



# SENATE BILL No. 1205

November 7, 1996, Introduced by Senator BOUCHARD and referred to the Committee on Judiciary.

A bill to amend section 2167 of Act No. 236 of the Public Acts of 1961, entitled as amended "Revised judicature act of 1961," as amended by Act No. 288 of the Public Acts of 1993, being section 600.2167 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 2167 of Act No. 236 of the Public Acts  
2 of 1961, as amended by Act No. 288 of the Public Acts of 1993,  
3 being section 600.2167 of the Michigan Compiled Laws, is amended  
4 to read as follows:

5 Sec. 2167. (1) In a preliminary examination or grand jury  
6 proceeding, a report of the findings of a technician of the divi-  
7 sion of the department of state police concerned with forensic  
8 science, signed by that technician, or a notarized copy of the

1 report ~~—~~ may be received in evidence in place of the  
2 technician's appearance and testimony.

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

10 (3) ~~The prosecuting attorney, upon~~ UPON receiving copies  
11 of the technician's report, THE PROSECUTING ATTORNEY shall notify  
12 the court before which the preliminary examination will be held  
13 that copies of the technician's report are in the prosecutor's  
14 possession. If the prosecuting attorney fails to notify the  
15 court that he or she has received copies of the technician's  
16 report not less than 5 days before the day set for preliminary  
17 examination, the court shall adjourn the preliminary  
18 examination.

19 (4) ~~An accused person~~ A DEFENDANT or his or her attorney  
20 may request that the technician testify at the preliminary exami-  
21 nation on behalf of the state by serving written notice on the  
22 prosecuting attorney not more than 5 days after receiving a copy  
23 of the technician's report of findings from the prosecuting  
24 attorney. The technician may be sworn and testify by video or  
25 voice communication equipment. ~~that permits the witness, court,~~  
26 ~~all parties, and counsel to hear and speak to each other in the~~  
27 ~~court, chambers, or other suitable place.~~ A record of the

1 testimony shall be taken in the same manner as for other  
2 testimony at the preliminary examination. If suitable video or  
3 voice communication equipment is not available, the technician  
4 shall testify in person.

5 (5) In a preliminary examination, the prosecuting attorney  
6 may move in writing not less than 5 days before the date set for  
7 the preliminary examination to permit a forensic pathologist or  
8 medical examiner to be sworn and testify by video or voice commu-  
9 nication equipment. ~~that permits the witness, court, all par-~~  
10 ~~ties, and counsel to hear and speak to each other in the court,~~  
11 ~~chambers, or other suitable place.~~ The court shall grant the  
12 motion for good cause shown. A record of the testimony shall be  
13 taken in the same manner as for other testimony at the prelimi-  
14 nary examination.

15 (6) NOT LESS THAN 7 DAYS BEFORE A PRELIMINARY EXAMINATION  
16 FOR A CRIME ALLEGING THE UNAUTHORIZED USE OR POSSESSION OF AN  
17 INDIVIDUAL'S FINANCIAL TRANSACTION DEVICE, TELECOMMUNICATIONS  
18 ACCESS DEVICE, MOTOR VEHICLE, OR OTHER PROPERTY, THE PROSECUTING  
19 ATTORNEY MAY DO EITHER OF THE FOLLOWING IF AT THE TIME OF THE  
20 PRELIMINARY EXAMINATION THE INDIVIDUAL WILL BE DOMICILED, RESID-  
21 ING, OR WORKING 100 MILES OR MORE FROM THE COURT AND THE  
22 INDIVIDUAL'S TESTIMONY IS NECESSARY ONLY TO ESTABLISH LACK OF  
23 AUTHORIZATION:

24 (A) NOTIFY THE COURT, DEFENDANT, AND THE DEFENDANT'S ATTOR-  
25 NEY THAT THE INDIVIDUAL WILL TESTIFY BY VIDEO OR VOICE COMMUNICA-  
26 TION EQUIPMENT.

1 (B) MOVE IN WRITING TO PERMIT A TRANSCRIPT OF THE  
2 INDIVIDUAL'S DEPOSITION TAKEN UNDER SUBSECTION (8) TO BE RECEIVED  
3 IN EVIDENCE IN PLACE OF THE INDIVIDUAL'S APPEARANCE AND  
4 TESTIMONY.

5 (7) IF THE PROSECUTING ATTORNEY PROVIDES NOTICE UNDER SUB-  
6 SECTION (6)(A), THE INDIVIDUAL MAY BE SWORN AND TESTIFY BY VIDEO  
7 OR VOICE COMMUNICATION EQUIPMENT. A RECORD OF THE TESTIMONY  
8 SHALL BE TAKEN IN THE SAME MANNER AS FOR OTHER TESTIMONY AT THE  
9 PRELIMINARY EXAMINATION. IF SUITABLE VIDEO OR VOICE COMMUNICA-  
10 TION EQUIPMENT IS NOT AVAILABLE, THE INDIVIDUAL SHALL TESTIFY IN  
11 PERSON.

12 (8) IF THE COURT GRANTS THE MOTION FOR A DEPOSITION UNDER  
13 SUBSECTION (6)(B) FOR GOOD CAUSE SHOWN, THE PROSECUTING ATTORNEY  
14 SHALL PROVIDE A PERSON TO TRANSCRIBE THE DEPOSITION. THE DEPOSI-  
15 TION SHALL BE CONDUCTED BY VOICE COMMUNICATION EQUIPMENT THAT  
16 PERMITS THE INDIVIDUAL, PARTIES, COUNSEL, AND PERSON TRANSCRIBING  
17 THE DEPOSITION TO HEAR AND SPEAK TO EACH OTHER. THE INDIVIDUAL  
18 SHALL BE SWORN. A NOTARIZED OR CERTIFIED COPY OF THE TRANSCRIPT  
19 SHALL BE RECEIVED IN EVIDENCE IN PLACE OF THE INDIVIDUAL'S  
20 APPEARANCE AND TESTIMONY. IF THE COURT DENIES THE MOTION, THE  
21 INDIVIDUAL MAY BE SWORN AND TESTIFY BY VIDEO OR VOICE COMMUNICA-  
22 TION EQUIPMENT AS PROVIDED IN SUBSECTION (7).

23 (9) EXCEPT AS PROVIDED IN SUBSECTION (8), THE VIDEO OR VOICE  
24 COMMUNICATION EQUIPMENT DESCRIBED IN THIS SECTION SHALL PERMIT  
25 THE WITNESS, COURT, ALL PARTIES, COUNSEL, AND COURT REPORTER TO  
26 HEAR AND SPEAK TO EACH OTHER IN THE COURT, CHAMBERS, OR OTHER  
27 SUITABLE PLACE.

1 (10) AS USED IN THIS SECTION:

2 (A) "FINANCIAL TRANSACTION DEVICE" MEANS THAT TERM AS  
3 DEFINED IN SECTION 157M.

4 (B) "TELECOMMUNICATIONS ACCESS DEVICE" MEANS THAT TERM AS  
5 DEFINED IN SECTION 219A.