

**SUBSTITUTE FOR  
SENATE BILL NO. 946**

A bill to amend 1927 PA 175, entitled  
"The code of criminal procedure,"  
by amending sections 22, 31, 37, and 49 of chapter XVII  
(MCL 777.22, 777.31, 777.37, and 777.49), section 22 as amended  
by 2000 PA 279, sections 31 and 49 as amended by 2001 PA 136, and  
section 37 as added by 1998 PA 317, and by adding section 49a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1

CHAPTER XVII

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Sec. 22. (1) For all crimes against a person, score offense  
variables 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, ~~and~~ 19,  
AND 20. Score offense variables 5 and 6 for homicide, attempted  
homicide, CONSPIRACY OR SOLICITATION TO COMMIT A HOMICIDE, or  
assault with intent to commit murder. Score offense variable 16  
under this subsection for a violation or attempted violation of  
section 110a of the Michigan penal code, 1931 PA 328,

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1 MCL 750.110a. Score offense variables 17 and 18 if an element of  
2 the offense or attempted offense involves the operation of a  
3 vehicle, vessel, ORV, snowmobile, aircraft, or locomotive.

4 (2) For all crimes against property, score offense variables  
5 1, 2, 3, 4, 9, 10, 12, 13, 14, 16, ~~and~~ 19, AND 20.

6 (3) For all crimes involving a controlled substance, score  
7 offense variables 1, 2, 3, 12, 13, 14, 15, ~~and~~ 19, AND 20.

8 (4) For all crimes against public order and all crimes  
9 against public trust, score offense variables 1, 3, 4, 9, 10, 12,  
10 13, 14, 16, ~~and~~ 19, AND 20.

11 (5) For all crimes against public safety, score offense  
12 variables 1, 3, 4, 9, 10, 12, 13, 14, 16, ~~and~~ 19, AND 20.

13 Score offense variable 18 if an element of the offense or  
14 attempted offense involves the operation of a vehicle, vessel,  
15 ORV, snowmobile, aircraft, or locomotive.

16 Sec. 31. (1) Offense variable 1 is aggravated use of a  
17 weapon. Score offense variable 1 by determining which of the  
18 following apply and by assigning the number of points attribut-  
19 able to the one that has the highest number of points:

20 (a) A firearm was discharged at or toward a human  
21 being or a victim was cut or stabbed with a knife or  
22 other cutting or stabbing weapon..... 25 points

23 (B) THE VICTIM WAS SUBJECTED OR EXPOSED TO A HARMFUL  
24 BIOLOGICAL SUBSTANCE, HARMFUL BIOLOGICAL DEVICE, HARM-  
25 FUL CHEMICAL SUBSTANCE, HARMFUL CHEMICAL DEVICE, HARM-  
26 FUL RADIOACTIVE MATERIAL, HARMFUL RADIOACTIVE DEVICE,  
27 INCENDIARY DEVICE, OR EXPLOSIVE DEVICE..... 20 POINTS

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1 (C) ~~-(b)-~~ A firearm was pointed at or toward a  
2 victim or the victim had a reasonable apprehension of  
3 an immediate battery when threatened with a knife or  
4 other cutting or stabbing weapon..... 15 points

5 (D) ~~-(c)-~~ The victim was touched by any other type  
6 of weapon..... 10 points

7 (E) ~~-(d)-~~ A weapon was displayed or implied..... 5 points

8 (F) ~~-(e)-~~ No aggravated use of a weapon occurred.... 0 points

9 (2) All of the following apply to scoring offense variable  
10 1:

11 (a) Count each person who was placed in danger of injury or  
12 loss of life as a victim.

13 (b) In multiple offender cases, if 1 offender is assessed  
14 points for the presence or use of a weapon, all offenders shall  
15 be assessed the same number of points.

16 (c) Score 5 points if an offender used an object to suggest  
17 the presence of a weapon.

18 (d) Score 5 points if ~~the~~ AN offender used a chemical  
19 irritant, chemical irritant device, smoke device, or imitation  
20 harmful substance or device.

21 (e) Do not score 5 points if the conviction offense is a  
22 violation of section 82 or 529 of the Michigan penal code, 1931  
23 PA 328, MCL 750.82 and 750.529.

24 (3) As used in this section: ~~the~~, ~~"chemical"~~

25 (A) "CHEMICAL irritant", "chemical irritant device",  
26 "HARMFUL BIOLOGICAL SUBSTANCE", "HARMFUL BIOLOGICAL DEVICE",  
27 "HARMFUL CHEMICAL SUBSTANCE", "HARMFUL CHEMICAL DEVICE", "HARMFUL

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1 RADIOACTIVE MATERIAL", "HARMFUL RADIOACTIVE DEVICE", and  
2 "imitation harmful substance or device" mean those terms as  
3 defined in section 200h of the Michigan penal code, 1931 PA 328,  
4 MCL 750.200h.

5 (B) "INCENDIARY DEVICE" INCLUDES GASOLINE OR ANY OTHER FLAM-  
6 MABLE SUBSTANCE, A BLOWTORCH, FIRE BOMB, MOLOTOV COCKTAIL, OR  
7 OTHER SIMILAR DEVICE.

8 Sec. 37. (1) Offense variable 7 is aggravated physical  
9 abuse. Score offense variable 7 by determining which of the fol-  
10 lowing apply and by assigning the number of points attributable  
11 to the one that has the highest number of points:

12 (a) A victim was treated with ~~terrorism~~,  
13 sadism, torture, or excessive brutality OR CONDUCT  
14 DESIGNED TO SUBSTANTIALLY INCREASE THE FEAR AND ANXI-  
15 ETY A VICTIM SUFFERED DURING THE OFFENSE..... 50 points

16 (b) No victim was treated with ~~terrorism~~,  
17 sadism, torture, or excessive brutality OR CONDUCT  
18 DESIGNED TO SUBSTANTIALLY INCREASE THE FEAR AND ANXI-  
19 ETY A VICTIM SUFFERED DURING THE OFFENSE..... 0 points

20 (2) COUNT EACH PERSON WHO WAS PLACED IN DANGER OF INJURY OR  
21 LOSS OF LIFE AS A VICTIM.

22 (3) ~~-(2)-~~ As used in this section, ~~-~~

23 ~~-(a)- "Terrorism" means conduct designed to substantially~~  
24 ~~increase the fear and anxiety a victim suffers during the~~  
25 ~~offense.~~

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1       ~~-(b)-"Sadism"~~ "SADISM" means conduct that subjects a victim  
2 to extreme or prolonged pain or humiliation and is inflicted to  
3 produce suffering or for the offender's gratification.

4       Sec. 49. Offense variable 19 is threat to the security of a  
5 penal institution or court or interference with the administra-  
6 tion of justice OR THE RENDERING OF EMERGENCY SERVICES. Score  
7 offense variable 19 by determining which of the following apply  
8 and by assigning the number of points attributable to the one  
9 that has the highest number of points:

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

12       (b) The offender used force or the threat of force  
13 against another person or the property of another  
14 person to interfere with, attempt to interfere with,  
15 or that results in the interference with the adminis-  
16 tration of justice or the rendering of emergency  
17 services..... 15 points

18       (c) The offender otherwise interfered with or  
19 attempted to interfere with the administration of jus-  
20 tice OR THE RENDERING OF EMERGENCY SERVICES..... 10 points

21       (d) The offender did not threaten the security of a  
22 penal institution or court or interfere with or  
23 attempt to interfere with the administration of jus-  
24 tice OR THE RENDERING OF EMERGENCY SERVICES..... 0 points

25       SEC. 49A. (1) OFFENSE VARIABLE 20 IS TERRORISM. SCORE  
26 OFFENSE VARIABLE 20 BY DETERMINING WHICH OF THE FOLLOWING APPLIES

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1 AND BY ASSIGNING THE NUMBER OF POINTS ATTRIBUTABLE TO THE ONE  
2 THAT HAS THE HIGHEST NUMBER OF POINTS:

3 (A) THE OFFENDER COMMITTED AN ACT OF TERRORISM BY  
4 USING OR THREATENING TO USE A HARMFUL BIOLOGICAL SUB-  
5 STANCE, HARMFUL BIOLOGICAL DEVICE, HARMFUL CHEMICAL  
6 SUBSTANCE, HARMFUL CHEMICAL DEVICE, HARMFUL RADIOAC-  
7 TIVE MATERIAL, HARMFUL RADIOACTIVE DEVICE, INCENDIARY  
8 DEVICE, OR EXPLOSIVE DEVICE..... 100 POINTS

9 (B) THE OFFENDER COMMITTED AN ACT OF TERRORISM WITH-  
10 OUT USING OR THREATENING TO USE A HARMFUL BIOLOGICAL  
11 SUBSTANCE, HARMFUL BIOLOGICAL DEVICE, HARMFUL CHEMICAL  
12 SUBSTANCE, HARMFUL CHEMICAL DEVICE, HARMFUL RADIOAC-  
13 TIVE MATERIAL, HARMFUL RADIOACTIVE DEVICE, INCENDIARY  
14 DEVICE, OR EXPLOSIVE DEVICE..... 50 POINTS

15 (C) THE OFFENDER SUPPORTED AN ACT OF TERRORISM, A  
16 TERRORIST, OR A TERRORIST ORGANIZATION..... 25 POINTS

17 (D) THE OFFENDER DID NOT COMMIT AN ACT OF TERRORISM  
18 OR SUPPORT AN ACT OF TERRORISM, A TERRORIST, OR A TER-  
19 RORIST ORGANIZATION..... 0 POINTS

20 (2) AS USED IN THIS SECTION:

21 (A) "ACT OF TERRORISM" AND "TERRORIST" MEAN THOSE TERMS AS  
22 DEFINED IN SECTION 543B OF THE MICHIGAN PENAL CODE, 1931 PA 328,  
23 MCL 750.543B.

24 (B) "HARMFUL BIOLOGICAL SUBSTANCE", "HARMFUL BIOLOGICAL  
25 DEVICE", "HARMFUL CHEMICAL SUBSTANCE", "HARMFUL CHEMICAL DEVICE",  
26 "HARMFUL RADIOACTIVE MATERIAL", AND "HARMFUL RADIOACTIVE DEVICE"

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1 MEAN THOSE TERMS AS DEFINED IN SECTION 200H OF THE MICHIGAN PENAL  
2 CODE, 1931 PA 328, MCL 750.200H.

3 (C) "INCENDIARY DEVICE" INCLUDES GASOLINE OR ANY OTHER FLAM-  
4 MABLE SUBSTANCE, A BLOWTORCH, FIRE BOMB, MOLOTOV COCKTAIL, OR  
5 OTHER SIMILAR DEVICE.

6 (D) "TERRORIST ORGANIZATION" MEANS THAT TERM AS DEFINED IN  
7 SECTION 543C OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL  
8 750.543C.

9 Enacting section 1. This amendatory act does not take  
10 effect unless Senate Bill No. 930 of the 91st Legislature is  
11 enacted into law.