

THE CODE OF CRIMINAL PROCEDURE (EXCERPT)
Act 175 of 1927

766.9 Closure of preliminary examination.

Sec. 9. (1) Upon the motion of any party, the examining magistrate may close to members of the general public the preliminary examination of a person charged with criminal sexual conduct in any degree, assault with intent to commit criminal sexual conduct, sodomy, gross indecency, or any other offense involving sexual misconduct if all of the following conditions are met:

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

(b) The denial of access to the examination is narrowly tailored to accommodate the interest being protected.

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

(2) In determining whether closure of the preliminary examination is necessary to protect a victim or witness, the magistrate shall consider all of the following:

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

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

(c) The desire of the victim or witness to have the examination closed to the public.

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

(a) There is a substantial probability that the party's right to a fair trial will be prejudiced by publicity that closure would prevent.

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

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17201;—CL 1948, 766.9;—Am. 1988, Act 106, Eff. June 1, 1988.

Former law: See Act 138 of 1895, being CL 1897, § 11873; and CL 1915, § 15700.