



# SENATE BILL No. 243

February 7, 1995, Introduced by Senator BYRUM and referred to the Committee on Judiciary.

A bill to amend section 9 of chapter VI of Act No. 175 of the Public Acts of 1927, entitled as amended "The code of criminal procedure," as amended by Act No. 106 of the Public Acts of 1988, being section 766.9 of the Michigan Compiled Laws.

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

1 Section 1. Section 9 of chapter VI of Act No. 175 of the  
2 Public Acts of 1927, as amended by Act No. 106 of the Public Acts  
3 of 1988, being section 766.9 of the Michigan Compiled Laws, is  
4 amended to read as follows:

5 CHAPTER VI

6 Sec. 9. (1) Upon the motion of any party, the examining  
7 magistrate may close to members of the general public the  
8 preliminary examination of a person charged with AGGRAVATED  
9 STALKING, OR criminal sexual conduct in any degree, assault with

1 intent to commit criminal sexual conduct, sodomy, gross  
2 indecency, or any other offense involving sexual misconduct if  
3 all of the following conditions are met:

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

7 (b) The denial of access to the examination is narrowly tai-  
8 lored to accommodate the interest being protected.

9 (c) The magistrate states on the record the specific reasons  
10 for his or her decision to close the examination to members of  
11 the general public.

12 (2) In determining whether closure of the preliminary exami-  
13 nation is necessary to protect a victim or witness, the magis-  
14 trate shall consider all of the following:

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

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

18 (c) The desire of the victim or witness to have the examina-  
19 tion closed to the public.

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

23 (a) There is a substantial probability that the party's  
24 right to a fair trial will be prejudiced by publicity that clo-  
25 sure would prevent.

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