

THE CODE OF CRIMINAL PROCEDURE (EXCERPT)
Act 175 of 1927

PART 5
PRIOR RECORD VARIABLES

777.50 Conviction or juvenile adjudication 10 or more years from discharge and commission of next offense.

Sec. 50. (1) In scoring prior record variables 1 to 5, do not use any conviction or juvenile adjudication that precedes a period of 10 or more years between the discharge date from a conviction or juvenile adjudication and the defendant's commission of the next offense resulting in a conviction or juvenile adjudication.

(2) Apply subsection (1) by determining the time between the discharge date for the prior conviction or juvenile adjudication most recently preceding the commission date of the sentencing offense. If it is 10 or more years, do not use that prior conviction or juvenile adjudication and any earlier conviction or juvenile adjudication in scoring prior record variables. If it is less than 10 years, use that prior conviction or juvenile adjudication in scoring prior record variables and determine the time between the commission date of that prior conviction and the discharge date of the next earlier prior conviction or juvenile adjudication. If that period is 10 or more years, do not use that prior conviction or juvenile adjudication and any earlier conviction or juvenile adjudication in scoring prior record variables. If it is less than 10 years, use that prior conviction or juvenile adjudication in scoring prior record variables and repeat this determination for each remaining prior conviction or juvenile adjudication until a period of 10 or more years is found or no prior convictions or juvenile adjudications remain.

(3) If a discharge date is not available, add either the time defendant was sentenced to probation or the length of the minimum incarceration term to the date of the conviction and use that date as the discharge date.

(4) As used in this part:

(a) "Conviction" includes any of the following:

(i) Assignment to youthful trainee status under sections 11 to 15 of chapter II.

(ii) A conviction set aside under 1965 PA 213, MCL 780.621 to 780.624.

(b) "Discharge date" means the date an individual is discharged from the jurisdiction of the court or the department of corrections after being convicted of or adjudicated responsible for a crime or an act that would be a crime if committed by an adult.

(c) "Juvenile adjudication" includes an adjudication set aside under section 18e of chapter XIIA of 1939 PA 288, MCL 712A.18e, or expunged.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

777.51 Prior high severity felony convictions.

Sec. 51. (1) Prior record variable 1 is prior high severity felony convictions. Score prior record variable 1 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:

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| (a) The offender has 3 or more prior high severity felony convictions | 75 points |
| (b) The offender has 2 prior high severity felony convictions | 50 points |
| (c) The offender has 1 prior high severity felony conviction | 25 points |
| (d) The offender has no prior high severity felony convictions | 0 points |

(2) As used in this section, "prior high severity felony conviction" means a conviction for any of the following, if the conviction was entered before the sentencing offense was committed:

(a) A crime listed in offense class M2, A, B, C, or D.

(b) A felony under a law of the United States or another state corresponding to a crime listed in offense class M2, A, B, C, or D.

(c) A felony that is not listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of 10 years or more.

(d) A felony under a law of the United States or another state that does not correspond to a crime listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of 10 years or more.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007.

777.52 Prior low severity felony convictions.

Sec. 52. (1) Prior record variable 2 is prior low severity felony convictions. Score prior record variable 2 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 has 4 or more prior low severity felony convictions 30 points
- (b) The offender has 3 prior low severity felony convictions 20 points
- (c) The offender has 2 prior low severity felony convictions 10 points
- (d) The offender has 1 prior low severity felony conviction 5 points
- (e) The offender has no prior low severity felony convictions 0 points

(2) As used in this section, "prior low severity felony conviction" means a conviction for any of the following, if the conviction was entered before the sentencing offense was committed:

- (a) A crime listed in offense class E, F, G, or H.
- (b) A felony under a law of the United States or another state that corresponds to a crime listed in offense class E, F, G, or H.
- (c) A felony that is not listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of less than 10 years.
- (d) A felony under a law of the United States or another state that does not correspond to a crime listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of less than 10 years.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007.

777.53 Prior high severity juvenile adjudications.

Sec. 53. (1) Prior record variable 3 is prior high severity juvenile adjudications. Score prior record variable 3 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 has 3 or more prior high severity juvenile adjudications 50 points
- (b) The offender has 2 prior high severity juvenile adjudications 25 points
- (c) The offender has 1 prior high severity juvenile adjudication 10 points
- (d) The offender has no prior high severity juvenile adjudications 0 points

(2) As used in this section, "prior high severity juvenile adjudication" means a juvenile adjudication for conduct that would be any of the following if committed by an adult, if the order of disposition was entered before the sentencing offense was committed:

- (a) A crime listed in offense class M2, A, B, C, or D.
- (b) A felony under a law of the United States or another state corresponding to a crime listed in offense class M2, A, B, C, or D.
- (c) A felony that is not listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of 10 years or more.
- (d) A felony under a law of the United States or another state that does not correspond to a crime listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of 10 years or more.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007.

777.54 Prior low severity juvenile adjudications.

Sec. 54. (1) Prior record variable 4 is prior low severity juvenile adjudications. Score prior record variable 4 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 has 6 or more prior low severity juvenile adjudications 20 points
- (b) The offender has 5 prior low severity juvenile adjudications 15 points
- (c) The offender has 3 or 4 prior low severity juvenile adjudications 10 points
- (d) The offender has 2 prior low severity juvenile adjudications 5 points
- (e) The offender has 1 prior low severity juvenile adjudication 2 points
- (f) The offender has no prior low severity juvenile adjudications 0 points

(2) As used in this section, "prior low severity juvenile adjudication" means a juvenile adjudication for conduct that would be any of the following if committed by an adult, if the order of disposition was entered before the sentencing offense was committed:

- (a) A crime listed in offense class E, F, G, or H.
- (b) A felony under a law of the United States or another state corresponding to a crime listed in offense class E, F, G, or H.
- (c) A felony that is not listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of less than 10 years.
- (d) A felony under a law of the United States or another state that does not correspond to a crime listed in

offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of less than 10 years.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007.

777.55 Prior misdemeanor convictions or prior misdemeanor juvenile adjudications.

Sec. 55. (1) Prior record variable 5 is prior misdemeanor convictions or prior misdemeanor juvenile adjudications. Score prior record variable 5 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:

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| (a) The offender has 7 or more prior misdemeanor convictions or prior misdemeanor juvenile adjudications | 20 points |
| (b) The offender has 5 or 6 prior misdemeanor convictions or prior misdemeanor juvenile adjudications | 15 points |
| (c) The offender has 3 or 4 prior misdemeanor convictions or prior misdemeanor juvenile adjudications | 10 points |
| (d) The offender has 2 prior misdemeanor convictions or prior misdemeanor juvenile adjudications | 5 points |
| (e) The offender has 1 prior misdemeanor conviction or prior misdemeanor juvenile adjudication | 2 points |
| (f) The offender has no prior misdemeanor convictions or prior misdemeanor juvenile adjudications | 0 points |

(2) All of the following apply to scoring record variable 5:

(a) Except as provided in subdivision (b), count a prior misdemeanor conviction or prior misdemeanor juvenile adjudication only if it is an offense against a person or property, a controlled substance offense, or a weapon offense. Do not count a prior conviction used to enhance the sentencing offense to a felony.

(b) Count all prior misdemeanor convictions and prior misdemeanor juvenile adjudications for operating or attempting to operate a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive while under the influence of or impaired by alcohol, a controlled substance, or a combination of alcohol and a controlled substance. Do not count a prior conviction used to enhance the sentencing offense to a felony.

(3) As used in this section:

(a) "Prior misdemeanor conviction" means a conviction for a misdemeanor under a law of this state, a political subdivision of this state, another state, a political subdivision of another state, or the United States if the conviction was entered before the sentencing offense was committed.

(b) "Prior misdemeanor juvenile adjudication" means a juvenile adjudication for conduct that if committed by an adult would be a misdemeanor under a law of this state, a political subdivision of this state, another state, a political subdivision of another state, or the United States if the order of disposition was entered before the sentencing offense was committed.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000.

777.56 Relationship to criminal justice system.

Sec. 56. (1) Prior record variable 6 is relationship to the criminal justice system. Score prior record variable 6 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:

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| (a) The offender is a prisoner of the department of corrections or serving a sentence in jail | 20 points |
| (b) The offender is incarcerated in jail awaiting adjudication or sentencing on a conviction or probation violation | 15 points |
| (c) The offender is on parole, probation, or delayed sentence status or on bond awaiting adjudication or sentencing for a felony | 10 points |
| (d) The offender is on probation or delayed sentence status or on bond awaiting adjudication or sentencing for a misdemeanor | 5 points |
| (e) The offender has no relationship to the criminal justice system | 0 points |

(2) Score the appropriate points under this section if the offender is involved with the criminal justice system in another state or United States.

(3) As used in this section:

(a) "Delayed sentence status" includes, but is not limited to, an individual assigned or deferred under any of the following:

(i) Section 7411 of the public health code, 1978 PA 368, MCL 333.7411.

(ii) Section 1076(4) of the revised judicature act of 1961, 1961 PA 236, MCL 600.1076.

- (iii) Section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a.
- (iv) Section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430.
- (v) Sections 11 to 15 of chapter II.
- (vi) Section 4a of chapter IX.
- (b) "Prisoner of the department of corrections or serving a sentence in jail" includes an individual who is an escapee.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2004, Act 220, Eff. Jan. 1, 2005.

777.57 Subsequent or concurrent felony convictions.

Sec. 57. (1) Prior record variable 7 is subsequent or concurrent felony convictions. Score prior record variable 7 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 has 2 or more subsequent or concurrent convictions 20 points
 - (b) The offender has 1 subsequent or concurrent conviction 10 points
 - (c) The offender has no subsequent or concurrent convictions 0 points
- (2) All of the following apply to scoring record variable 7:
- (a) Score the appropriate point value if the offender was convicted of multiple felony counts or was convicted of a felony after the sentencing offense was committed.
 - (b) Do not score a felony firearm conviction in this variable.
 - (c) Do not score a concurrent felony conviction if a mandatory consecutive sentence or a consecutive sentence imposed under section 7401(3) of the public health code, 1978 PA 368, MCL 333.7401, will result from that conviction.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 227, Imd. Eff. Dec. 28, 1999;—Am. 2002, Act 666, Eff. Mar. 1, 2003.