

HOUSE BILL No. 4772

June 16, 2011, Introduced by Reps. McMillin, Callton, Olson, Lori and Denby and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
(MCL 750.1 to 750.568) by adding section 411w.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 411W. (1) AN INDIVIDUAL WHO IS CHARGED WITH THE
2 RESPONSIBILITY OF SEARCHING OTHER INDIVIDUALS FOR ENTRY ONTO ANY
3 PUBLIC PROPERTY OR ANY MODE OF PUBLIC TRANSPORTATION SHALL NOT
4 INTENTIONALLY TOUCH THE CLOTHED OR UNCLOTHED BREAST, GENITALIA,
5 BUTTOCKS, OR ANUS OF THAT OTHER INDIVIDUAL EXCEPT UPON REASONABLE
6 CAUSE TO BELIEVE THAT THE INDIVIDUAL MAY BE CONCEALING AN ITEM THAT
7 IS PROHIBITED ON THAT PUBLIC PROPERTY OR ON THAT MODE OF PUBLIC
8 TRANSPORTATION. A SEARCH CONDUCTED UNDER THIS SUBSECTION SHALL BE
9 CONDUCTED IN COMPLIANCE WITH THE LAWS OF THIS STATE OR OF THE
10 UNITED STATES, AS APPLICABLE, AND AS AUTHORIZED BY THE RULES OF THE
11 AGENCY OR ENTITY OWNING THE PUBLIC PROPERTY OR MODE OF PUBLIC

1 TRANSPORTATION AND OF THE ENTITY EMPLOYING THAT INDIVIDUAL.

2 (2) NOTWITHSTANDING SUBSECTION (1), AN INDIVIDUAL WHO IS
3 CHARGED WITH THE RESPONSIBILITY OF SEARCHING OTHER INDIVIDUALS FOR
4 ENTRY ONTO ANY PUBLIC PROPERTY OR ANY MODE OF PUBLIC TRANSPORTATION
5 SHALL NOT INTENTIONALLY TOUCH THE CLOTHED OR UNCLOTHED BREAST,
6 GENITALIA, BUTTOCKS, OR ANUS OF THAT OTHER INDIVIDUAL UNDER THE
7 PRETEXT OF A SEARCH, OR WITH THE INTENT TO INTIMIDATE, FRIGHTEN, OR
8 HARASS THAT OTHER INDIVIDUAL, OR IN A MANNER THAT A REASONABLE
9 PERSON TRAINED TO CONDUCT SEARCHES FOR ENTRY ONTO PUBLIC PROPERTY
10 OR THAT MODE OF PUBLIC TRANSPORTATION WOULD FIND TO BE
11 INAPPROPRIATE UNDER THE CIRCUMSTANCES.

12 (3) AN INDIVIDUAL WHO VIOLATES SUBSECTION (1) IS GUILTY OF A
13 CRIME AS FOLLOWS:

14 (A) EXCEPT AS PROVIDED IN SUBDIVISION (B), THE INDIVIDUAL IS
15 GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE
16 THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00, OR BOTH.

17 (B) IF THE PERSON HAS PREVIOUSLY BEEN CONVICTED OF VIOLATING
18 THIS SECTION, THE PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY
19 IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN
20 \$1,000.00, OR BOTH.

21 (4) AN INDIVIDUAL WHO VIOLATES SUBSECTION (2) IS GUILTY OF A
22 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR
23 A FINE OF NOT MORE THAN \$1,000.00, OR BOTH.

24 (5) AS USED IN THIS SECTION:

25 (A) "PUBLIC MODE OF TRANSPORTATION" MEANS ANY MODE OF
26 TRANSPORTATION INCLUDING, BUT NOT LIMITED TO, ANY AIRCRAFT, TRAIN,
27 OR BUS USED TO TRANSPORT MEMBERS OF THE PUBLIC FOR A FEE.

1 (B) "PUBLIC PROPERTY" MEANS ANY PROPERTY THAT IS OWNED OR
2 LEASED BY THE UNITED STATES, THIS STATE, OR A POLITICAL SUBDIVISION
3 OF THIS STATE THAT IS AVAILABLE FOR USE BY THE PUBLIC, REGARDLESS
4 OF WHETHER A FEE IS CHARGED FOR ACCESS.