

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

***** 777.43.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2009 *****

777.43.amended Continuing pattern of criminal behavior.

Sec. 43. (1) Offense variable 13 is continuing pattern of criminal behavior. Score offense variable 13 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 offense was part of a pattern of felonious criminal activity involving 3 or more sexual penetrations against a person or persons less than 13 years of age 50 points
- (b) The offense was part of a pattern of felonious criminal activity directly related to causing, encouraging, recruiting, soliciting, or coercing membership in a gang or communicating a threat with intent to deter, punish, or retaliate against another for withdrawing from a gang 25 points
- (c) The offense was part of a pattern of felonious criminal activity involving 3 or more crimes against a person 25 points
- (d) The offense was part of a pattern of felonious criminal activity involving a combination of 3 or more crimes against a person or property or a violation of section 7401(2)(a)(i) to (iii) or section 7403(2)(a)(i) to (iii) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403 10 points
- (e) The offense was part of a pattern of felonious criminal activity involving a combination of 3 or more violations of section 7401(2)(a)(i) to (iii) or section 7403(2)(a)(i) to (iii) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403 10 points
- (f) The offense was part of a pattern of felonious criminal activity involving 3 or more crimes against property 5 points
- (g) No pattern of felonious criminal activity existed 0 points

(2) All of the following apply to scoring offense variable 13:

(a) For determining the appropriate points under this variable, all crimes within a 5-year period, including the sentencing offense, shall be counted regardless of whether the offense resulted in a conviction.

(b) The presence or absence of multiple offenders, the age of the offenders, or the degree of sophistication of the organized criminal group is not as important as the fact of the group's existence, which may be reasonably inferred from the facts surrounding the sentencing offense.

(c) Except for offenses related to membership in an organized criminal group or that are gang-related, do not score conduct scored in offense variable 11 or 12.

(d) Score 50 points only if the sentencing offense is first degree criminal sexual conduct.

(e) Do not count more than 1 controlled substance offense arising out of the criminal episode for which the person is being sentenced.

(f) Do not count more than 1 crime involving the same 1 controlled substance. For example, do not count conspiracy and a substantive offense involving the same amount of controlled substances or possession and delivery of the same amount of controlled substances.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 227, Imd. Eff. Dec. 28, 1999;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2002, Act 666, Eff. Mar. 1, 2003;—Am. 2008, Act 562, Eff. Apr. 1, 2009.

Compiler's note: In subsection (2)(f), the numeral "1" was not included in the language "the same 1 controlled substance" as passed by the legislature, but was incorrectly inserted during the electronic formatting of the bill. Subsection (2)(f) should read as follows:

"(f) Do not count more than 1 crime involving the same controlled substance. For example, do not count conspiracy and a substantive offense involving the same amount of controlled substances or possession and delivery of the same amount of controlled substances."