

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

777.33 Physical injury to victim; offense variable 3; scoring; "requiring medical treatment" defined.

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 attributable to the applicable subdivision that has the highest number of points:

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| (a) A victim was killed | 100 points |
| (b) A victim was killed | 50 points |
| (c) Life threatening or permanent incapacitating injury occurred to a victim | 25 points |
| (d) Bodily injury requiring medical treatment occurred to a victim | 10 points |
| (e) Bodily injury not requiring medical treatment occurred to a victim | 5 points |
| (f) No physical injury occurred to a victim | 0 points |

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

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

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

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

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

(ii) The offender had an alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning 5 years after the state treasurer publishes a certification under section 625(28) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, the offender had an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

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

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

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

History: Add. 1998, Act 317, Eff. Dec. 15, 1998 ;-- Am. 2000, Act 279, Eff. Oct. 1, 2000 ;-- Am. 2003, Act 134, Eff. Sept. 30, 2003 ;-- Am. 2013, Act 24, Imd. Eff. May 9, 2013 ;-- Am. 2017, Act 152, Eff. Feb. 6, 2018 ;-- Am. 2021, Act 81, Eff. Nov. 21, 2021 ;-- Am. 2021, Act 84, Imd. Eff. Sept. 24, 2021