

HOUSE BILL NO. 5590

March 14, 2024, Introduced by Reps. Tsernoglou, Neeley, Brenda Carter, Grant, O'Neal, Young, McFall, McKinney, Edwards, MacDonell, Aragona, Haadsma, Tyrone Carter, Hope, Coffia, Dievendorf, Koleszar, Rheingans, Morgan, Scott and Aiyash and referred to the Committee on Criminal Justice.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 31 of chapter XVII (MCL 777.31), as amended by
2002 PA 137.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER XVII

Sec. 31. (1) Offense variable 1 is aggravated use of a weapon.
Score offense variable 1 by determining which of the following
apply and by assigning the number of points attributable to the ~~one~~
applicable subdivision that has the highest number of points:

1 (a) A firearm was discharged
2 at or toward a human being or a
3 victim was cut or stabbed with a
4 knife or other cutting or
5 stabbing weapon..... 25 points

6 (b) A firearm was discharged
7 at or toward a companion animal
8 or a companion animal was cut or
9 stabbed with a knife or other
10 cutting or stabbing weapon..... 15 points

11 (c) ~~(b)~~The victim was
12 subjected or exposed to a harmful
13 biological ~~substance, device,~~
14 harmful biological ~~device,~~
15 **substance,** harmful chemical
16 ~~substance, device,~~ harmful
17 chemical ~~device, substance,~~
18 harmful radioactive ~~material,~~
19 **device,** harmful radioactive
20 ~~device, material,~~ incendiary
21 device, or explosive device..... 20 points

1 (d) A companion animal was
 2 subjected or exposed to a harmful
 3 biological device, harmful
 4 biological substance, harmful
 5 chemical device, harmful chemical
 6 substance, harmful radioactive
 7 device, harmful radioactive
 8 material, incendiary device, or
 9 explosive device..... 10 points

10 (e) ~~(e)~~A firearm was
 11 pointed at or toward a victim or
 12 the victim had a reasonable
 13 apprehension of an immediate
 14 battery when threatened with a
 15 knife or other cutting or
 16 stabbing weapon..... 15 points

17 (f) ~~(d)~~The victim was
 18 touched by any other type of
 19 weapon..... 10 points

20 (g) The companion animal was
 21 touched by any other type of
 22 weapon..... 5 points

23 (h) ~~(e)~~A weapon was
 24 displayed or implied..... 5 points

25 (i) ~~(f)~~No aggravated use of
 26 a weapon occurred..... 0 points

27 (2) All of the following apply to scoring offense variable 1:

28 (a) ~~Count~~**Assign points for each person or companion animal**
 29 who was placed in danger of injury or loss of life. ~~as a victim.~~

1 (b) In multiple offender cases, if 1 offender is assessed
2 points for the presence or use of a weapon, all offenders ~~shall~~
3 **must** be assessed the same number of points.

4 (c) Score 5 points if an offender used an object to suggest
5 the presence of a weapon.

6 (d) Score 5 points if an offender used a chemical irritant,
7 chemical irritant device, smoke device, or imitation harmful
8 substance or device.

9 (e) Do not score 5 points if the conviction offense is a
10 violation of section 82 or 529 of the Michigan penal code, 1931 PA
11 328, MCL 750.82 and 750.529.

12 (3) As used in this section:

13 (a) "Chemical irritant", "chemical irritant device", "harmful
14 biological ~~substance", "device"~~, "harmful biological ~~device",
15 **substance**", "harmful chemical ~~substance", "device"~~, "harmful
16 chemical ~~device", "substance"~~, "harmful radioactive ~~material",
17 **device**", "harmful radioactive ~~device", "material"~~, and "imitation
18 harmful substance or device" mean those terms as defined in section
19 200h of the Michigan penal code, 1931 PA 328, MCL 750.200h.~~~~

20 (b) "Incendiary device" includes gasoline or any other
21 flammable substance, a blowtorch, fire bomb, Molotov cocktail, or
22 other similar device.

23 Enacting section 1. This amendatory act does not take effect
24 unless Senate Bill No. ____ or House Bill No. 5588 (request no.
25 04563'23) of the 102nd Legislature is enacted into law.