

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

**777.31 Aggravated use of weapon; definitions.**

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 that has the highest number of points:

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|---|--------------|
| (a) A firearm was discharged at or toward a human being or a victim was cut or stabbed with a knife or other cutting or stabbing weapon   | 25<br>points |
| (b) The victim was subjected or exposed to a harmful biological substance, harmful biological device, harmful chemical substance, harmful chemical device, harmful radioactive material, harmful radioactive device, incendiary device, or explosive device | 20<br>points |
| (c) A firearm was pointed at or toward a victim or the victim had a reasonable apprehension of an immediate battery when threatened with a knife or other cutting or stabbing weapon  | 15<br>points |
| (d) The victim was touched by any other type of weapon  | 10<br>points |
| (e) A weapon was displayed or implied   | 5<br>points  |
| (f) No aggravated use of a weapon occurred  | 0<br>points  |

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

- (a) Count each person who was placed in danger of injury or loss of life as a victim.
- (b) In multiple offender cases, if 1 offender is assessed points for the presence or use of a weapon, all offenders shall be assessed the same number of points.
- (c) Score 5 points if an offender used an object to suggest the presence of a weapon.
- (d) Score 5 points if an offender used a chemical irritant, chemical irritant device, smoke device, or imitation harmful substance or device.
- (e) Do not score 5 points if the conviction offense is a violation of section 82 or 529 of the Michigan penal code, 1931 PA 328, MCL 750.82 and 750.529.

(3) As used in this section:

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

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

**History:** Add. 1998, Act 317, Eff. Dec. 15, 1998 ;-- Am. 1999, Act 227, Imd. Eff. Dec. 28, 1999 ;-- Am. 2001, Act 136, Imd. Eff. Oct. 23, 2001 ;-- Am. 2002, Act 137, Eff. Apr. 22, 2002