper for criminal actions.

(n) "Complaint" means a written accusation, under oath or upon affirmation, that a felony, misdemeanor, or ordinance violation has been committed and that the person named or described in the accusation is guilty of the offense.

(o) "Clerk" means the clerk or a deputy clerk of the court.

(p) "Federal law enforcement officer" means an officer or agent employed by a law enforcement agency of the United States government whose primary responsibility is enforcing laws of the United States.

(q) "Jail", "prison", or a similar word includes a juvenile facility in which a juvenile has been placed pending trial under section 27a of chapter IV.

(r) "Juvenile" means a person within the jurisdiction of the circuit court under section 606 of the revised judicature act of 1961, 1961 PA 236, MCL 600.606.

(s) "Juvenile facility" means a county facility, institution operated as an agency of the county or family division of circuit court, or an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, to which a juvenile has been committed under section 27a of chapter IV.

(t) "County juvenile agency" means that term as defined in section 2 of the county juvenile agency act, **1998 PA 518, MCL 45.622.**

(u) "Taken", "brought", or "before" a magistrate or judge for purposes of criminal arraignment or the setting of bail means either of the following:

(i) Physical presence before a judge or district court magistrate.

(ii) Presence before a judge or district court magistrate by use of 2-way ~~closed-circuit television~~ **INTERACTIVE VIDEO TECHNOLOGY.]**

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CHAPTER XVII

SENTENCING GUIDELINES

PART 2

INCLUDED FELONIES

Sec. 16. This chapter applies to felonies enumerated in chapter 750 of the Michigan Compiled Laws as set forth in

1 sections 16a to ~~16z~~16BB of this chapter.

2 Sec. 16z. 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
5	750.520b(2) 750.535(2)	Property	D	Receiving or concealing stolen property having a value of \$20,000 or more or with prior convictions	10
6	750.535(3)	Property	E	Receiving or concealing stolen property having a value of \$1,000 to \$20,000 or with prior convictions	5
7	750.535(7)	Property	E	Receiving or concealing stolen motor vehicle	5
8	750.535a(2)	Pub ord	D	Operating a chop shop	10
9	750.535a(3)	Pub ord	D	Operating a chop shop, subsequent violation	10
10	750.535b	Pub saf	E	Stolen firearms or ammunition	10
11	750.539e	Pub ord	H	Eavesdropping	2
12	750.539d(3)(a)(i)	Pub ord	H	Installing, placing, or using eavesdropping device	2
13	750.539d(3)(a)(ii)	Pub ord	E	Installing, placing, or using eavesdropping device — subsequent offense	5
14	750.539d(3)(b)	Pub ord	E	Distributing, disseminating, or transmitting recording or image obtained by eavesdropping	5
15	750.539e	Pub ord	H	Divulging or using information obtained by eavesdropping	2

1	750.539f	Pub ord	—H	Manufacture or possession of eavesdropping device	—2
2	750.539j(2)(a)(i)	Pub ord	—H	Lewd surveillance or capturing lewd image	—2
3	750.539j(2)(a)(ii)	Pub ord	—E	Lewd surveillance or capturing lewd image — subsequent offense	—5
4	750.539j(2)(b)	Pub ord	—E	Distributing, disseminating, or transmitting visual image obtained by surveillance	—5
5	750.540(5)(a)	Pub ord	—H	Damaging, destroying, using, or obstructing use of electronic medium of communication	—2
6	750.540(5)(b)	Person	—F	Damaging, destroying, using, or obstructing use of electronic medium of communication resulting in injury or death	—4
7	750.540e(4)	Property	—F	Telecommunication violation	—4
8	750.540f(2)	Property	—E	Knowingly publishing a communications access device with prior convictions	—5
9	750.540g(1)(c)	Property	—E	Diverting telecommunication services having a value of \$1,000 to \$20,000 or with prior convictions	—5
10	750.540g(1)(d)	Property	—D	Diverting telecommunications services having a value of \$20,000 or more or with prior convictions	—10
11	750.543f	Person	—A	Terrorism without causing death	—Life

1	750.543h(3)(a)	Pub ord	—B	Hindering prosecution of terrorism—certain terrorist acts	—20
2	750.543h(3)(b)	Pub ord	—A	Hindering prosecution of terrorism—act of terrorism	—Life
3	750.543k	Pub saf	—B	Soliciting or providing material support for terrorism or terrorist acts	—20
4	750.543m	Pub ord	—B	Threat or false report of terrorism	—20
5	750.543p	Pub saf	—B	Use of internet or telecommunications to commit certain terrorist acts	—20
6	750.543r	Pub saf	—B	Possession of vulnerable target information with intent to commit certain terrorist acts	—20
7	750.545	Pub ord	—E	Misprision of treason	—5
8	750.552b	Property	—F	Trespassing on correctional facility property	—4
9	750.552e	Pub saf	—F	Trespass upon key facility	—4

10 **SEC. 16AA. THIS CHAPTER APPLIES TO THE FOLLOWING FELONIES**
11 **ENUMERATED IN CHAPTER 750 OF THE MICHIGAN COMPILED LAWS:**

12	M.C.L.	CATEGORY	CLASS	DESCRIPTION	STAT MAX
13	750.539C	PUB ORD	H	EAVESDROPPING	2
14	750.539D(3)(A)(i)	PUB ORD	H	INSTALLING, PLACING, OR USING EAVESDROPPING DEVICE	2

1	750.539D(3) (A) (ii)	PUB ORD	E	INSTALLING, PLACING, OR USING EAVESDROPPING DEVICE – SUBSEQUENT OFFENSE	5
2	750.539D(3) (B)	PUB ORD	E	DISTRIBUTING, DISSEMINATING, OR TRANSMITTING RECORDING OR IMAGE OBTAINED BY EAVESDROPPING	5
3	750.539E	PUB ORD	H	DIVULGING OR USING INFORMATION OBTAINED BY EAVESDROPPING	2
4	750.539F	PUB ORD	H	MANUFACTURE OR POSSESSION OF EAVESDROPPING DEVICE	2
5	750.539J(2) (A) (i)	PUB ORD	H	LEWD SURVEILLANCE OR CAPTURING LEWD IMAGE	2
6	750.539J(2) (A) (ii)	PUB ORD	E	LEWD SURVEILLANCE OR CAPTURING LEWD IMAGE – SUBSEQUENT OFFENSE	5
7	750.539J(2) (B)	PUB ORD	E	DISTRIBUTING, DISSEMINATING, OR TRANSMITTING VISUAL IMAGE OBTAINED BY SURVEILLANCE	5
8	750.540(5) (A)	PUB ORD	H	DAMAGING, DESTROYING, USING, OR OBSTRUCTING USE OF ELECTRONIC MEDIUM OF COMMUNICATION	2
9	750.540(5) (B)	PERSON	F	DAMAGING, DESTROYING, USING, OR OBSTRUCTING USE OF ELECTRONIC MEDIUM OF COMMUNICATION RESULTING IN INJURY OR DEATH	4
10	750.540C(4)	PROPERTY	F	TELECOMMUNICATION VIOLATION	4
11	750.540F(2)	PROPERTY	E	KNOWINGLY PUBLISHING A COMMUNICATIONS ACCESS DEVICE WITH PRIOR CONVICTIONS	5
12	750.540G(1) (C)	PROPERTY	E	DIVERTING TELECOMMUNICATION SERVICES HAVING A VALUE OF \$1,000 TO \$20,000 OR WITH PRIOR CONVICTIONS	5

1	750.540G(1) (D)	PROPERTY	D	DIVERTING TELECOMMUNICATIONS SERVICES HAVING A VALUE OF \$20,000 OR MORE OR WITH PRIOR CONVICTIONS	10
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2 SEC. 16BB. 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
5	750.543F	PERSON	A	TERRORISM WITHOUT CAUSING DEATH	LIFE
6	750.543H(3) (A)	PUB ORD	B	HINDERING PROSECUTION OF TERRORISM – CERTAIN TERRORIST ACTS	20
7	750.543H(3) (B)	PUB ORD	A	HINDERING PROSECUTION OF TERRORISM – ACT OF TERRORISM	LIFE
8	750.543K	PUB SAF	B	SOLICITING OR PROVIDING MATERIAL SUPPORT FOR TERRORISM OR TERRORIST ACTS	20
9	750.543M	PUB ORD	B	THREAT OR FALSE REPORT OF TERRORISM	20
10	750.543P	PUB SAF	B	USE OF INTERNET OR TELECOMMUNICATIONS TO COMMIT CERTAIN TERRORIST ACTS	20
11	750.543R	PUB SAF	B	POSSESSION OF VULNERABLE TARGET INFORMATION WITH INTENT TO COMMIT CERTAIN TERRORIST ACTS	20
12	750.545	PUB ORD	E	MISPRISION OF TREASON	5
13	750.552B	PROPERTY	F	TRESPASSING ON CORRECTIONAL FACILITY PROPERTY	4

1 750.552C

PUB SAF

F

TRESPASS UPON KEY
FACILITY

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2 Enacting section 1. The citation correction in section 16z
3 of chapter XVII of the code of criminal procedure, 1927 PA 175,
4 MCL 777.16z, changing the reference of 750.520b(2) to 750.535(2),
5 applies retroactively to January 9, 2007.