

**SENTENCING GUIDELINES:
OFFENSE VARIABLES**

House Bill 5520
Sponsor: Rep. Douglas Bovin
Committee: Criminal Justice

Complete to 2-23-02

A SUMMARY OF HOUSE BILL 5520 AS INTRODUCED 12-12-01

The bill would amend the sentencing guidelines provisions of the Code of Criminal Procedure to create offense variable 20 (terrorism); require it to be scored for all crime categories; and revise the application of several other offense variables. (The bill is almost identical to Senate Bill 946 as passed by the Senate.) An “act of terrorism” would mean that term as defined in Section 543b of the Michigan Penal Code (which would be added by House Bill 5495 or Senate Bill 930).

To score offense variable 20, the court would have to determine which of the following applied and assign the number of points attributable to the one with the highest number:

- The offender committed an act of terrorism by using or threatening to use a harmful biological substance, harmful biological device, harmful chemical substance, harmful chemical device, harmful radioactive material, harmful radioactive device, incendiary device, or explosive device (100 points). “Incendiary device” would include gasoline or any other flammable substance, a blowtorch, fire bomb, Molotov cocktail, or other similar device. The other terms are defined in Section 200h of the Michigan Penal Code (MCL 750.200h).

- The offender committed an act of terrorism without using any of the above (50 points).

- The offender did not commit an act of terrorism (0 points).

The bill would add to the scoring of offense variable 1 (aggravated use of a weapon) whether the victim was subjected or exposed to a harmful biological substance or device, harmful chemical substance or device, harmful radioactive material or device, incendiary device, or explosive device (20 points). Offense variable 3 (physical injury to a victim) would be amended to require that each person who was placed in danger of injury or loss of life be counted as a victim. Offense variable 5 (psychological injury to a member of a victim’s family) would be amended to specify that serious psychological injury requiring professional treatment to a victim’s family would be five points and serious psychological injury requiring professional treatment to a victim’s family and the sentencing offense was homicide, attempted homicide, conspiracy or solicitation to commit a homicide, or assault with intent to commit murder would be 15 points. Offense variable 7 (aggravated physical abuse) would be amended to 1) delete the reference to terrorism; 2) include conduct designed to substantially increase the fear and anxiety

House Bill 5520 (2-23-02)

a victim suffered during the offense; and 3) count each person who had been placed in danger of injury or loss of life as a victim. Offense variable 19 (threat to security of a penal institution or court or interference with the administration of justice) would be amended to include interference with the rendering of emergency services.

MCL 777.22 et. al.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.