

HOUSE BILL NO. 4309

February 23, 2021, Introduced by Reps. Filler, Hammoud and Bellino and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending sections 33 and 48 of chapter XVII (MCL 777.33 and
777.48), as amended by 2017 PA 152.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER XVII

2

Sec. 33. (1) Offense variable 3 is physical injury to a
victim. Score offense variable 3 by determining which of the
following apply and by assigning the number of points attributable

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to the one that has the highest number of points:

(a) A victim was killed..... 100 points

(b) A victim was killed..... 50 points

(c) Life threatening or permanent
incapacitating injury occurred to a
victim..... 25 points

(d) Bodily injury requiring medical
treatment occurred to a victim..... 10 points

(e) Bodily injury not requiring
medical treatment occurred to a
victim..... 5 points

(f) No physical injury occurred to
a victim..... 0 points

(2) All of the following apply to scoring offense variable 3:

(a) In multiple offender cases, if 1 offender is assessed
points for death or physical injury, all offenders must be assessed
the same number of points.

(b) Score 100 points if death results from the commission of a
crime and homicide is not the sentencing offense.

(c) Score 50 points if death results from the commission of a
crime and the offense or attempted offense involves the operation
of a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive and
any of the following apply:

(i) The offender was under the influence of or visibly impaired
by the use of alcoholic liquor, a controlled substance, or a
combination of alcoholic liquor and a controlled substance.

(ii) The offender had an alcohol content of 0.08 grams or more
per 100 milliliters of blood, per 210 liters of breath, or per 67
milliliters of urine. ~~or, beginning October 1, 2021, the offender~~

~~had an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.~~

(iii) The offender's body contained any amount of a controlled substance listed in schedule 1 under section 7212 of the public health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under that section, or a controlled substance described in section 7214(a) (iv) of the public health code, 1978 PA 368, MCL 333.7214.

(d) Do not score 5 points if bodily injury is an element of the sentencing offense.

(3) As used in this section, "requiring medical treatment" refers to the necessity for treatment and not the victim's success in obtaining treatment.

Sec. 48. (1) Offense variable 18 is operator ability affected by alcohol or drugs. Score offense variable 18 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 operated a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive when his or her bodily alcohol content was 0.20 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine..... 20 points

1 (b) The offender operated a
2 vehicle, vessel, ORV, snowmobile,
3 aircraft, or locomotive when his or
4 her bodily alcohol content was 0.15
5 grams or more but less than 0.20
6 grams per 100 milliliters of blood,
7 per 210 liters of breath, or per 67
8 milliliters of urine..... 15 points

1 (c) The offender operated a
2 vehicle, vessel, ORV, snowmobile,
3 aircraft, or locomotive while the
4 offender was under the influence of
5 alcoholic or intoxicating liquor, a
6 controlled substance, or a
7 combination of alcoholic or
8 intoxicating liquor and a controlled
9 substance; or while the offender's
10 body contained any amount of a
11 controlled substance listed in
12 schedule 1 under section 7212 of the
13 public health code, 1978 PA 368, MCL
14 333.7212, or a rule promulgated
15 under that section, or a controlled
16 substance described in section
17 7214(a) (iv) of the public health
18 code, 1978 PA 368, MCL 333.7214; or
19 while the offender had an alcohol
20 content of 0.08 grams or more but
21 less than 0.15 grams per 100
22 milliliters of blood, per 210 liters
23 of breath, or per 67 milliliters of
24 urine ~~or, beginning October 1, 2021,~~
25 ~~the offender had an alcohol content~~
26 ~~of 0.10 grams or more but less than~~
27 ~~0.15 grams per 100 milliliters of~~
28 ~~blood, per 210 liters of breath, or~~
29 ~~per 67 milliliters of urine.....~~ 10 points

1 (d) The offender operated a
2 vehicle, vessel, ORV, snowmobile,
3 aircraft, or locomotive while he or
4 she was visibly impaired by the use
5 of alcoholic or intoxicating liquor
6 or a controlled substance or a
7 combination of alcoholic or
8 intoxicating liquor and a controlled
9 substance, or was less than 21 years
10 of age and had any bodily alcohol
11 content..... 5 points

12 (e) The offender's ability to
13 operate a vehicle, vessel, ORV,
14 snowmobile, aircraft, or locomotive
15 was not affected by an alcoholic or
16 intoxicating liquor or a controlled
17 substance or a combination of
18 alcoholic or intoxicating liquor and
19 a controlled substance..... 0 points

20 (2) As used in this section, "any bodily alcohol content"
21 means either of the following:

22 (a) An alcohol content of 0.02 grams or more but less than
23 0.08 grams per 100 milliliters of blood, per 210 liters of breath,
24 or per 67 milliliters of urine. ~~or, beginning October 1, 2021, 0.02~~
25 ~~grams or more but less than 0.10 grams per 100 milliliters of~~
26 ~~blood, per 210 liters of breath, or per 67 milliliters of urine.~~

27 (b) Any presence of alcohol within an individual's body
28 resulting from the consumption of alcoholic or intoxicating liquor
29 other than the consumption of alcoholic or intoxicating liquor as

1 part of a generally recognized religious service or ceremony.

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

4 Enacting section 2. This amendatory act does not take effect
5 unless Senate Bill No. ____ or House Bill No. 4308 (request no.
6 01914'21) of the 101st Legislature is enacted into law.