

HOUSE BILL NO. 5453

October 21, 2021, Introduced by Reps. Yancey, LaGrand and Liberati 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 49o 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 in which there is an identified victim, not**
22 **less than 1 codefendant, and to which it is applicable to the facts**
23 **of the case, the court shall score offense variable 34. Offense**
24 **variable 34 must be scored after the scoring of offense variables**
25 **1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19,**
26 **and 20. However, in no case may the scoring of offense variables**
27 **24, 27, 29, 30, 32, and 34 result in the reduction of a defendant's**
28 **offense variable score by more than 2 offense variable levels on**
29 **the applicable sentencing grid.**

1 Sec. 49o. (1) Offense variable 34 is disengagement from crime,
2 minor role in the offense, or inducement. The court shall score
3 offense variable 34 if either of the following applies by reducing
4 the defendant's offense variable score by not more than 10 points
5 as the court determines appropriate under offense variable 34:

6 (a) If there is evidence
7 that after a crime has been
8 planned or begun, but before the
9 criminal act has been
10 substantially completed, the
11 defendant disengaged from the
12 crime..... subtract 5 points

13 (b) If the defendant
14 succeeds in warning the victim of
15 the crime and harm to the victim
16 is reduced, if the defendant
17 shields a potential victim from
18 harm, or if the defendant raises
19 an alarm that causes the
20 defendant's codefendants to
21 desist from criminal
22 actions..... subtract 10 points

23 (c) If the defendant took no
24 affirmative action in
25 facilitating the offense, or did
26 not plan, organize, lead,
27 supervise, or initiate the
28 offense..... subtract 5 points

1 (d) If a third party planned
2 the offense and offered a
3 substantial inducement to the
4 defendant to participate in the
5 offense..... subtract 5 points

6 (2) A reduction in the defendant's offense variable score for
7 warning or shielding a victim under subsection (1)(b) may be
8 awarded under this section only if the victim provides his or her
9 approval to the reduction.

10 (3) As used in this section, "disengaged" or "disengagement"
11 means ceasing to provide needed assistance in a manner that makes
12 the offense less likely to be completed. Mere flight from a
13 substantially completed offense is not disengagement for the
14 purposes of scoring offense variable 34.

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