

Act No. 288
Public Acts of 1993
Approved by the Governor
December 23, 1993
Filed with the Secretary of State
December 28, 1993

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Reps. Goschka, Kukuk, Hoffman, Llewellyn, Lowe, London, Hill, Hammerstrom, Jamian, Weeks, Horton, Rocca, Bobier, Galloway, Whyman, Bullard, Bodem, Gernaat, Walberg, McManus, Nye, Dolan, Porreca, Jersevic, Brackenridge, Gnodtke, Bender, McBryde, Dalman, Middaugh, Sikkema, Cropsey, Martin, Shugars, Bankes, Stille, Munsell, Fitzgerald, Middleton and Dobb

ENROLLED HOUSE BILL No. 4226

AN ACT to amend section 2167 of Act No. 236 of the Public Acts of 1961, entitled as amended "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with, or contravening any of the provisions of this act," being section 600.2167 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 2167 of Act No. 236 of the Public Acts of 1961, being section 600.2167 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 2167. (1) In a preliminary examination or grand jury proceeding, a report of the findings of a technician of the division of the department of state police concerned with forensic science, signed by that technician, or a notarized copy of the report, may be received in evidence in place of the technician's appearance and testimony.

(2) Before a preliminary examination at which the technician's report of findings will be introduced in evidence, 2 copies of the report shall be furnished to the prosecuting attorney. The prosecuting attorney shall immediately furnish 1 copy of the technician's report to the defense attorney or, if an appearance or appointment of defense counsel has not been filed, to the defendant.

(3) The prosecuting attorney, upon receiving copies of the technician's report, shall notify the court before which the preliminary examination will be held that copies of the technician's report are in the prosecutor's possession. If the prosecuting attorney fails to notify the court that he or she has received copies of the technician's report not less than 5 days before the day set for preliminary examination, the court shall adjourn the preliminary examination.

(4) An accused person or his or her attorney may request that the technician testify at the preliminary examination on behalf of the state by serving written notice on the prosecuting attorney not more than 5 days after receiving a copy of the technician's report of findings from the prosecuting attorney. The technician may be sworn and testify by video or voice communication equipment that permits the witness, court, all parties, and counsel to hear and speak to each other in the court, chambers, or other suitable place. A record of the testimony shall be taken in the same manner as for other testimony at the preliminary examination. If suitable video or voice communication equipment is not available, the technician shall testify in person.

(5) In a preliminary examination, the prosecuting attorney may move in writing not less than 5 days before the date set for the preliminary examination to permit a forensic pathologist or medical examiner to be sworn and testify by video or voice communication equipment that permits the witness, court, all parties, and counsel to hear and speak to each other in the court, chambers, or other suitable place. The court shall grant the motion for good cause shown. A record of the testimony shall be taken in the same manner as for other testimony at the preliminary examination.

Section 2. This amendatory act shall take effect March 1, 1994.

Section 3. This amendatory act shall not take effect unless House Bill No. 4225 of the 87th Legislature is enacted into law.

This act is ordered to take immediate effect.

Co-Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.