

HOUSE BILL NO. 5455

October 21, 2021, Introduced by Reps. Calley 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 49k 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 to which it is applicable to the facts of the case, the**
22 **court shall score offense variable 30. Offense variable 30 must be**
23 **scored after the scoring of offense variables 1, 2, 3, 4, 5, 6, 7,**
24 **8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20. However, in**
25 **no case may the scoring of offense variables 24, 27, 29, 30, 32,**
26 **and 34 result in the reduction of a defendant's offense variable**
27 **score by more than 2 offense variable levels on the applicable**
28 **sentencing grid.**

29 **Sec. 49k. (1) Offense variable 30 is diminished capacity or**

youth. The court shall score offense variable 30 by determining if any of the following apply and by reducing the defendant's offense variable score by not more than 10 points, as the court considers appropriate:

(a) If the court determines the defendant has diminished mental capacity or a neurological condition that reduces the defendant's impulse control or ability to appreciate the full implications of the crime, and that condition has been diagnosed by a medical professional..... subtract 5 points

(b) If the defendant was less than 20 years of age at the time he or she committed the offense or offenses for which he or she is being sentenced and does not have a prior criminal conviction..... subtract 5 points

(2) As used in this section:

(a) "Diminished mental capacity" means the offender exhibits and has been diagnosed with a condition that manifests as impaired judgment or lack of impulse control such that the offender has a substantial inability to make considered decisions as a mature and neurotypical adult.

(b) "Medical professional" means a licensed physician, psychologist, or psychiatrist who has the appropriate licensure or certification to test for and to diagnose neurological, neurodevelopmental, or genetic or congenital disorders that cause diminished capacity.

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