



HOUSE BILL No. 5263

October 17, 1995, Introduced by Reps. Bush, Ryan, Hammerstrom, Geiger, Galloway and Perricone and referred to the Committee on Judiciary and Civil Rights.

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~~ SHALL 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 receiving copies of the
11 technician's report, shall notify the court before which the pre-
12 liminary examination will be held that copies of the technician's
13 report are in the prosecutor's possession. If the prosecuting
14 attorney fails to notify the court that he or she has received
15 copies of the technician's report not less than 5 days before the
16 day set for preliminary examination, the court shall adjourn the
17 preliminary examination.

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

1 ~~preliminary examination. If suitable video or voice~~
2 ~~communication equipment is not available, the technician shall~~
3 ~~testify in person.~~

4 (4) ~~(5)~~ In a preliminary examination, the prosecuting
5 attorney may move in writing not less than 5 days before the date
6 set for the preliminary examination to permit a forensic patholo-
7 gist or medical examiner to be sworn and testify by video or
8 voice communication equipment that permits the witness, court,
9 all parties, and counsel to hear and speak to each other in the
10 court, chambers, or other suitable place. The court shall grant
11 the motion for good cause shown. A record of the testimony shall
12 be taken in the same manner as for other testimony at the prelim-
13 inary examination.

14 (5) IF A REPORT IS RECEIVED IN EVIDENCE UNDER SUBSECTION
15 (1), THE TECHNICIAN SHALL NOT BE REQUIRED BY MOTION OR SUBPOENA
16 OF THE DEFENDANT OR HIS OR HER ATTORNEY TO APPEAR AT THE PRELIMI-
17 NARY EXAMINATION TO PROVIDE TESTIMONY RELATING TO THE REPORT.