

**SUBSTITUTE FOR
SENATE BILL NO. 1164**

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 1 of chapter I and section 7 of chapter XVI
(MCL 761.1 and 776.7), section 1 of chapter I as amended by 2017 PA
2, and by adding section 1h to chapter IV.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER I

Sec. 1. As used in this act:

(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~~
on affirmation, that a felony, misdemeanor, or ordinance violation
has been committed and that the person named or described in the

1 accusation is guilty of the offense.

2 (d) "County juvenile agency" means that term as defined in
3 section 2 of the county juvenile agency act, 1998 PA 518, MCL
4 45.622.

5 (e) "Federal law enforcement officer" means an officer or
6 agent employed by a law enforcement agency of the United States
7 government whose primary responsibility is enforcing laws of the
8 United States.

9 (f) "Felony" means a violation of a penal law of this state
10 for which the offender, ~~upon~~**on** conviction, may be punished by
11 imprisonment for more than 1 year or an offense expressly
12 designated by law to be a felony.

13 (g) "Indictment" means 1 or more of the following:

14 (i) An indictment.

15 (ii) An information.

16 (iii) A presentment.

17 (iv) A complaint.

18 (v) A warrant.

19 (vi) A formal written accusation.

20 (vii) Unless a contrary intention appears, a count contained in
21 any document described in subparagraphs (i) through (vi).

22 (h) "Jail", "prison", or a similar word includes a juvenile
23 facility in which a juvenile has been placed pending trial under
24 section 27a of chapter IV.

25 (i) "Judicial district" means the following:

26 (i) With regard to the circuit court, the county.

27 (ii) With regard to municipal courts, the city in which the
28 municipal court functions or the village served by a municipal
29 court under section 9928 of the revised judicature act of 1961,

1 1961 PA 236, MCL 600.9928.

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

5 (j) "Juvenile" means a person within the jurisdiction of the
6 circuit court under section 606 of the revised judicature act of
7 1961, 1961 PA 236, MCL 600.606.

8 (k) "Juvenile facility" means a county facility, an
9 institution operated as an agency of the county or family division
10 of the circuit court, or an institution or agency described in the
11 youth rehabilitation services act, 1974 PA 150, MCL 803.301 to
12 803.309, to which a juvenile has been committed under section 27a
13 of chapter IV.

14 (l) **"Legally protected health activity" means seeking,**
15 **providing, receiving, or referring for reproductive health**
16 **services; assisting in seeking, providing, or receiving**
17 **reproductive health services; providing material support for**
18 **traveling to receive reproductive health services; or other similar**
19 **conduct, that is not unlawful in this state, including under any**
20 **theory of vicarious, joint, several, or conspiracy liability, to**
21 **the extent the activity is not in violation of the state**
22 **constitution of 1963 or other law of this state, and if the**
23 **provider is physically present in this state.**

24 (m) ~~(l)~~ "Magistrate" means a judge of the district court or a
25 judge of a municipal court. Magistrate does not include a district
26 court magistrate, except that a district court magistrate may
27 exercise the powers, jurisdiction, and duties of a magistrate if
28 specifically provided in this act, the revised judicature act of
29 1961, 1961 PA 236, MCL 600.101 to 600.9947, or any other statute.

1 This definition does not limit the power of a justice of the
2 supreme court, a circuit judge, or a judge of a court of record
3 having jurisdiction of criminal cases under this act, or deprive
4 ~~him or her~~ **the justice or judge** of the power to exercise the
5 authority of a magistrate.

6 **(n)** ~~(m)~~ "Minor offense" means a misdemeanor or ordinance
7 violation for which the maximum permissible imprisonment does not
8 exceed 92 days and the maximum permissible fine does not exceed
9 \$1,000.00.

10 **(o)** ~~(n)~~ "Misdemeanor" means a violation of a penal law of this
11 state that is not a felony or a violation of an order, rule, or
12 regulation of a state agency that is punishable by imprisonment or
13 a fine that is not a civil fine.

14 **(p)** ~~(o)~~ "Ordinance violation" means either of the following:

15 (i) A violation of an ordinance or charter of a city, village,
16 township, or county that is punishable by imprisonment or a fine
17 that is not a civil fine.

18 (ii) A violation of an ordinance, rule, or regulation of any
19 other governmental entity authorized by law to enact ordinances,
20 rules, or regulations that is punishable by imprisonment or a fine
21 that is not a civil fine.

22 **(q)** ~~(p)~~ "Person", "accused", or a similar word means an
23 individual or, unless a contrary intention appears, a public or
24 private corporation, partnership, or unincorporated or voluntary
25 association.

26 **(r)** ~~(q)~~ "Property" includes any matter or thing ~~upon~~ **on** or in
27 respect to which an offense may be committed.

28 **(s)** ~~(r)~~ "Prosecuting attorney" means the prosecuting attorney
29 for a county, an assistant prosecuting attorney for a county, the

1 attorney general, the deputy attorney general, an assistant
 2 attorney general, a special prosecuting attorney, or, in connection
 3 with the prosecution of an ordinance violation, an attorney for the
 4 political subdivision or governmental entity that enacted the
 5 ordinance, charter, rule, or regulation ~~upon~~**on** which the ordinance
 6 violation is based.

7 **(t)** ~~(s)~~—"Recidivism" means any rearrest, reconviction, or
 8 reincarceration in prison or jail for a felony or misdemeanor
 9 offense or a probation or parole violation of an individual as
 10 measured first after 3 years and again after 5 years from the date
 11 of ~~his or her~~**the individual's** release from incarceration,
 12 placement on probation, or conviction, whichever is later.

13 **(u)** "Reproductive health services" means all services, care,
 14 or products of a medical, surgical, psychiatric, therapeutic,
 15 diagnostic, mental health, behavioral health, preventative,
 16 rehabilitative, supportive, consultative, referral, prescribing, or
 17 dispensing nature relating to the human reproductive system,
 18 including, but not limited to, endocrine health care, provided in
 19 accordance with the state constitution of 1963 and the laws of this
 20 state, whether provided in person or by means of telehealth or
 21 telehealth services, which includes, but is not limited to, all
 22 services, care, and products relating to pregnancy, assisted
 23 reproduction, contraception, miscarriage management or the
 24 termination of a pregnancy, and self-managed terminations.

25 **(v)** ~~(t)~~—"Taken", "brought", or "before" a magistrate or judge
 26 for purposes of criminal arraignment or the setting of bail means
 27 either of the following:

28 (i) Physical presence before a judge or district court
 29 magistrate.

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

3 (w) ~~(u)~~—"Technical parole violation" means a violation of the
4 terms of a parolee's parole order that is not a violation of a law
5 of this state, a political subdivision of this state, another
6 state, or the United States or of tribal law.

7 (x) ~~(v)~~—"Technical probation violation" means a violation of
8 the terms of a probationer's probation order that is not a
9 violation of a law of this state, a political subdivision of this
10 state, another state, or the United States or of tribal law.

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

14 CHAPTER IV

15 **Sec. 1h. (1) A law enforcement officer or a peace officer**
16 **shall not arrest any person for performing a legally protected**
17 **health activity.**

18 **(2) A law enforcement agency of this state or any political**
19 **subdivision of this state shall not cooperate with, assist in, or**
20 **provide information to any out-of-state law enforcement agency**
21 **regarding an investigation into a legally protected health**
22 **activity.**

23 CHAPTER XVI

24 **Sec. 7. (1) ~~Whenever~~ Subject to subsection (3), if** a demand
25 **~~shall be~~ is** made ~~upon~~ **on** the governor of this state by the governor
26 of any other state or territory in any case authorized by the
27 constitution and laws of the United States for the delivery over of
28 ~~any person~~ **an alleged fugitive** charged in ~~such~~ **the other** state or
29 territory with treason, ~~felony~~ or any other crime and there ~~shall~~

1 ~~be is~~ produced with ~~such the~~ demand a copy of the indictment found
 2 or information filed, or affidavit or complaint made before a
 3 magistrate of the **other** state or territory demanding, charging the
 4 ~~person so demanded~~ **alleged fugitive** with having committed treason ,
 5 ~~felony,~~ or other crime within ~~such the~~ state or territory, duly
 6 certified as authentic by the governor or chief magistrate of the
 7 **other** state or territory from ~~whence where~~ the ~~person so charged~~
 8 **alleged fugitive** fled, with due proof of the fleeing, it ~~shall be~~
 9 **is** the duty of the governor of this state to issue an order or
 10 warrant to the sheriff of the county in which ~~such person so~~
 11 ~~charged the~~ **alleged fugitive** may be found, commanding ~~him to~~
 12 ~~forthwith the~~ **sheriff to** arrest ~~such the~~ alleged fugitive and to
 13 deliver ~~him the~~ **alleged fugitive** to the duly authorized agent
 14 appointed by the executive authority making ~~such the~~ demand to
 15 receive ~~him the~~ **alleged fugitive** and ~~remove him~~ **take the alleged**
 16 **fugitive** to the proper ~~place~~ **location** for prosecution.

17 (2) ~~But the~~ **The** sheriff, while the alleged fugitive is in ~~his~~
 18 **the sheriff's** custody and before delivering ~~him up the~~ **alleged**
 19 **fugitive** to the agent of the demanding state, shall afford ~~him the~~
 20 **alleged fugitive** every facility to enable ~~him the~~ **alleged fugitive**
 21 to have a judicial examination if ~~he the~~ **alleged fugitive** desires
 22 it, by habeas corpus or otherwise, to ascertain whether the demand
 23 and arrest have been made ~~conformably to~~ **in conformity with** the
 24 requirements of law. ~~so that such person if he ought not to be~~
 25 ~~delivered may be duly discharged, and the~~ **If the demand and arrest**
 26 **have not been made in conformity with the requirements of law, the**
 27 **alleged fugitive may be discharged.** The attorney general, ~~when if~~
 28 required by the governor, shall ~~forthwith~~ investigate the grounds
 29 of **a** demand and report to the governor all material facts , ~~which~~

1 ~~may come to his knowledge,~~ as to the situation and circumstances of
2 the ~~person so demanded,~~ and especially whether he **alleged fugitive,**
3 **including both of the following:**

4 **(a) Whether or not the alleged fugitive** is held in custody or
5 is under recognizance to answer for any offense against the laws of
6 this state, or of the United States or by virtue of any civil
7 process. ~~, and also whether such~~

8 **(b) Whether or not the** demand was made ~~conformably to in~~
9 **conformity with the** law, ~~so that such person ought not to be~~
10 ~~delivered up.~~ **and, if the demand was not made in conformity with**
11 **the law, whether or not the alleged fugitive should be delivered to**
12 **the other state or territory.**

13 **(3) Except as required by federal law, no demand for the**
14 **extradition of a person charged with a legally protected health**
15 **activity may be recognized by the governor unless the executive**
16 **authority of the demanding state alleges in writing that the**
17 **alleged fugitive was physically present in the demanding state at**
18 **the time of the commission of the alleged crime and that thereafter**
19 **the alleged fugitive fled from that state.**

20 Enacting section 1. This amendatory act does not take effect
21 unless Senate Bill No. 1163 of the 102nd Legislature is enacted
22 into law.