

**SENATE BILL NO. 20**

January 13, 1999, Introduced by Senator BOUCHARD and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 37a of chapter VII (MCL 767.37a), as added by 1994 PA 229, and by adding section 37b to chapter VII.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 CHAPTER VII

2 Sec. 37a. (1) Unless the ~~defendant~~ ACCUSED requests phys-  
3 ical presence before the court, a judge or district court magis-  
4 trate may conduct ~~initial~~ criminal arraignments and the setting  
5 of bail by MEANS OF 2-way closed circuit television,  
6 ~~communication~~ TELEPHONE, OR OTHER INTERACTIVE ELECTRONIC COMMU-  
7 NICATION MEDIUM between a court facility and a prison, jail, or  
8 other place where ~~a person~~ THE ACCUSED is imprisoned or  
9 detained. A judge or district court magistrate may conduct  
10 ~~initial~~ criminal arraignments and the setting of bail UNDER

1 THIS SECTION on weekends, holidays, or at any time as determined  
2 by the court.

3 (2) A 2-way closed circuit television system used ~~pursuant~~  
4 ~~to~~ UNDER this section shall enable the accused and the judge or  
5 district court magistrate to see, hear, and communicate with each  
6 other simultaneously, and shall enable defense counsel and the  
7 prosecuting attorney, if present, to be heard by and to communi-  
8 cate simultaneously with the accused, the judge or district court  
9 magistrate, and opposing counsel.

10 (3) A TELEPHONE SYSTEM USED UNDER THIS SECTION SHALL ENABLE  
11 THE ACCUSED, JUDGE OR DISTRICT COURT MAGISTRATE, DEFENSE COUNSEL,  
12 AND PROSECUTING ATTORNEY TO HEAR AND COMMUNICATE WITH EACH OTHER  
13 SIMULTANEOUSLY.

14 (4) AN INTERACTIVE ELECTRONIC COMMUNICATION SYSTEM USED  
15 UNDER THIS SECTION SHALL ENABLE THE ACCUSED AND THE JUDGE OR DIS-  
16 TRICT COURT MAGISTRATE TO SEE, HEAR, OR OTHERWISE COMMUNICATE  
17 WITH EACH OTHER SIMULTANEOUSLY AND SHALL ENABLE DEFENSE COUNSEL  
18 AND THE PROSECUTING ATTORNEY, IF PRESENT, TO COMMUNICATE SIMULTA-  
19 NEOUSLY WITH THE ACCUSED, THE JUDGE OR DISTRICT COURT MAGISTRATE,  
20 AND OPPOSING COUNSEL.

21 (5) ~~(3)~~ Except as otherwise provided by law, the public  
22 shall have access to the courtroom, with the ability to view and  
23 hear the proceedings.

24 (6) ~~(4)~~ If proceedings conducted ~~pursuant to~~ UNDER this  
25 section are not recorded by an individual certified by the state  
26 court administrative office, the court shall record and maintain  
27 an original AUDIO OR audiovisual recording of the entire

1 proceedings. A recording made ~~pursuant to~~ UNDER this  
2 subsection ~~shall become~~ IS part of the court record.

3 (7) ~~(5)~~ This act does not prohibit the use of 2-way closed  
4 circuit television, TELEPHONE, OR OTHER INTERACTIVE ELECTRONIC  
5 COMMUNICATION MEDIUM for ~~arraignments on the information,~~ crim-  
6 inal pretrial hearings, criminal pleas, sentencing hearings for  
7 misdemeanor violations cognizable in the district court, show  
8 cause hearings, or other criminal proceedings ~~,~~ to the extent  
9 the Michigan supreme court has authorized that use.

10 SEC. 37B. (1) IF A CRIMINAL CHARGE IS FILED AGAINST AN  
11 INDIVIDUAL IMPRISONED OR DETAINED IN A JAIL OR CORRECTIONAL  
12 FACILITY OUTSIDE THE JURISDICTION OF THE COURT IN WHICH THE  
13 ACTION IS FILED, A JUDGE OR DISTRICT COURT MAGISTRATE MAY ARRAIGN  
14 THE INDIVIDUAL BY A FORM MAILED OR FILED WITH THE COURT UNLESS  
15 THE INDIVIDUAL REQUESTS A PHYSICAL APPEARANCE BEFORE THE COURT.

16 (2) IF THE ARRAIGNMENT IS CONDUCTED BY MAIL OR A DOCUMENT  
17 FILED WITH THE COURT, THE COURT SHALL SET A DATE AND TIME FOR  
18 FURTHER PROCEEDINGS AS NECESSARY. THE STATE COURT ADMINISTRATOR  
19 SHALL DEVELOP FORMS THAT SHALL BE USED UNDER THIS SUBSECTION. A  
20 COPY OF ANY DOCUMENT USED FOR THE PROCEEDING SHALL BE AVAILABLE  
21 TO THE PROSECUTING ATTORNEY, THE INDIVIDUAL, AND THE INDIVIDUAL'S  
22 ATTORNEY.