

# SENATE BILL NO. 616

August 25, 2021, Introduced by Senator VICTORY and referred to the Committee on Judiciary and Public Safety.

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 2021 PA 81.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### CHAPTER XVII

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

1 attributable to the ~~one~~**applicable subdivision** that has the highest  
2 number of points:

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

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

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

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

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

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

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

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

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

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

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

28 (ii) The offender had an alcohol content of 0.08 grams or more  
29 per 100 milliliters of blood, per 210 liters of breath, or per 67

1 milliliters of urine or, beginning 5 years after the state  
2 treasurer publishes a certification under section 625(28) of the  
3 Michigan vehicle code, 1949 PA 300, MCL 257.625, the offender had  
4 an alcohol content of 0.10 grams or more per 100 milliliters of  
5 blood, per 210 liters of breath, or per 67 milliliters of urine.

6 (iii) The offender's body contained any amount of a controlled  
7 substance listed in schedule 1 under section 7212 of the public  
8 health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under  
9 that section, or a controlled substance described in section  
10 7214(a) (iv) of the public health code, 1978 PA 368, MCL 333.7214.

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

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

16 Sec. 48. (1) Offense variable 18 is operator ability affected  
17 by alcohol or drugs. Score offense variable 18 by determining which  
18 of the following **subdivisions** apply and by assigning the number of  
19 points attributable to the ~~one~~**applicable subdivision** that has the  
20 highest number of points:

21 (a) The offender operated a vehicle, vessel,  
22 ORV, snowmobile, aircraft, or locomotive when his  
23 or her bodily alcohol content was 0.20 grams or  
24 more per 100 milliliters of blood, per 210 liters  
25 of breath, or per 67 milliliters of urine..... 20 points

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

7           (c) The offender operated a vehicle, vessel,  
8 ORV, snowmobile, aircraft, or locomotive while the  
9 offender was under the influence of alcoholic or  
10 intoxicating liquor, a controlled substance, or a  
11 combination of alcoholic or intoxicating liquor and  
12 a controlled substance; or while the offender's  
13 body contained any amount of a controlled substance  
14 listed in schedule 1 under section 7212 of the  
15 public health code, 1978 PA 368, MCL 333.7212, or a  
16 rule promulgated under that section, or a  
17 controlled substance described in section  
18 7214(a) (iv) of the public health code, 1978 PA 368,  
19 MCL 333.7214; or while the offender had an alcohol  
20 content of 0.08 grams or more but less than 0.15  
21 grams per 100 milliliters of blood, per 210 liters  
22 of breath, or per 67 milliliters of urine or,  
23 beginning 5 years after the state treasurer  
24 publishes a certification under section 625(28) of  
25 the Michigan vehicle code, 1949 PA 300, MCL  
26 257.625, the offender had an alcohol content of  
27 0.10 grams or more but less than 0.15 grams per 100  
28 milliliters of blood, per 210 liters of breath, or  
29 per 67 milliliters of urine..... 10 points

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

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

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

17 (a) An alcohol content of 0.02 grams or more but less than  
18 0.08 grams per 100 milliliters of blood, per 210 liters of breath,  
19 or per 67 milliliters of urine or, beginning 5 years after the  
20 state treasurer publishes a certification under section 625(28) of  
21 the Michigan vehicle code, 1949 PA 300, MCL 257.625, 0.02 grams or  
22 more but less than 0.10 grams per 100 milliliters of blood, per 210  
23 liters of breath, or per 67 milliliters of urine.

24 (b) Any presence of alcohol within an individual's body  
25 resulting from the consumption of alcoholic or intoxicating liquor  
26 other than the consumption of alcoholic or intoxicating liquor as  
27 part of a generally recognized religious service or ceremony.

28 Enacting section 1. This amendatory act does not take effect  
29 unless Senate Bill No. 617

**1** of the 101st Legislature is enacted into law.