

# HOUSE BILL NO. 5411

January 30, 2024, Introduced by Reps. Rheingans, Arbit, Dievendorf, Byrnes, Miller and MacDonell and referred to the Committee on Criminal Justice.

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 9 of chapter VI and section 16i of chapter XVII (MCL 766.9 and 777.16i), section 9 of chapter VI as amended by 1988 PA 106 and section 16i of chapter XVII as amended by 2012 PA 169.

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

1 CHAPTER VI  
2 Sec. 9. (1) Upon the motion of any party, the examining  
3 magistrate may close to members of the general public the

1 preliminary examination of a person charged with criminal sexual  
2 conduct in any degree, assault with intent to commit criminal  
3 sexual conduct, ~~sodomy, bestiality, sexual contact or sexual~~  
4 **penetration upon a human corpse**, gross indecency, or any other  
5 offense involving sexual misconduct if all of the following  
6 conditions are met:

7 (a) The magistrate determines that the need for protection of  
8 a victim, a witness, or the defendant outweighs the public's right  
9 of access to the examination.

10 (b) The denial of access to the examination is narrowly  
11 tailored to accommodate the interest being protected.

12 (c) The magistrate states on the record the specific reasons  
13 for ~~his or her~~ **the magistrate's** decision to close the examination  
14 to members of the general public.

15 (2) ~~In determining~~ **To determine** whether closure of the  
16 preliminary examination is necessary to protect a victim or  
17 witness, the magistrate ~~shall~~ **must** consider all of the following:

18 (a) The psychological condition of the victim or witness.

19 (b) The nature of the offense charged against the defendant.

20 (c) The desire of the victim or witness to have the  
21 examination closed to the public.

22 (3) The magistrate may close a preliminary examination to  
23 protect the right of a party to a fair trial only if both of the  
24 following apply:

25 (a) There is a substantial probability that the party's right  
26 to a fair trial will be prejudiced by publicity that closure would  
27 prevent.

28 (b) Reasonable alternatives to closure cannot adequately  
29 protect the party's right to a fair trial.

## CHAPTER XVII

1  
2           Sec. 16i. This chapter applies to the following felonies  
3 enumerated in chapter 750 of the Michigan Compiled Laws:

4	<b>M.C.L.</b>	<b>Category</b>	<b>Class</b>	<b>Description</b>	<b>Stat Max</b>
5	750.158	Pub ord	E	<del>Sodomy</del> <b>Bestiality or</b>	15
6				<b>sexual contact or</b>	
7				<b>sexual penetration</b>	
8				<b>upon a human corpse</b>	
9	750.159j	Pub saf	B	Racketeering	20
10	750.160	Pub ord	D	Disinterring or	10
11				mutilating dead human	
12				body	
13	750.160a	Pub ord	H	Photographing dead	2
14				human body	
15	750.160c	Pub ord	D	Improper disposal of	10
16				dead human body after	
17				more than 180 days	
18	750.161	Pub ord	G	Desertion,	3
19				abandonment, or	
20				nonsupport	
21	750.164	Pub ord	F	Desertion to escape	4
22				prosecution	
23	750.165	Pub ord	F	Failing to pay support	4
24	750.168(2) (a)	Pub ord	G	Disorderly conduct at	2
25				a funeral, memorial	
26				service, viewing,	
27				procession, or burial	

1	750.168(2)(b)	Pub ord	F	Disorderly conduct at	4
2				a funeral, memorial	
3				service, viewing,	
4				procession, or burial	
5				– subsequent offense	
6	750.174(4)	Property	E	Embezzlement by agent	5
7				of \$1,000 to \$20,000,	
8				or with prior	
9				convictions, or of	
10				\$200 to \$1,000 from	
11				nonprofit corporation	
12				or charitable	
13				organization	
14	750.174(5)	Property	D	Embezzlement by agent	10
15				of \$20,000 to \$50,000,	
16				or with prior	
17				convictions, or of	
18				\$1,000 to \$20,000 from	
19				nonprofit corporation	
20				or charitable	
21				organization	
22	750.174(6)	Property	C	Embezzlement by agent	15
23				of \$50,000 to \$100,000	
24	750.174(7)	Property	B	Embezzlement by agent	20
25				of \$100,000 or more	
26	750.174a(4)	Property	E	Embezzlement from	5
27				vulnerable adult of	
28				\$1,000 to \$20,000 or	
29				with prior convictions	

1	750.174a (5)	Property	D	Embezzlement from	10
2				vulnerable adult of	
3				\$20,000 to \$50,000 or	
4				with prior convictions	
5	750.174a (6)	Property	C	Embezzlement from	15
6				vulnerable adult of	
7				\$50,000 to \$100,000 or	
8				with prior convictions	
9	750.174a (7)	Property	B	Embezzlement from	20
10				vulnerable adult of	
11				\$100,000 or more or	
12				with prior convictions	
13	750.175	Pub trst	D	Embezzlement by public	10
14				officer of more than	
15				\$50	
16	750.176	Pub trst	E	Embezzlement by	10
17				administrator,	
18				executor, or guardian	
19	750.177 (2)	Property	D	Embezzlement by	10
20				chattel mortgagor of	
21				\$20,000 or more or	
22				with prior convictions	
23	750.177 (3)	Property	E	Embezzlement by	5
24				chattel mortgagor of	
25				\$1,000 to \$20,000 or	
26				with prior convictions	

1	750.178(2)	Property	D	Embezzling mortgaged	10
2				or leased property of	
3				\$20,000 or with prior	
4				convictions	
5	750.178(3)	Property	E	Embezzling mortgaged	5
6				or leased property of	
7				\$1,000 to \$20,000 or	
8				with prior convictions	
9	750.180	Property	D	Embezzlement by	20
10				financial institution	
11	750.181(4)	Property	E	Embezzling jointly	5
12				held property with	
13				value of \$1,000 to	
14				\$20,000 or with prior	
15				convictions	
16	750.181(5)	Property	D	Embezzling jointly	10
17				held property with	
18				value of \$20,000 or	
19				more or with prior	
20				convictions	
21	750.182	Property	G	Embezzlement by	4
22				warehouses	
23	750.182a	Pub trst	H	Falsifying school	2
24				records	

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

27           Enacting section 2. This amendatory act does not take effect  
28 unless Senate Bill No.\_\_\_\_ or House Bill No. 5410 (request no.  
29 04459'23) of the 102nd Legislature is enacted into law.