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SFA**BILL ANALYSIS**

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Senate Bill 535 (Substitute S-2 as reported)
Sponsor: Senator Michael J. Bouchard
Committee: Judiciary

CONTENT

The bill would amend the Revised Judicature Act to provide for certain preliminary examination witnesses to testify by video or voice communication equipment or to permit a transcript of a person's deposition in place of his or her appearance and testimony. Upon motion and for good cause shown, however, the court could require the witness to testify in person. At least seven days before a preliminary examination alleging the unauthorized use or possession of a person's financial transaction device, telecommunications access device, motor vehicle, or other property, the prosecuting attorney could do either of the following, if the person lived or worked 50 miles or more from the court and his or her testimony were necessary only to establish ownership or lack of authorization: notify the court, defendant, and the defendant's attorney that the person would testify by video or voice communication equipment; or move, in writing, to permit a transcript of the person's deposition to be received in evidence in place of his or her appearance and testimony.

If testimony were to be by video or voice communication, the person could be sworn and testify by use of that equipment. A record would have to be taken in the same manner as for other testimony. The equipment would have to permit all parties to hear and speak to each other. If suitable communication equipment were not available, the individual would have to testify in person.

If the court permitted testimony by transcript of a deposition, the prosecuting attorney would have to provide someone to transcribe the deposition. The deposition would have to be conducted by voice communication equipment that permitted all parties to hear and speak to each other. If the court denied the motion, the person could be sworn and testify by video or voice communication equipment, as otherwise allowed in the bill.

In addition, under the Act, upon receiving copies of a police technician's report concerning forensic science, the prosecuting attorney must notify the court of the report's receipt. If the prosecuting attorney fails to notify the court at least five days before the day set for preliminary examination, the court must adjourn the preliminary examination. The bill would require that adjournment, unless all parties waived the adjournment.

MCL 600.2167

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would result in savings to local units of government regarding costs associated with preliminary examinations.

Date Completed: 10-16-97

Fiscal Analyst: B. Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.