

# HOUSE BILL No. 4848

May 22, 1991, Introduced by Reps. Martin, Perry Bullard, Nye, Clarke, Profit, Power, Bandstra, Bennane, Strand, Fitzgerald, Yokich, Murphy and Palamara and referred to the Committee on Judiciary.

A bill to amend section 1 of chapter I of Act No. 175 of the Public Acts of 1927, entitled as amended  
"The code of criminal procedure,"  
as amended by Act No. 67 of the Public Acts of 1988, being section 761.1 of the Michigan Compiled Laws; and to add section 37a to chapter VII.

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

1       Section 1. Section 1 of chapter I of Act No. 175 of the  
2 Public Acts of 1927, as amended by Act No. 67 of the Public Acts  
3 of 1988, being section 761.1 of the Michigan Compiled Laws, is  
4 amended and section 37a is added to chapter VII to read as  
5 follows:

## CHAPTER I

Sec. 1. As used in this act:

(a) "Person", "accused", or a similar word means an individual, or unless a contrary intention appears, a public or private corporation, a partnership, or an unincorporated or voluntary association.

(b) "Act" or "doing of an act" includes "omission to act".

(c) "Property" includes any matter or thing upon or in respect to which any offense may be committed.

(d) "Indictment" means ~~an~~ 1 OR MORE OF THE FOLLOWING:

(i) AN indictment. ~~—~~

(ii) AN information. ~~—~~

(iii) A presentment. ~~—~~

(iv) A complaint. ~~—~~

(v) A warrant. ~~—, and any other~~

(vi) A formal written accusation. ~~and, unless~~

(vii) UNLESS a contrary intention appears, ~~means any~~ A count ~~thereof~~ CONTAINED IN ANY DOCUMENT DESCRIBED IN SUBPARAGRAPHS (i) THROUGH (vi).

(e) "Writing", "written", or a similar term refers to words printed, painted, engraved, lithographed, photographed, copied, traced, or otherwise made visible to the eye.

(f) "Magistrate" means a judge of the district court or a judge of a municipal court. Magistrate does not include a district court magistrate, except that a district court magistrate may exercise the powers, jurisdiction, and duties of a magistrate where explicitly provided in this act, in the revised judicature

1 act of 1961, Act No. 236 of the Public Acts of 1961, as amended,  
2 being sections 600.101 to 600.9947 of the Michigan Compiled Laws,  
3 or in any other statute. This definition does not limit the  
4 power of a justice of the supreme court, a circuit judge, or a  
5 judge of a court of record having jurisdiction of criminal cases  
6 under this act, or deprive him or her of the power to exercise,  
7 in his or her discretion, the authority of a magistrate.

8 (g) "Felony" means a violation of a penal law of this state  
9 for which the offender, upon conviction, may be punished by death  
10 or by imprisonment for more than 1 year, or an offense expressly  
11 designated by law to be a felony.

12 (h) "Misdemeanor" means a violation of a penal law of this  
13 state which is not a felony, or a violation of an order, rule, or  
14 regulation of a state agency that is punishable by imprisonment  
15 or by a fine that is not a civil fine.

16 (j) "Ordinance violation" means either of the following:

17 (i) A violation of an ordinance or charter of a city, vil-  
18 lage, township, or county that is punishable by imprisonment or  
19 by a fine that is not a civil fine.

20 (ii) A violation of an ordinance, rule, or regulation of any  
21 other governmental entity authorized by law to enact ordinances,  
22 rules, or regulations punishable by imprisonment or by a fine  
23 that is not a civil fine.

24 (k) "Minor offense" means a misdemeanor or ordinance viola-  
25 tion for which the maximum permissible imprisonment does not  
26 exceed 92 days and the maximum permissible fine does not exceed  
27 \$500.00 and includes a violation ~~of an act listed~~ DESCRIBED in

1 section 9f(2) of chapter IV for which the maximum permissible  
2 penalty does not exceed 92 days in jail and a fine.

3 (l) "Prosecuting attorney" means the prosecuting attorney  
4 for a county, an assistant prosecuting attorney for a county, the  
5 attorney general, the deputy attorney general, an assistant  
6 attorney general, a special prosecuting attorney, and, in connec-  
7 tion with the prosecution of an ordinance violation, an attorney  
8 for the political subdivision or governmental entity which  
9 enacted the ordinance, charter, rule, or regulation upon which  
10 the ordinance violation is based.

11 (m) "Judicial district" means the following:

12 (i) With regard to the circuit court, the county.

13 (ii) With regard to the recorder's court of the city of  
14 Detroit, the city of Detroit.

15 (iii) With regard to municipal courts, the city in which the  
16 municipal court functions or the village which is served by a  
17 municipal court pursuant to section 9928 of the revised judica-  
18 ture act of 1961, Act No. 236 of the Public Acts of 1961, being  
19 section 600.9928 of the Michigan Compiled Laws.

20 (iv) With regard to the district court, the county, dis-  
21 trict, or political subdivision in which venue is proper for  
22 criminal actions.

23 (n) "Complaint" means a written accusation, under oath or  
24 upon affirmation, that a felony, misdemeanor, or ordinance viola-  
25 tion has been committed and that the person named or described in  
26 the accusation is guilty of the offense.

1 (o) "Clerk" means the clerk or a deputy clerk of the court.

2 (p) "Federal law enforcement officer" means an officer or  
3 agent employed by a law enforcement agency of the United States  
4 government whose primary responsibility is the enforcement of  
5 laws of the United States.

6 (q) "Jail", "prison", or a similar word includes a juvenile  
7 facility in which a juvenile has been placed pending trial under  
8 section 27a of chapter IV.

9 (r) "Juvenile" means a person within the jurisdiction of the  
10 circuit court under section 606 of THE REVISED JUDICATURE ACT OF  
11 1961, Act No. 236 of the Public Acts of 1961, being section  
12 600.606 of the Michigan Compiled Laws, or within the jurisdiction  
13 of the recorder's court of the city of Detroit under section  
14 10a(1)(c) of Act No. 369 of the Public Acts of 1919, being sec-  
15 tion 725.10a of the Michigan Compiled Laws.

16 (s) "Juvenile facility" means a county facility, institution  
17 operated as an agency of the county or the juvenile division of  
18 the probate court, or a state institution or agency described in  
19 the youth rehabilitation services act, Act No. 150 of the Public  
20 Acts of 1974, being sections 803.301 to 803.309 of the Michigan  
21 Compiled Laws, to which a juvenile has been committed under  
22 section 27a of chapter IV of this act.

23 (T) "TAKEN", "BROUGHT", OR "BEFORE" A MAGISTRATE OR JUDGE  
24 FOR PURPOSES OF CRIMINAL ARRAIGNMENT OR THE SETTING OF BAIL MEANS  
25 EITHER OF THE FOLLOWING:

26 (i) PHYSICAL PRESENCE BEFORE A MAGISTRATE OR JUDGE.

1 (ii) PRESENCE BEFORE A MAGISTRATE OR JUDGE BY USE OF 2-WAY  
2 CLOSED CIRCUIT TELEVISION.

3 CHAPTER VII

4 SEC. 37A. (1) A COURT MAY CONDUCT INITIAL CRIMINAL ARRAIGN-  
5 MENTS AND THE SETTING OF BAIL BY 2-WAY CLOSED CIRCUIT TELEVISION  
6 BETWEEN A PRISON, JAIL, OR ANY PLACE A PERSON IS IMPRISONED. A  
7 COURT MAY CONDUCT INITIAL CRIMINAL ARRAIGNMENTS AND THE SETTING  
8 OF BAIL ON WEEKENDS, HOLIDAYS, OR AT ANY TIME AS DETERMINED BY  
9 THE COURT.

10 (2) TWO-WAY CLOSED CIRCUIT TELEVISION SHALL BE POSITIONED TO  
11 ENABLE THE ACCUSED, HIS OR HER ATTORNEY, THE JUDGE, AND THE PROS-  
12 ECUTING ATTORNEY TO SEE, HEAR, AND COMMUNICATE WITH EACH OTHER  
13 SIMULTANEOUSLY.

14 (3) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE PUBLIC SHALL  
15 HAVE ACCESS TO THE COURTROOM WITH THE ABILITY TO VIEW AND HEAR  
16 THE PROCEEDINGS.

17 (4) THE COURT SHALL RECORD AND MAINTAIN AN ORIGINAL  
18 AUDIO-VISUAL RECORDING OF THE ENTIRE PROCEEDINGS. THE RECORDING  
19 SHALL BECOME PART OF THE COURT RECORD.

20 Section 2. This amendatory act shall not take effect unless  
21 all of the following bills of the 86th Legislature are enacted  
22 into law:

23 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 4849 (request  
24 no. 01392'91).

25 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 4850 (request  
26 no. 01393'91).

1 (c) Senate Bill No. \_\_\_\_\_ or House Bill No. 4851 (request  
2 no. 01394'91).

3 (d) Senate Bill No. \_\_\_\_\_ or House Bill No. 4852 (request  
4 no. 01395'91).