

SENATE BILL No. 975

May 19, 2016, Introduced by Senators MACGREGOR, PROOS, SHIRKEY, COLBECK and JONES and referred to the Committee on Michigan Competitiveness.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 1 of chapter I (MCL 761.1), as amended by 2007
PA 20.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER I

2 Sec. 1. As used in this act:

3 ~~_____ (a) "Person", "accused", or a similar word means an individual~~
4 ~~er, unless a contrary intention appears, a public or private~~
5 ~~corporation, partnership, or unincorporated or voluntary~~
6 ~~association.~~

7 ~~_____ (b) "Act" or "doing of an act" includes "omission to act".~~

8 ~~_____ (c) "Property" includes any matter or thing upon or in respect~~

1 ~~to which an offense may be committed.~~

2 ~~—— (d) "Indictment" means 1 or more of the following:~~

3 ~~—— (i) An indictment.~~

4 ~~—— (ii) An information.~~

5 ~~—— (iii) A presentment.~~

6 ~~—— (iv) A complaint.~~

7 ~~—— (v) A warrant.~~

8 ~~—— (vi) A formal written accusation.~~

9 ~~—— (vii) Unless a contrary intention appears, a count contained~~
10 ~~in any document described in subparagraphs (i) through (vi).~~

11 ~~—— (e) "Writing", "written", or a similar term refers to words~~
12 ~~printed, painted, engraved, lithographed, photographed, copied,~~
13 ~~traced, or otherwise made visible to the eye.~~

14 ~~—— (f) "Magistrate" means a judge of the district court or a~~
15 ~~judge of a municipal court. Magistrate does not include a district~~
16 ~~court magistrate, except that a district court magistrate may~~
17 ~~exercise the powers, jurisdiction, and duties of a magistrate if~~
18 ~~specifically provided in this act, the revised judicature act of~~
19 ~~1961, 1961 PA 236, MCL 600.101 to 600.9947, or any other statute.~~
20 ~~This definition does not limit the power of a justice of the~~
21 ~~supreme court, a circuit judge, or a judge of a court of record~~
22 ~~having jurisdiction of criminal cases under this act, or deprive~~
23 ~~him or her of the power to exercise the authority of a magistrate.~~

24 ~~—— (g) "Felony" means a violation of a penal law of this state~~
25 ~~for which the offender, upon conviction, may be punished by death~~
26 ~~or by imprisonment for more than 1 year or an offense expressly~~
27 ~~designated by law to be a felony.~~

1 ~~—— (h) "Misdemeanor" means a violation of a penal law of this~~
2 ~~state that is not a felony or a violation of an order, rule, or~~
3 ~~regulation of a state agency that is punishable by imprisonment or~~
4 ~~a fine that is not a civil fine.~~

5 ~~—— (j) "Ordinance violation" means either of the following:~~

6 ~~—— (i) A violation of an ordinance or charter of a city, village,~~
7 ~~township, or county that is punishable by imprisonment or a fine~~
8 ~~that is not a civil fine.~~

9 ~~—— (ii) A violation of an ordinance, rule, or regulation of any~~
10 ~~other governmental entity authorized by law to enact ordinances,~~
11 ~~rules, or regulations that is punishable by imprisonment or a fine~~
12 ~~that is not a civil fine.~~

13 ~~—— (k) "Minor offense" means a misdemeanor or ordinance violation~~
14 ~~for which the maximum permissible imprisonment does not exceed 92~~
15 ~~days and the maximum permissible fine does not exceed \$1,000.00.~~

16 ~~—— (l) "Prosecuting attorney" means the prosecuting attorney for~~
17 ~~a county, an assistant prosecuting attorney for a county, the~~
18 ~~attorney general, the deputy attorney general, an assistant~~
19 ~~attorney general, a special prosecuting attorney, or, in connection~~
20 ~~with the prosecution of an ordinance violation, an attorney for the~~
21 ~~political subdivision or governmental entity that enacted the~~
22 ~~ordinance, charter, rule, or regulation upon which the ordinance~~
23 ~~violation is based.~~

24 ~~—— (m) "Judicial district" means the following:~~

25 ~~—— (i) With regard to the circuit court, the county.~~

26 ~~—— (ii) With regard to municipal courts, the city in which the~~
27 ~~municipal court functions or the village served by a municipal~~

~~court under section 9928 of the revised judicature act of 1961,
1961 PA 236, MCL 600.9928.~~

~~—— (iii) With regard to the district court, the county, district,
or political subdivision in which venue is proper for criminal
actions.~~

~~—— (n) "Complaint" means a written accusation, under oath or upon
affirmation, that a felony, misdemeanor, or ordinance violation has
been committed and that the person named or described in the
accusation is guilty of the offense.~~

~~—— (o) "Clerk" means the clerk or a deputy clerk of the court.~~

~~—— (p) "Federal law enforcement officer" means an officer or
agent employed by a law enforcement agency of the United States
government whose primary responsibility is enforcing laws of the
United States.~~

~~—— (q) "Jail", "prison", or a similar word includes a juvenile
facility in which a juvenile has been placed pending trial under
section 27a of chapter IV.~~

~~—— (r) "Juvenile" means a person within the jurisdiction of the
circuit court under section 606 of the revised judicature act of
1961, 1961 PA 236, MCL 600.606.~~

~~—— (s) "Juvenile facility" means a county facility, institution
operated as an agency of the county or family division of circuit
court, or an institution or agency described in the youth
rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309,
to which a juvenile has been committed under section 27a of chapter
IV.~~

~~—— (t) "County juvenile agency" means that term as defined in~~

~~section 2 of the county juvenile agency act, 1998 PA 518, MCL
45.622.~~

~~—— (u) "Taken", "brought", or "before" a magistrate or judge for
purposes of criminal arraignment or the setting of bail means
either of the following:~~

~~—— (i) Physical presence before a judge or district court
magistrate.~~

~~—— (ii) Presence before a judge or district court magistrate by
use of 2 way interactive video technology.~~

(A) "ACT" OR "DOING OF AN ACT" INCLUDES AN OMISSION TO ACT.

(B) "CLERK" MEANS THE CLERK OR A DEPUTY CLERK OF THE COURT.

(C) "COMPLAINT" MEANS A WRITTEN ACCUSATION, UNDER OATH OR UPON
AFFIRMATION, THAT A FELONY, MISDEMEANOR, OR ORDINANCE VIOLATION HAS
BEEN COMMITTED AND THAT THE PERSON NAMED OR DESCRIBED IN THE
ACCUSATION IS GUILTY OF THE OFFENSE.

(D) "COUNTY JUVENILE AGENCY" MEANS THAT TERM AS DEFINED IN
SECTION 2 OF THE COUNTY JUVENILE AGENCY ACT, 1998 PA 518, MCL
45.622.

(E) "FEDERAL LAW ENFORCEMENT OFFICER" MEANS AN OFFICER OR
AGENT EMPLOYED BY A LAW ENFORCEMENT AGENCY OF THE UNITED STATES
GOVERNMENT WHOSE PRIMARY RESPONSIBILITY IS ENFORCING LAWS OF THE
UNITED STATES.

(F) "FELONY" MEANS A VIOLATION OF A PENAL LAW OF THIS STATE
FOR WHICH THE OFFENDER, UPON CONVICTION, MAY BE PUNISHED BY
IMPRISONMENT FOR MORE THAN 1 YEAR OR AN OFFENSE EXPRESSLY
DESIGNATED BY LAW TO BE A FELONY.

(G) "INDICTMENT" MEANS 1 OR MORE OF THE FOLLOWING:

1 (i) AN INDICTMENT.

2 (ii) AN INFORMATION.

3 (iii) A PRESENTMENT.

4 (iv) A COMPLAINT.

5 (v) A WARRANT.

6 (vi) A FORMAL WRITTEN ACCUSATION.

7 (vii) UNLESS A CONTRARY INTENTION APPEARS, A COUNT CONTAINED
8 IN ANY DOCUMENT DESCRIBED IN SUBPARAGRAPHS (i) THROUGH (vi).

9 (H) "JAIL", "PRISON", OR A SIMILAR WORD INCLUDES A JUVENILE
10 FACILITY IN WHICH A JUVENILE HAS BEEN PLACED PENDING TRIAL UNDER
11 SECTION 27A OF CHAPTER IV.

12 (I) "JUDICIAL DISTRICT" MEANS THE FOLLOWING:

13 (i) WITH REGARD TO THE CIRCUIT COURT, THE COUNTY.

14 (ii) WITH REGARD TO MUNICIPAL COURTS, THE CITY IN WHICH THE
15 MUNICIPAL COURT FUNCTIONS OR THE VILLAGE SERVED BY A MUNICIPAL
16 COURT UNDER SECTION 9928 OF THE REVISED JUDICATURE ACT OF 1961,
17 1961 PA 236, MCL 600.9928.

18 (iii) WITH REGARD TO THE DISTRICT COURT, THE COUNTY, DISTRICT,
19 OR POLITICAL SUBDIVISION IN WHICH VENUE IS PROPER FOR CRIMINAL
20 ACTIONS.

21 (J) "JUVENILE" MEANS A PERSON WITHIN THE JURISDICTION OF THE
22 CIRCUIT COURT UNDER SECTION 606 OF THE REVISED JUDICATURE ACT OF
23 1961, 1961 PA 236, MCL 600.606.

24 (K) "JUVENILE FACILITY" MEANS A COUNTY FACILITY, AN
25 INSTITUTION OPERATED AS AN AGENCY OF THE COUNTY OR FAMILY DIVISION
26 OF THE CIRCUIT COURT, OR AN INSTITUTION OR AGENCY DESCRIBED IN THE
27 YOUTH REHABILITATION SERVICES ACT, 1974 PA 150, MCL 803.301 TO

1 803.309, TO WHICH A JUVENILE HAS BEEN COMMITTED UNDER SECTION 27A
2 OF CHAPTER IV.

3 (I) "MAGISTRATE" MEANS A JUDGE OF THE DISTRICT COURT OR A
4 JUDGE OF A MUNICIPAL COURT. MAGISTRATE DOES NOT INCLUDE A DISTRICT
5 COURT MAGISTRATE, EXCEPT THAT A DISTRICT COURT MAGISTRATE MAY
6 EXERCISE THE POWERS, JURISDICTION, AND DUTIES OF A MAGISTRATE IF
7 SPECIFICALLY PROVIDED IN THIS ACT, THE REVISED JUDICATURE ACT OF
8 1961, 1961 PA 236, MCL 600.101 TO 600.9947, OR ANY OTHER STATUTE.
9 THIS DEFINITION DOES NOT LIMIT THE POWER OF A JUSTICE OF THE
10 SUPREME COURT, A CIRCUIT JUDGE, OR A JUDGE OF A COURT OF RECORD
11 HAVING JURISDICTION OF CRIMINAL CASES UNDER THIS ACT, OR DEPRIVE
12 HIM OR HER OF THE POWER TO EXERCISE THE AUTHORITY OF A MAGISTRATE.

13 (M) "MINOR OFFENSE" MEANS A MISDEMEANOR OR ORDINANCE VIOLATION
14 FOR WHICH THE MAXIMUM PERMISSIBLE IMPRISONMENT DOES NOT EXCEED 92
15 DAYS AND THE MAXIMUM PERMISSIBLE FINE DOES NOT EXCEED \$1,000.00.

16 (N) "MISDEMEANOR" MEANS A VIOLATION OF A PENAL LAW OF THIS
17 STATE THAT IS NOT A FELONY OR A VIOLATION OF AN ORDER, RULE, OR
18 REGULATION OF A STATE AGENCY THAT IS PUNISHABLE BY IMPRISONMENT OR
19 A FINE THAT IS NOT A CIVIL FINE.

20 (O) "ORDINANCE VIOLATION" MEANS EITHER OF THE FOLLOWING:

21 (i) A VIOLATION OF AN ORDINANCE OR CHARTER OF A CITY, VILLAGE,
22 TOWNSHIP, OR COUNTY THAT IS PUNISHABLE BY IMPRISONMENT OR A FINE
23 THAT IS NOT A CIVIL FINE.

24 (ii) A VIOLATION OF AN ORDINANCE, RULE, OR REGULATION OF ANY
25 OTHER GOVERNMENTAL ENTITY AUTHORIZED BY LAW TO ENACT ORDINANCES,
26 RULES, OR REGULATIONS THAT IS PUNISHABLE BY IMPRISONMENT OR A FINE
27 THAT IS NOT A CIVIL FINE.

1 (P) "PERSON", "ACCUSED", OR A SIMILAR WORD MEANS AN INDIVIDUAL
2 OR, UNLESS A CONTRARY INTENTION APPEARS, A PUBLIC OR PRIVATE
3 CORPORATION, PARTNERSHIP, OR UNINCORPORATED OR VOLUNTARY
4 ASSOCIATION.

5 (Q) "PROPERTY" INCLUDES ANY MATTER OR THING UPON OR IN RESPECT
6 TO WHICH AN OFFENSE MAY BE COMMITTED.

7 (R) "PROSECUTING ATTORNEY" MEANS THE PROSECUTING ATTORNEY FOR
8 A COUNTY, AN ASSISTANT PROSECUTING ATTORNEY FOR A COUNTY, THE
9 ATTORNEY GENERAL, THE DEPUTY ATTORNEY GENERAL, AN ASSISTANT
10 ATTORNEY GENERAL, A SPECIAL PROSECUTING ATTORNEY, OR, IN CONNECTION
11 WITH THE PROSECUTION OF AN ORDINANCE VIOLATION, AN ATTORNEY FOR THE
12 POLITICAL SUBDIVISION OR GOVERNMENTAL ENTITY THAT ENACTED THE
13 ORDINANCE, CHARTER, RULE, OR REGULATION UPON WHICH THE ORDINANCE
14 VIOLATION IS BASED.

15 (S) "RECIDIVISM" MEANS THE REARREST, RECONVICTION, AND
16 REINCARCERATION IN PRISON OR JAIL OF AN INDIVIDUAL WITHIN 3 AND 5
17 YEARS OF HIS OR HER RELEASE FROM INCARCERATION, PLACEMENT ON
18 PROBATION, OR CONVICTION, WHICHEVER IS LATER, AND PROBATION AND
19 PAROLE VIOLATIONS AS WELL AS MISDEMEANOR AND FELONY CONVICTIONS, IF
20 RECIDIVISM DATA REGARDING TECHNICAL PROBATION AND PAROLE VIOLATIONS
21 ARE COLLECTED AND MAINTAINED SEPARATELY FROM DATA ON NEW FELONY OR
22 MISDEMEANOR CONVICTIONS.

23 (T) "TAKEN", "BROUGHT", OR "BEFORE" A MAGISTRATE OR JUDGE FOR
24 PURPOSES OF CRIMINAL ARRAIGNMENT OR THE SETTING OF BAIL MEANS
25 EITHER OF THE FOLLOWING:

26 (i) PHYSICAL PRESENCE BEFORE A JUDGE OR DISTRICT COURT
27 MAGISTRATE.

1 (ii) PRESENCE BEFORE A JUDGE OR DISTRICT COURT MAGISTRATE BY
2 USE OF 2-WAY INTERACTIVE VIDEO TECHNOLOGY.

3 (U) "WRITING", "WRITTEN", OR A SIMILAR TERM REFERS TO WORDS
4 PRINTED, PAINTED, ENGRAVED, LITHOGRAPHED, PHOTOGRAPHED, COPIED,
5 TRACED, OR OTHERWISE MADE VISIBLE TO THE EYE.

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