

SUBSTITUTE FOR
HOUSE BILL NO. 4799

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending sections 40 and 42 of chapter VII (MCL 767.40 and
767.42), section 40 as amended by 1986 PA 46.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER VII

Sec. 40. All informations shall be filed in the court having
jurisdiction of the offense specified in the information. ~~after~~
~~the proper return is filed by the examining magistrate and by the~~
~~prosecuting attorney of the county as informant.~~ The information
shall be subscribed by the prosecuting attorney or in his or her
name by an assistant prosecuting attorney.

House Bill No. 4799 (H-3) as amended December 14, 2005

1 Sec. 42. (1) An information shall not be filed against any
 2 person for a felony **CHARGED BEFORE AUGUST 1, 2006** until ~~such~~ **THE**
 3 person has had a preliminary examination ~~therefor~~ **FOR THAT FELONY**
 4 **BEFORE AN EXAMINING MAGISTRATE**, as provided by law, ~~before an~~
 5 ~~examining magistrate,~~ unless that person waives his **OR HER**
 6 statutory right to an examination. If ~~any~~ **A** person waives his **OR**
 7 **HER** statutory right to a preliminary examination without having had
 8 the benefit of counsel at the time and place of the waiver, upon
 9 proper and timely application by the person or his counsel, before
 10 trial or plea of guilty, the court having jurisdiction of the cause
 11 ~~in its discretion,~~ may remand the case to a magistrate for a
 12 preliminary examination.

13 (2) **AN INFORMATION SHALL NOT BE FILED AGAINST ANY PERSON FOR A**
 14 **FELONY CHARGED ON OR AFTER AUGUST 1, 2006 UNTIL THE PERSON HAS HAD**
 15 **A CONFERENCE UNDER SECTION [1(3)] OF CHAPTER VI UNLESS THAT PERSON**
 16 **WAIVES HIS OR HER STATUTORY RIGHT TO A CONFERENCE [OR THE PERSON HAS HAD**
 17 **A PRELIMINARY EXAMINATION AS ALLOWED UNDER SECTION 1(6) OF CHAPTER VI].**

18 (3) ~~(2)~~ An information may be filed without a preliminary
 19 examination against a fugitive from justice, and any fugitive from
 20 justice against whom an information shall be filed may be demanded
 21 by the governor of this state of the executive authority of any
 22 other state or territory, or of any foreign government, in the same
 23 manner and the same proceedings may be had thereon as provided by
 24 law in like cases of demand upon indictment filed.

25 Enacting section 1. This amendatory act takes effect August 1,
 26 2006.

27 Enacting section 2. This amendatory act does not take effect
 unless all of the following bills of the 93rd Legislature are

1 enacted into law:

2 (a) House Bill No. 4796.

3 (b) House Bill No. 4800.