

SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 4547

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 2013 PA 24.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 CHAPTER XVII

2 Sec. 33. (1) Offense variable 3 is physical injury to a  
3 victim. Score offense variable 3 by determining which of the  
4 following apply and by assigning the number of points attributable  
5 to the one that has the highest number of points:

- |    |  |            |
|----|--|------------|
| 6  | (a) A victim was killed.....                     | 100 points |
| 7  | (b) A victim was killed.....                     | 50 points  |
| 8  | (c) Life threatening or permanent incapacitating |            |
| 9  | injury occurred to a victim.....                 | 25 points  |
| 10 | (d) Bodily injury requiring medical treatment    |            |

1 occurred to a victim..... 10 points

2 (e) Bodily injury not requiring medical treatment

3 occurred to a victim..... 5 points

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

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

6 (a) In multiple offender cases, if 1 offender is assessed  
7 points for death or physical injury, all offenders ~~shall~~**MUST** be  
8 assessed the same number of points.

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

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

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

18 (ii) The offender had an alcohol content of 0.08 grams or more  
19 per 100 milliliters of blood, per 210 liters of breath, or per 67  
20 milliliters of urine or, beginning October 1, ~~2018~~**2021**, the  
21 offender had an alcohol content of 0.10 grams or more per 100  
22 milliliters of blood, per 210 liters of breath, or per 67  
23 milliliters of urine.

24 (iii) The offender's body contained any amount of a controlled  
25 substance listed in schedule 1 under section 7212 of the public  
26 health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under  
27 that section, or a controlled substance described in section

1 7214(a) (iv) of the public health code, 1978 PA 368, MCL 333.7214.

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

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

7 Sec. 48. (1) Offense variable 18 is operator ability affected  
8 by alcohol or drugs. Score offense variable 18 by determining which  
9 of the following apply and by assigning the number of points  
10 attributable to the one that has the highest number of points:

11 (a) The offender operated a vehicle, vessel, ORV,  
12 snowmobile, aircraft, or locomotive when his or her  
13 bodily alcohol content was 0.20 grams or more per 100  
14 milliliters of blood, per 210 liters of breath, or per  
15 67 milliliters of urine..... 20 points

16 (b) The offender operated a vehicle, vessel, ORV,  
17 snowmobile, aircraft, or locomotive when his or her  
18 bodily alcohol content was 0.15 grams or more but less  
19 than 0.20 grams per 100 milliliters of blood, per 210  
20 liters of breath, or per 67 milliliters of urine..... 15 points

21 (c) The offender operated a vehicle, vessel, ORV,  
22 snowmobile, aircraft, or locomotive while the offender  
23 was under the influence of alcoholic or intoxicating  
24 liquor, a controlled substance, or a combination of  
25 alcoholic or intoxicating liquor and a controlled  
26 substance; or while the offender's body contained any  
27 amount of a controlled substance listed in schedule 1

1 under section 7212 of the public health code, 1978 PA  
 2 368, MCL 333.7212, or a rule promulgated under that  
 3 section, or a controlled substance described in section  
 4 7214(a) (iv) of the public health code, 1978 PA 368, MCL  
 5 333.7214; or while the offender had an alcohol content  
 6 of 0.08 grams or more but less than 0.15 grams per 100  
 7 milliliters of blood, per 210 liters of breath, or per  
 8 67 milliliters of urine or, beginning October 1,  
 9 ~~2018~~, **2021**, the offender had an alcohol content of 0.10  
 10 grams or more but less than 0.15 grams per 100  
 11 milliliters of blood, per 210 liters of breath, or per  
 12 67 milliliters of urine..... 10 points

13 (d) The offender operated a vehicle, vessel, ORV,  
 14 snowmobile, aircraft, or locomotive while he or she was  
 15 visibly impaired by the use of alcoholic or intoxicating  
 16 liquor or a controlled substance or a combination of  
 17 alcoholic or intoxicating liquor and a controlled  
 18 substance, or was less than 21 years of age and had any  
 19 bodily alcohol content..... 5 points

20 (e) The offender's ability to operate a vehicle,  
 21 vessel, ORV, snowmobile, aircraft, or locomotive was not  
 22 affected by an alcoholic or intoxicating liquor or a  
 23 controlled substance or a combination of alcoholic or  
 24 intoxicating liquor and a controlled substance..... 0 points

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

27 (a) An alcohol content of 0.02 grams or more but less than

1 0.08 grams per 100 milliliters of blood, per 210 liters of breath,  
2 or per 67 milliliters of urine or, beginning October 1, ~~2018,~~ **2021,**  
3 0.02 grams or more but less than 0.10 grams per 100 milliliters of  
4 blood, per 210 liters of breath, or per 67 milliliters of urine.

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

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

11 Enacting section 2. This amendatory act does not take effect  
12 unless House Bill No. 4548 of the 99th Legislature is enacted into  
13 law.