

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

767.42 Preliminary examination as prerequisite to filing of information; remand where right waived without benefit of counsel; fugitives from justice.

Sec. 42.

(1) An information shall not be filed against any person for a felony until such person has had a preliminary examination therefor, as provided by law, before an examining magistrate, unless that person waives his statutory right to an examination. If any person waives his statutory right to a preliminary examination without having had the benefit of counsel at the time and place of the waiver, upon proper and timely application by the person or his counsel, before trial or plea of guilty, the court having jurisdiction of the cause, in its discretion, may remand the case to a magistrate for a preliminary examination.

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

History: 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17256 ;-- CL 1948, 767.42 ;-- Am. 1957, Act 38, Eff. Sept. 27, 1957 ;-- Am. 1974, Act 63, Eff. May 1, 1974

Compiler's Notes: Section 2 of Act 63 of 1974 provides: "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 8 of Act 138 of 1859, being CL 1871, § 7944; How., § 9555; CL 1897, § 11940; and CL 1915, § 15767.