

# HOUSE BILL NO. 4662

May 24, 2023, Introduced by Reps. VanWoerkom, Wilson, Meerman, Price, Byrnes, Hood, O'Neal, Pohutsky, Hope, Hoskins, Grant, Weiss, Tyrone Carter, Churches, Andrews, Morse, Rheingans, Scott, Rogers, McKinney, Tsernoglou, Brabec, Edwards and Young and referred to the Committee on Criminal Justice.

A bill to amend 1927 PA 175, entitled  
"The code of criminal procedure,"  
by amending section 1 of chapter I and section 1 of chapter VIII  
(MCL 761.1 and 768.1), section 1 of chapter I as amended by 2017 PA  
2.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 CHAPTER I
- 2 Sec. 1. As used in this act:
- 3 (a) "Abscond" or "absconding" means failure to appear with the

1 willful intent to avoid or delay adjudication. There is a  
2 rebuttable presumption of absconding if more than 30 days have  
3 elapsed from the date of the defendant's missed court appearance  
4 and the defendant has failed to appear.

5 (b) ~~(a)~~—"Act" or "doing of an act" includes an omission to  
6 act.

7 (c) ~~(b)~~—"Clerk" means the clerk or a deputy clerk of the  
8 court.

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

13 (e) ~~(d)~~—"County juvenile agency" means that term as defined in  
14 section 2 of the county juvenile agency act, 1998 PA 518, MCL  
15 45.622.

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

20 (g) ~~(f)~~—"Felony" means a violation of a penal law of this  
21 state for which the offender, upon conviction, may be punished by  
22 imprisonment for more than 1 year or an offense expressly  
23 designated by law to be a felony.

24 (h) ~~(g)~~—"Indictment" means 1 or more of the following:

25 (i) An indictment.

26 (ii) An information.

27 (iii) A presentment.

28 (iv) A complaint.

29 (v) A warrant.

1           (vi) A formal written accusation.

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

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

7           (j) ~~(i)~~—"Judicial district" means the following:

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

9           (ii) With regard to municipal courts, the city in which the  
10 municipal court functions or the village served by a municipal  
11 court under section 9928 of the revised judicature act of 1961,  
12 1961 PA 236, MCL 600.9928.

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

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

19           (l) ~~(k)~~—"Juvenile facility" means a county facility, an  
20 institution operated as an agency of the county or family division  
21 of the circuit court, or an institution or agency described in the  
22 youth rehabilitation services act, 1974 PA 150, MCL 803.301 to  
23 803.309, to which a juvenile has been committed under section 27a  
24 of chapter IV.

25           (m) ~~(l)~~—"Magistrate" means a judge of the district court or a  
26 judge of a municipal court. Magistrate does not include a district  
27 court magistrate, except that a district court magistrate may  
28 exercise the powers, jurisdiction, and duties of a magistrate if  
29 specifically provided in this act, the revised judicature act of

1 1961, 1961 PA 236, MCL 600.101 to 600.9947, or any other statute.  
 2 This definition does not limit the power of a justice of the  
 3 supreme court, a circuit judge, or a judge of a court of record  
 4 having jurisdiction of criminal cases under this act, or deprive  
 5 ~~him or her~~ **a justice or judge** of the power to exercise the  
 6 authority of a magistrate.

7 **(n)** ~~(m)~~—"Minor offense" means a misdemeanor or ordinance  
 8 violation for which the maximum permissible imprisonment does not  
 9 exceed 92 days and the maximum permissible fine does not exceed  
 10 \$1,000.00.

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

15 **(p)** **"Nonappearance" means a failure to appear without the**  
 16 **intent to avoid or delay adjudication.**

17 **(q)** ~~(o)~~—"Ordinance violation" means either of the following:

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

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

25 **(r)** ~~(p)~~—"Person", "accused", or a similar word means an  
 26 individual or, unless a contrary intention appears, a public or  
 27 private corporation, partnership, or unincorporated or voluntary  
 28 association.

29 **(s)** ~~(q)~~—"Property" includes any matter or thing upon or in

1 respect to which an offense may be committed.

2       **(t)** ~~(r)~~—"Prosecuting attorney" means the prosecuting attorney  
 3 for a county, an assistant prosecuting attorney for a county, the  
 4 attorney general, the deputy attorney general, an assistant  
 5 attorney general, a special prosecuting attorney, or, in connection  
 6 with the prosecution of an ordinance violation, an attorney for the  
 7 political subdivision or governmental entity that enacted the  
 8 ordinance, charter, rule, or regulation upon which the ordinance  
 9 violation is based.

10       **(u)** ~~(s)~~—"Recidivism" means any rearrest, **recharge**,  
 11 reconviction, or reincarceration in prison or jail for a felony or  
 12 misdemeanor offense, **an ordinance violation**, or a probation or  
 13 parole violation of an individual as measured first after 3 years  
 14 and again after 5 years from the date of his or her release from  
 15 incarceration, placement on probation, or conviction, whichever is  
 16 later.

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

20       (i) Physical presence before a judge or district court  
 21 magistrate.

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

24       **(w)** ~~(u)~~—"Technical parole violation" means a violation of the  
 25 terms of a parolee's parole order that is not a violation of a law  
 26 of this state, a political subdivision of this state, another  
 27 state, or the United States or of tribal law.

28       **(x)** ~~(v)~~—"Technical probation violation" means a violation of  
 29 the terms of a probationer's probation order that is not a

1 violation of a law of this state, a political subdivision of this  
2 state, another state, or the United States or of tribal law.

3 (y) "Without unnecessary delay" means not more than 24 hours  
4 after a person is arrested or, upon a showing of good cause, not  
5 more than 48 hours after a person is arrested.

6 (z) ~~(w)~~ "Writing", "written", or a similar term refers to  
7 words printed, painted, engraved, lithographed, photographed,  
8 copied, traced, or otherwise made visible to the eye.

9 CHAPTER VIII

10 Sec. 1. (1) The people of this state and persons charged with  
11 crime are entitled to and shall have a speedy trial and  
12 determination of all prosecutions. ~~and it is hereby made~~ **It is** the  
13 duty of all public officers having duties to perform in any  
14 criminal case, to bring such case to a final determination without  
15 delay except as may be necessary to secure to the accused a fair  
16 and impartial trial. **Except as provided in subsection (2), a**  
17 **defendant must be tried, and a final determination of the charge**  
18 **must be made, not more than 18 months after arrest or the issuance**  
19 **of an appearance ticket.**

20 (2) The time period in subsection (1) may be tolled if any of  
21 the following apply:

22 (a) The defendant explicitly waives the time period on the  
23 record.

24 (b) The delay is attributable to the defendant.

25 (c) The delay is necessary to accommodate the request of any  
26 victim or victims in the case, if the court finds on the record  
27 that the request is reasonable and that exceptional circumstances  
28 justify granting the request.

29 (d) The delay is attributable to an act of God, including, but

1 not limited to, a fire, earthquake, hurricane, storm, pandemic, or  
2 similar natural disaster or phenomenon.

3 (e) The delay is otherwise justified by good cause found on  
4 the record, but not including delays caused by docket congestion.

5 (3) If a defendant is not tried or a final determination on  
6 the charge or charges is not made within the time period under  
7 subsection (1) and none of the circumstances under subsection (2)  
8 apply, then the charge against the defendant must be dismissed with  
9 prejudice.

10 (4) It is the responsibility of the court to ensure that  
11 judicial or docket delays do not result in case dismissal under  
12 this section.

13 Enacting section 1. This amendatory act takes effect January  
14 1, 2025.