SUBSTITUTE FOR HOUSE BILL NO. 5199

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending sections 9 and 9a of chapter X (MCL 770.9 and
770.9a), section 9a as amended by 2002 PA 483, and by adding section 9b to chapter X.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 CHAPTER X
- 2 Sec. 9. During the pendency of an appeal or application for
- 3 leave to appeal, a justice or judge of the court in which the
- 4 appeal or application is filed may admit the defendant to bail,
- 5 if the offense charged is bailable and if the offense is not an
- 6 assaultive crime as defined in section 9a of this chapter or
- 7 sexual assault of a minor as described in section 9b of this
- 8 chapter.
- 9 Sec. 9a. (1) A defendant convicted of an assaultive crime

- 1 and awaiting sentence shall be detained and shall not be admitted
- 2 to bail unless the trial court finds by clear and convincing
- 3 evidence that the defendant is not likely to pose a danger to
- 4 other persons and that section 9b of this chapter does not
- 5 apply.
- 6 (2) A defendant convicted of an assaultive crime and
- 7 sentenced to a term of imprisonment who has filed an appeal or an
- 8 application for leave to appeal shall be detained and shall not
- 9 be admitted to bail unless the trial court or the court to which
- 10 the appeal is taken finds by clear and convincing evidence that
- 11 section 9b of this chapter does not apply and that both of the
- 12 following exist:
- 13 (a) The defendant is not likely to pose a danger to other
- 14 persons.
- 15 (b) The appeal or application raises a substantial question
- 16 of law or fact.
- 17 (3) As used in this section, "assaultive crime" means an
- 18 offense against a person described in section 81c(3), 82, 83, 84,
- 19 86, 87, 88, 89, 90a, 90b(a) or (b), 91, 200 to 212a, 316, 317,
- 20 321, 349, 349a, 350, 397, 411h(2)(b) or (3), 411i, 520b, 520c,
- **21** 520d, 520e, 520g, 529, 529a, 530, or 543a to 543z of the Michigan
- 22 penal code, 1931 PA 328, MCL -750.81c(3) 750.81c, 750.82,
- **23** 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.90a, 750.90b,
- 24 750.91, 750.200 to 750.212a, 750.316, 750.317, 750.321, 750.349,
- 25 750.349a, 750.350, 750.397, 750.411h, 750.411i, 750.520b,
- **26** 750.520c, 750.520d, 750.520e, 750.520g, 750.529, 750.529a,
- 27 750.530, and 750.543a to 750.543z.

House Bill No. 5199 as amended February 25, 2004

- 1 (4) The appeal or application for leave to appeal filed by a
- 2 person denied bail under this section shall be expedited pursuant
- 3 to rules adopted for that purpose by the supreme court.
- 4 Sec. 9b. (1) A defendant convicted of sexual assault of a
- 5 minor and awaiting sentence shall be detained and shall not be
- 6 admitted to bail.
- 7 (2) A defendant convicted of sexual assault of a minor
- 8 sentenced to a term of imprisonment who has filed an appeal or an
- 9 application for leave to appeal shall be detained and shall not
- 10 be admitted to bail.
- 11 (3) As used in this section:
- 12 (a) "Minor" means an individual less than 16 years of age.
- 13 (b) "Sexual assault of a minor" means a violation of any of
- 14 the following:
- 15 (i) Section 520b, 520c, 520d(1)(b), (c), (d), or (e) of the
- 16 Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and
- 17 750.520d, in which the victim of the offense is a minor.
- 18 (ii) Section 520d(1)(a) of the Michigan penal code, 1931 PA
- 19 328, MCL 750.520d, if the actor is 5 or more years older than the
- 20 victim.
- 21 (iii) Section 520g of the Michigan penal code, 1931 PA 328,
- 22 MCL 750.520g, for assaulting an individual with the intent to
- 23 commit criminal sexual conduct described in subparagraphs (i) and
- 24 (ii).
 - <<Enacting section 1. This amendatory act takes effect June 30,
 2004.>>