

HOUSE BILL NO. 5452

October 21, 2021, Introduced by Reps. Whiteford and LaGrand and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 22 of chapter XVII (MCL 777.22), as amended by
2003 PA 134, and by adding section 49m to chapter XVII.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XVII

Sec. 22. (1) For all crimes against a person, score offense
variables 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 19, and 20.
Score offense variables 5 and 6 for homicide, attempted homicide,

1 conspiracy or solicitation to commit a homicide, or assault with
2 intent to commit murder. Score offense variable 16 under this
3 subsection for a violation or attempted violation of section 110a
4 of the Michigan penal code, 1931 PA 328, MCL 750.110a. Score
5 offense variables 17 and 18 if the offense or attempted offense
6 involves the operation of a vehicle, vessel, ORV, snowmobile,
7 aircraft, or locomotive.

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

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

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

15 (5) For all crimes against public safety, score offense
16 variables 1, 3, 4, 9, 10, 12, 13, 14, 16, 19, and 20. Score offense
17 variable 18 if the offense or attempted offense involves the
18 operation of a vehicle, vessel, ORV, snowmobile, aircraft, or
19 locomotive.

20 (6) **Subject to the provisions of this subsection, for all**
21 **crimes against a person, property, or public safety and to which it**
22 **is applicable to the facts of the case, the court shall score**
23 **offense variable 32. Offense variable 32 must be scored after the**
24 **scoring of offense variables 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12,**
25 **13, 14, 15, 16, 17, 18, 19, and 20. Offense variable 32 may be**
26 **scored only if the defendant was suffering from the effects of a**
27 **mental illness that caused the defendant's self-control or**
28 **understanding of the crime to be materially affected or if the**
29 **defendant was under the influence of a controlled substance during**

the entirety of the offense. However, in no case may the scoring of offense variables 24, 27, 29, 30, 32, and 34 result in the reduction of a defendant's offense variable score by more than 2 offense variable levels on the applicable sentencing grid.

Sec. 49m. Offense variable 32 is substance use disorder treatment or mental health treatment. The court shall score offense variable 32 by determining if either of the following applies and by reducing the defendant's offense variable score by not more than 5 points as the court considers appropriate:

(a) The defendant has sought and has been actively receiving substance use disorder treatments for not less than 30 days before sentencing. The defendant must have attended an individual or group therapy meeting not less than 2 times per week during the 30-day period before sentencing and provide proof of his or her attendance to the court..... subtract 5 points

(b) The defendant has sought and has been actively receiving mental health treatment and has been doing so under the care of a licensed therapist, psychiatrist, or psychologist for not less than 30 days before sentencing. The defendant must have attended an individual or group therapy meeting not less than 2 times per week during the 30-day period before sentencing and provide proof of his or her attendance to the court..... subtract 5 points

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