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

CHAPTER VI
EXAMINATION OF OFFENDERS

766.1 Right of state and defendant to prompt examination and determination; authority of district court magistrate.

Sec. 1. The state and the defendant are entitled to a prompt examination and determination by the examining magistrate in all criminal causes and it is the duty of all courts and public officers having duties to perform in connection with an examination, to bring it to a final determination without delay except as necessary to secure to the defendant a fair and impartial examination. A district court magistrate appointed under chapter 85 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8501 to 600.8551, shall not preside at a preliminary examination or accept a plea of guilty or nolo contendere to an offense or impose a sentence except as otherwise authorized by section 8511(a), (b), or (c) of the revised judicature act of 1961, 1961 PA 236, MCL 600.8511.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17193;—CL 1948, 766.1;—Am. 2014, Act 123, Imd. Eff. May 20, 2014.

Constitutionality: There is no federal constitutional right to a preliminary examination or hearing in a criminal prosecution. The procedure is left to the states. In Michigan, the right is statutory. People v Johnson, 427 Mich 98; 398 NW2d 219 (1986).

Compiler's note: Enacting section 1 of Act 123 of 2014 provides:

"Enacting section 1. This amendatory act applies to cases in which the defendant is arraigned in district court or municipal court on or after January 1, 2015."

766.2, 766.3 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed sections pertained to examination on oath of complainant and witnesses.

766.4 Probable cause conference and preliminary examination; dates; scope; waiver; acceptance of plea agreement; scheduling and commencement of preliminary examination; testimony of victim; definition; codefendants; examination by magistrate.

Sec. 4. (1) Except as provided in section 4 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.4, the magistrate before whom any person is arraigned on a charge of having committed a felony shall set a date for a probable cause conference to be held not less than 7 days or more than 14 days after the date of the arraignment, and a date for a preliminary examination of not less than 5 days or more than 7 days after the date of the probable cause conference. The dates for the probable cause conference and preliminary examination shall be set at the time of arraignment. The probable cause conference shall include the following:

(a) Discussions as to a possible plea agreement among the prosecuting attorney, the defendant, and the attorney for the defendant.

(b) Discussions regarding bail and the opportunity for the defendant to petition the magistrate for a bond modification.

(c) Discussions regarding stipulations and procedural aspects of the case.

(d) Discussions regarding any other matters relevant to the case as agreed upon by both parties.

(2) The probable cause conference may be waived by agreement between the prosecuting attorney and the attorney for the defendant. The parties shall notify the court of the waiver agreement and whether the parties will be conducting a preliminary examination, waiving the examination, or entering a plea.

(3) A district judge has the authority to accept a felony plea. A district judge shall take a plea to a misdemeanor or felony as provided by court rule if a plea agreement is reached between the parties. Sentencing for a felony shall be conducted by a circuit judge, who shall be assigned and whose name shall be available to the litigants, pursuant to court rule, before the plea is taken.

(4) If a plea agreement is not reached and if the preliminary examination is not waived by the defendant with the consent of the prosecuting attorney, a preliminary examination shall be held as scheduled unless adjourned or waived under section 7 of this chapter. The parties, with the approval of the court, may agree to schedule the preliminary examination earlier than 5 days after the conference. Upon the request of the prosecuting attorney, however, the preliminary examination shall commence immediately for the sole purpose of taking and preserving the testimony of a victim if the victim is present. For purposes of this subdivision, "victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime. If that testimony is insufficient to establish probable cause to believe that the defendant committed the charged crime or crimes, the magistrate shall adjourn the preliminary examination to the date set at arraignment. A victim who testifies under this subdivision shall not be called

again to testify at the adjourned preliminary examination absent a showing of good cause.

(5) If 1 or more defendants have been charged on complaints listing codefendants with a felony or felonies, the probable cause conference and preliminary examination for those defendants who have been arrested and arraigned at least 72 hours before that conference on those charges shall be consolidated, and only 1 joint conference or 1 joint preliminary examination shall be held unless the prosecuting attorney consents to a severance, a defendant seeks severance by motion and the magistrate finds severance to be required by law, or 1 of the defendants is unavailable and does not appear at the hearing.

(6) At the preliminary examination, a magistrate shall examine the complainant and the witnesses in support of the prosecution, on oath and, except as provided in sections 11a and 11b of this chapter, in the presence of the defendant, concerning the offense charged and in regard to any other matters connected with the charge that the magistrate considers pertinent.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17196;—CL 1948, 766.4;—Am. 1970, Act 213, Imd. Eff. Oct. 4, 1970;—Am. 1974, Act 63, Eff. May 1, 1974;—Am. 1988, Act 64, Eff. Oct. 1, 1988;—Am. 1993, Act 287, Eff. Mar. 1, 1994;—Am. 1994, Act 167, Eff. Oct. 1, 1994;—Am. 2014, Act 123, Imd. Eff. May 20, 2014.

Compiler's note: Section 2 of Act 63 of 1974 provides:

"Effective date.

"Section 2. To give judges, prosecutors, and defense counsel a reasonable opportunity to become aware of and familiar with the time periods and sequence prescribed in this amendatory act and the effects of noncompliance, sections 20 and 21 of chapter 8 of Act No. 175 of the Public Acts of 1927, being sections 768.20 and 768.21 of the Michigan Compiled Laws, as amended by this amendatory act shall take effect May 1, 1974, and apply to cases in which the arraignment on an information occurs on or after that date. The other provisions of this amendatory act shall take effect May 1, 1974 and apply to offenses committed on or after that date."

Section 3 of Act 64 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 175 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."

Enacting section 1 of Act 123 of 2014 provides:

"Enacting section 1. This amendatory act applies to cases in which the defendant is arraigned in district court or municipal court on or after January 1, 2015."

Former law: See section 13 of Ch. 163 of R.S. 1846, being CL 1857, § 5989; CL 1871, § 7855; How., § 9466; CL 1897, § 11850; and CL 1915, § 15677.

766.5 Bail; commitment to jail; release on own recognizance.

Sec. 5. If it appears that a felony has been committed and that there is probable cause to believe that the accused is guilty thereof, and if the offense is bailable by the magistrate and the accused offers sufficient bail, it shall be taken and the prisoner discharged until trial. If sufficient bail is not offered or the offense is not bailable by the magistrate, the accused shall be committed to jail for trial. This section shall not prevent the magistrate from releasing the accused on his own recognizance where authorized by law.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17197;—CL 1948, 766.5;—Am. 1974, Act 63, Eff. May 1, 1974.

Compiler's note: Section 2 of Act 63 of 1974 provides:

"Effective date.

"Section 2. To give judges, prosecutors, and defense counsel a reasonable opportunity to become aware of and familiar with the time periods and sequence prescribed in this amendatory act and the effects of noncompliance, sections 20 and 21 of chapter 8 of Act No. 175 of the Public Acts of 1927, being sections 768.20 and 768.21 of the Michigan Compiled Laws, as amended by this amendatory act shall take effect May 1, 1974, and apply to cases in which the arraignment on an information occurs on or after that date. The other provisions of this amendatory act shall take effect May 1, 1974 and apply to offenses committed on or after that date."

Former law: See section 18 of Ch. 163 of R.S. 1846, being CL 1857, § 5994; CL 1871, § 7860; How., § 9471; CL 1897, § 11855; and CL 1915, § 15682.

766.6 Associate magistrate; powers, duties, fees.

Sec. 6. Any magistrate to whom complaint is made, or before whom any prisoner is brought, may associate with himself 1 or more other magistrates of the same county, and they may together execute the powers and duties conferred upon such magistrates respectively by this chapter, but no fees shall be taxed for such associates.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17198;—CL 1948, 766.6.

Former law: See section 24 of Ch. 163 of R.S. 1846, being CL 1857, § 6000; CL 1871, § 7866; How., § 9477; CL 1897, § 11861; and CL 1915, § 15688.

766.7 Adjournment, continuance, or delay of preliminary examination.

Sec. 7. A magistrate may adjourn a preliminary examination for a felony to a place in the county as the magistrate determines is necessary. The defendant may in the meantime be committed either to the county jail or to the custody of the officer by whom he or she was arrested or to any other officer; or, unless the defendant is charged with treason or murder, the defendant may be admitted to bail. The defendant may waive the preliminary examination with the consent of the prosecuting attorney. An adjournment, continuance, or

delay of a preliminary examination may be granted by a magistrate without the consent of the defendant or the prosecuting attorney for good cause shown. A magistrate may adjourn, continue, or delay the examination of any cause with the consent of the defendant and prosecuting attorney. An action on the part of the magistrate in adjourning or continuing any case does not cause the magistrate to lose jurisdiction of the case.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17199;—CL 1948, 766.7;—Am. 1974, Act 63, Eff. May 1, 1974;—Am. 2014, Act 123, Imd. Eff. May 20, 2014.

Compiler's note: Section 2 of Act 63 of 1974 provides:

"Effective date.

"Section 2. To give judges, prosecutors, and defense counsel a reasonable opportunity to become aware of and familiar with the time periods and sequence prescribed in this amendatory act and the effects of noncompliance, sections 20 and 21 of chapter 8 of Act No. 175 of the Public Acts of 1927, being sections 768.20 and 768.21 of the Michigan Compiled Laws, as amended by this amendatory act shall take effect May 1, 1974, and apply to cases in which the arraignment on an information occurs on or after that date. The other provisions of this amendatory act shall take effect May 1, 1974 and apply to offenses committed on or after that date."

Enacting section 1 of Act 123 of 2014 provides:

"Enacting section 1. This amendatory act applies to cases in which the defendant is arraigned in district court or municipal court on or after January 1, 2015."

Former law: See section 10 of Ch. 163 of R.S. 1846, being CL 1857, § 5986; CL 1871, § 7852; How., § 9463; CL 1897, § 11847; and CL 1915, § 15674.

766.8 Adjournment of examination; form of commitment of accused, order for re-appearance.

Sec. 8. The person accused may be committed as provided in the preceding section, by the verbal order of the magistrate, or by a warrant under his hand, stating that he is committed for such further examination on a day to be named in the warrant; and on the day therein specified, he may be brought before the magistrate by his verbal order to the same officer by or to whose custody he was committed, or by an order in writing to a different officer.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17200;—CL 1948, 766.8.

Former law: See section 11 of Ch. 163 of R.S. 1846, being CL 1857, § 5987; CL 1871, § 7853; How., § 9464; CL 1897, § 11848; and CL 1915, § 15675.

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.

766.10 Exclusion of persons from examination; witness not examined, minor; separation of witnesses.

Sec. 10. The magistrate while conducting such examination may exclude from the place of the examination all the witnesses who have not been examined; and he may also, if requested or if he sees cause, direct the witnesses whether for or against the prisoner, to be kept separate so that they cannot converse with each other until they shall have been examined. And such magistrate may in his discretion, also exclude from the place

of examination any or all minors during the examination of such witnesses.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17202;—CL 1948, 766.10.

Former law: See section 15 of Ch. 163 of R.S. 1846, being CL 1857, § 5991; CL 1871, § 7857; How., § 9468; CL 1897, § 11852; CL 1915, § 15679; and Act 178 of 1885.

766.11 Subpoena of witnesses; taking down evidence in shorthand; appointment, oath, and fees of stenographer; signing of testimony not required; testimony to be typewritten, certified, received, and filed; testimony as prima facie evidence.

Sec. 11. (1) Witnesses may be compelled to appear before the magistrate by subpoenas issued by the magistrate, or by an officer of the court authorized to issue subpoenas, in the same manner and with the same effect and subject to the same penalties for disobedience, or for refusing to be sworn or to testify, as in cases of trials in the circuit court.

(2) Unless otherwise provided by law, the evidence given by the witnesses examined in a municipal court shall be taken down in shorthand by a county stenographer where one has been appointed under the provision of a local act of the legislature or by the county board of commissioners of the county in which the examination is held, or the magistrate for cause shown may appoint some other suitable stenographer at the request of the prosecuting attorney of the county with the consent of the respondent or the respondent's attorney to act as official stenographer pro tempore for the court of the magistrate to take down in shorthand the testimony of an examination. A stenographer so appointed shall take the constitutional oath as the official stenographer and shall be entitled to the following fees: $6.00 for each day and $3.00 for each half day while so employed in taking down the testimony and 10 cents per folio for typewriting the testimony taken down in shorthand, or other compensation and fees as shall be fixed by the county board of commissioners appointing the stenographer.

The fees may be allowed and paid out of the treasury of the county in which the testimony is taken. It shall not be necessary for a witness or witnesses whose testimony is taken in shorthand by the stenographer to sign the testimony. Except as provided in section 15 of this chapter, the testimony so taken under this subsection, shall be typewritten, certified, received, and filed in the court to which the accused is held for trial.

(3) Testimony taken by a stenographer appointed pursuant to subsection (2) or taken by shorthand or recorded by a court stenographer or district court recorder as provided by law, when transcribed, shall be considered prima facie evidence of the testimony of the witness or witnesses at the examination.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17203;—CL 1948, 766.11;—Am. 1954, Act 19, Imd. Eff. Mar. 22, 1954;—Am. 1978, Act 155, Eff. July 1, 1978.

Former law: See section 16 of Ch. 163 of R.S. 1846, being CL 1857, § 5992; CL 1871, § 7858; How., § 9469; CL 1897, § 11853; CL 1915, § 15680; Act 168 of 1863; Act 160 of 1915; and Act 329 of 1917.

766.11a Testimony of witness; conduct by telephonic, voice, or video conferencing.

Sec. 11a. On motion of either party, the magistrate shall permit the testimony of any witness, except the complaining witness, an alleged eyewitness, or a law enforcement officer to whom the defendant is alleged to have made an incriminating statement, to be conducted by means of telephonic, voice, or video conferencing. The testimony taken by video conferencing shall be admissible in any subsequent trial or hearing as otherwise permitted by law.

History: Add. 2004, Act 20, Imd. Eff. Mar. 4, 2004;—Am. 2014, Act 123, Imd. Eff. May 20, 2014.

Compiler's note: Enacting section 1 of Act 123 of 2014 provides:
"Enacting section 1. This amendatory act applies to cases in which the defendant is arraigned in district court or municipal court on or after January 1, 2015."

766.11b Rules of evidence; exception; hearsay testimony; "controlled substance" defined.

Sec. 11b. (1) The rules of evidence apply at the preliminary examination except that the following are not excluded by the rule against hearsay and shall be admissible at the preliminary examination without requiring the testimony of the author of the report, keeper of the records, or any additional foundation or authentication:

(a) A report of the results of properly performed drug analysis field testing to establish that the substance tested is a controlled substance.

(b) A certified copy of any written or electronic order, judgment, decree, docket entry, register of actions, or other record of any court or governmental agency of this state.

(c) A report other than a law enforcement report that is made or kept in the ordinary course of business.

(d) Except for the police investigative report, a report prepared by a law enforcement officer or other public agency. Reports permitted under this subdivision include, but are not limited to, a report of the findings of a technician of the division of the department of state police concerned with forensic science, a laboratory

report, a medical report, a report of an arson investigator, and an autopsy report.

(2) The magistrate shall allow the prosecuting attorney or the defense to subpoena and call a witness from whom hearsay testimony was introduced under this section on a satisfactory showing to the magistrate that live testimony will be relevant to the magistrate's decision whether there is probable cause to believe that a felony has been committed and probable cause to believe that the defendant committed the felony.

(3) As used in this section, "controlled substance" means that term as defined under section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

History: Add. 2007, Act 89, Eff. Dec. 29, 2007;—Am. 2014, Act 123, Imd. Eff. May 20, 2014.

Compiler's note: Enacting section 1 of Act 123 of 2014 provides:

"Enacting section 1. This amendatory act applies to cases in which the defendant is arraigned in district court or municipal court on or after January 1, 2015."

766.12 Evidence for defense; examination, cross-examination of witnesses.

Sec. 12. After the testimony in support of the prosecution has been given, the witnesses for the prisoner, if he have any, shall be sworn, examined and cross-examined and he may be assisted by counsel in such examination and in the cross-examination of the witnesses in support of the prosecution.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17204;—CL 1948, 766.12.

Former law: See section 14 of Ch. 163 of R.S. 1846, being CL 1857, § 5990; CL 1871, § 7856; How., § 9467; CL 1897, § 11851; and CL 1915, § 15678.

766.13 Discharge of defendant or reduction of charge; binding defendant to appear for arraignment.

Sec. 13. If the magistrate determines at the conclusion of the preliminary examination that a felony has not been committed or that there is not probable cause for charging the defendant with committing a felony, the magistrate shall either discharge the defendant or reduce the charge to an offense that is not a felony. If the magistrate determines at the conclusion of the preliminary examination that a felony has been committed and that there is probable cause for charging the defendant with committing a felony, the magistrate shall forthwith bind the defendant to appear within 14 days for arraignment before the circuit court of that county, or the magistrate may conduct the circuit court arraignment as provided by court rule.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17205;—CL 1948, 766.13;—Am. 1974, Act 63, Eff. May 1, 1974;—Am. 2014, Act 123, Imd. Eff. May 20, 2014.

Compiler's note: Section 2 of Act 63 of 1974 provides:

"Effective date.

"Section 2. To give judges, prosecutors, and defense counsel a reasonable opportunity to become aware of and familiar with the time periods and sequence prescribed in this amendatory act and the effects of noncompliance, sections 20 and 21 of chapter 8 of Act No. 175 of the Public Acts of 1927, being sections 768.20 and 768.21 of the Michigan Compiled Laws, as amended by this amendatory act shall take effect May 1, 1974, and apply to cases in which the arraignment on an information occurs on or after that date. The other provisions of this amendatory act shall take effect May 1, 1974 and apply to offenses committed on or after that date."

Enacting section 1 of Act 123 of 2014 provides:

"Enacting section 1. This amendatory act applies to cases in which the defendant is arraigned in district court or municipal court on or after January 1, 2015."

Former law: See section 17 of Ch. 163 of R.S. 1846, being CL 1857, § 5993; CL 1871, § 7859; How., § 9470; CL 1897, § 11854; and CL 1915, § 15681.

766.14 Proceedings where offense charged not felony; transfer of case to family division of circuit court; waiver of jurisdiction; "specified juvenile violation" defined.

Sec. 14. (1) If the court determines at the conclusion of the preliminary examination of a person charged with a felony that the offense charged is not a felony or that an included offense that is not a felony has been committed, the accused shall not be dismissed but the magistrate shall proceed in the same manner as if the accused had initially been charged with an offense that is not a felony.

(2) If at the conclusion of the preliminary examination of a juvenile the magistrate finds that a specified juvenile violation did not occur or that there is not probable cause to believe that the juvenile committed the violation, but that there is probable cause to believe that some other offense occurred and that the juvenile committed that other offense, the magistrate shall transfer the case to the family division of circuit court of the county where the offense is alleged to have been committed.

(3) A transfer under subsection (2) does not prevent the family division of circuit court from waiving jurisdiction over the juvenile under section 4 of chapter XIIA of 1939 PA 288, MCL 712A.4.

(4) As used in this section, "specified juvenile violation" means any of the following:

(a) A violation of section 72, 83, 86, 89, 91, 316, 317, 349, 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA 328, MCL 750.72, 750.83, 750.89, 750.91, 750.316, 750.317, 750.349, 750.520b, 750.529,

750.529a, and 750.531.

(b) A violation of section 84 or 110a(2) of the Michigan penal code, 1931 PA 328, MCL 750.84 and 750.110a, if the juvenile is armed with a dangerous weapon. As used in this subdivision, "dangerous weapon" means 1 or more of the following:

(*i*) A loaded or unloaded firearm, whether operable or inoperable.

(*ii*) A knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.

(*iii*) An object that is likely to cause death or bodily injury when used as a weapon and that is used as a weapon or carried or possessed for use as a weapon.

(*iv*) An object or device that is used or fashioned in a manner to lead a person to believe the object or device is an object or device described in subparagraphs (*i*) to (*iii*).

(c) A violation of section 186a of the Michigan penal code, 1931 PA 328, MCL 750.186a, regarding escape or attempted escape from a juvenile facility, but only if the juvenile facility from which the individual escaped or attempted to escape was 1 of the following:

(*i*) A high-security or medium-security facility operated by the family independence agency or a county juvenile agency.

(*ii*) A high-security facility operated by a private agency under contract with the family independence agency or a county juvenile agency.

(d) A violation of section 7401(2)(a)(*i*) or 7403(2)(a)(*i*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403.

(e) An attempt to commit a violation described in subdivisions (a) to (d).

(f) Conspiracy to commit a violation described in subdivisions (a) to (d).

(g) Solicitation to commit a violation described in subdivisions (a) to (d).

(h) Any lesser included offense of a violation described in subdivisions (a) to (g) if the individual is charged with a violation described in subdivisions (a) to (g).

(i) Any other violation arising out of the same transaction as a violation described in subdivisions (a) to (g) if the individual is charged with a violation described in subdivisions (a) to (g).

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17206;—CL 1948, 766.14;—Am. 1974, Act 63, Eff. May 1, 1974;—Am. 1988, Act 67, Eff. Oct. 1, 1988;—Am. 1994, Act 195, Eff. Oct. 1, 1994;—Am. 1996, Act 255, Eff. Jan. 1, 1997;—Am. 1996, Act 418, Eff. Jan. 1, 1998;—Am. 1998, Act 520, Imd. Eff. Jan. 12, 1999.

Compiler's note: Section 2 of Act 63 of 1974 provides:

"Effective date.

"Section 2. To give judges, prosecutors, and defense counsel a reasonable opportunity to become aware of and familiar with the time periods and sequence prescribed in this amendatory act and the effects of noncompliance, sections 20 and 21 of chapter 8 of Act No. 175 of the Public Acts of 1927, being sections 768.20 and 768.21 of the Michigan Compiled Laws, as amended by this amendatory act shall take effect May 1, 1974, and apply to cases in which the arraignment on an information occurs on or after that date. The other provisions of this amendatory act shall take effect May 1, 1974 and apply to offenses committed on or after that date."

Section 3 of Act 67 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 173 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."

766.15 Certification and return of examinations and recognizances; effect of refusing or neglecting to return examinations and recognizances; written demand or motion to prepare or file written transcript of testimony of preliminary examination; listening to electronically recorded testimony, copy of recording tape or disc, or stenographer's notes.

Sec. 15. (1) Except as provided in subsection (2) or (3), all examinations and recognizances taken by a magistrate pursuant to this chapter shall be immediately certified and returned by the magistrate to the clerk of the court before which the party charged is bound to appear. If that magistrate refuses or neglects to return the same, the magistrate may be compelled immediately by order of the court, and in case of disobedience may be proceeded against as for a contempt by an order to show cause or a bench warrant.

(2) A written transcript of the testimony of a preliminary examination need not be prepared or filed except upon written demand of the prosecuting attorney, defense attorney, or defendant if the defendant is not represented by an attorney, or as ordered sua sponte by the trial court. A written demand to prepare and file a written transcript is timely made if filed within 2 weeks following the arraignment on the information or indictment. A copy of a demand to prepare and file a written transcript shall be filed with the trial court, all attorneys of record, and the court which held the preliminary examination. Upon sua sponte order of the trial court or timely written demand of an attorney, a written transcript of the preliminary examination or a portion thereof shall be prepared and filed with the trial court.

(3) If a written demand is not timely made as provided in subsection (2), a written transcript need not be prepared or filed except upon motion of an attorney or a defendant who is not represented by an attorney,

upon cause shown, and when granting of the motion would not delay the start of the trial. When the start of the trial would otherwise be delayed, upon good cause shown to the trial court, in lieu of preparation of the transcript or a portion thereof, the trial court may direct that the defense and prosecution shall have an opportunity before trial to listen to any electronically recorded testimony, a copy of the recording tape or disc, or a stenographer's notes being read back.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17207;—CL 1948, 766.15;—Am. 1978, Act 155, Eff. July 1, 1978.

Former law: See section 25 of Ch. 163 of R.S. 1846, being CL 1857, § 6001; CL 1871, § 7867; How., § 9478; CL 1897, § 11862; and CL 1915, § 15689.

766.15a, 766.15b Repealed. 1951, Act 170, Eff. Sept. 28, 1951.

Compiler's note: The repealed sections provided for mental examination of any person charged with murder, and set penalty for failure of any clerk of court to notify state hospital commission as to fact of binding over of person charged with murder.

766.15c Repealed. 1966, Act 266, Eff. Mar. 10, 1967.

Compiler's note: The repealed section provided for commitment to state hospital for criminally insane for life of one acquitted of murder by reason of insanity, subject to discharge by governor.

766.15d Repealed. 1951, Act 170, Eff. Sept. 28, 1951.

Compiler's note: The repealed section defined psychiatrist under section providing for mental examination of persons charged with murder.

766.16 Default of recognizance; record; procedure.

Sec. 16. If the person recognized according to the provisions of this chapter shall not appear before the magistrate at the time appointed for his further examination, the magistrate shall record the default, and shall certify the recognizance, with the record of such default, to the court to which the accused might otherwise have been held for trial, and the like proceedings shall be had thereon as upon the breach of the condition of a recognizance for appearance before such court.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17208;—CL 1948, 766.16.

Former law: See section 12 of Ch. 163 of R.S. 1846, being CL 1857, § 5988; CL 1871, § 7854; How., § 9465; CL 1897, § 11849; and CL 1915, § 15676.

766.17 Admission to bail after commitment to jail; discharge of prisoner.

Sec. 17. Whenever no sufficient bail is offered, and the prisoner is committed to jail, the magistrate before whom the examination was had, shall certify upon the mittimus issued by him, the sum for which bail was required, and if the prisoner shall offer sufficient bail for such sum to the clerk of the court wherein the prisoner was committed for trial, it shall be taken by said clerk and the prisoner shall be discharged.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17209;—CL 1948, 766.17.

Former law: See section 33 of Ch. 163 of R.S. 1846, being CL 1871, § 7875; How., § 9486; CL 1897, § 11870; CL 1915, § 15697; and Act 159 of 1859.

766.18 Admission to bail after commitment to jail; clerk of court, authority.

Sec. 18. The clerk of the court to whom such bail is offered, is authorized and required to examine the person or persons offered for bail on oath as to their pecuniary responsibility, and if he shall be satisfied with the same, to take bail and certify and return the recognizance in the same manner and to the same effect as the magistrate might have done.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17210;—CL 1948, 766.18.

Former law: See section 34 of Ch. 163 of R.S. 1846, being CL 1871, § 7876; How., § 9487; CL 1897, § 11871; CL 1915, § 15698; and Act 159 of 1859 .

766.19-766.22 Repealed. 1994, Act 63, Eff. July 1, 1994.

Compiler's note: The repealed sections pertained to discharge of accused and recognizance in misdemeanor cases where injured party receives satisfaction.