

Legislative Analysis



DISTRICT COURT MAGISTRATE: ARRAIGNMENT

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Senate Bill 105 as passed by the Senate

Sponsor: Sen. Valde Garcia

House Committee: Judiciary

Senate Committee: Judiciary

First Analysis (6-18-07)

BRIEF SUMMARY: The bill would allow a district court magistrate to, in certain circumstances, arraign for a defendant on a subsequent violation.

FISCAL IMPACT: This bill would have no fiscal impact on the judiciary. The bill's new provisions that allow magistrates to conduct arraignments in a greater number of cases may help district courts to use court resources in a more efficient manner, but there would be no fiscal impact overall.

THE APPARENT PROBLEM:

Currently, when authorized by the chief judge of the district court, a magistrate may arraign and sentence a defendant who pleads guilty or nolo contendere (no contest) for misdemeanor violations of various acts and local ordinances if the maximum punishment does not exceed 90 days in jail, a fine, or both. A magistrate can also arraign and sentence upon a guilty or no contest plea for violations of the Michigan Vehicle Code and some violations of the Natural Resources and Environmental Protection Act if the punishment for the violation does not exceed 93 days in jail, a fine, or both – with the exception that a magistrate cannot sentence a defendant who pleads guilty or no contest to drunk driving of a vehicle or drunk operation of an off-road vehicle (ORV) or snowmobile. In addition, when authorized by the chief judge, a magistrate can conduct the first appearance of a defendant before the court in all criminal and ordinance violation cases.

However, if the defendant later violates his or her parole conditions, the magistrate who first arraigned that defendant is prohibited by the language in the Revised Judicature Act from conducting the arraignment on the parole violation since it would be the defendant's second appearance. Courts, like other public institutions, are facing serious budget deficits and staffing shortages and so are seeking ways to better utilize resources. Some feel that if the RJA were amended to allow magistrates to arraign defendants for, among other things, parole or contempt violations, then docket backlogs could be avoided because judges could attend to other matters, such as conducting trials.

THE CONTENT OF THE BILL:

The bill would amend Chapter 85, entitled "Magistrates", of the Revised Judicature Act (MCL 600.8511 and 600.8513) to do the following:

- Allow a magistrate to arraign, when authorized by the chief judge of the district court, for a violation arising directly out of a case for which a judge or magistrate had conducted the arraignment and that involved the same defendant. This would apply only to cases for which a magistrate currently may conduct an arraignment. It also would apply only to violations punishable by imprisonment for not more than one year and/or a fine and would include, but not be limited to, a contempt violation or a violation of a condition of probation imposed in the original case. (A magistrate may arraign and sentence upon pleas of guilty or nolo contendere for violations of the Michigan Vehicle Code, Part 811 or 821 of the Natural Resources and Environmental Protection Act, and several other acts or parts of acts, and also for local ordinances substantially corresponding to those acts or parts of acts.)
- Allow a magistrate, when authorized by the chief judge of the district and whenever a district judge is not immediately available, to conduct *an* appearance rather than the *first* appearance of a defendant in a criminal or ordinance violation case. (The current restriction of accepting only guilty pleas or pleas of nolo contendere expressly authorized by Section 8511 or 8512a of the RJA would still apply.)

HOUSE COMMITTEE ACTION:

The committee reported the Senate-passed version of the bill without amendments.

ARGUMENTS:

For:

Currently, district court judges must arraign defendants on probation violations, failure to appear charges, or contempt violations because the Revised Judicature Act (RJA) specifies that a magistrate may only conduct an arraignment on a defendant's first appearance before the court. In committee testimony, one chief judge of a district court reported that judges simply don't have time to re-arraign people who are re-arrested for probation violations or failure to appear, etc. Reportedly, when the judges have tried to do the repeat arraignments, terrible backlogs were caused. As a result, many magistrates have already been conducting second and third arraignments for the same defendant, even though the statute does not specifically allow for them to do so.

Under the bill, a magistrate could – if authorized by his or her presiding chief judge – conduct the arraignment for a defendant who had been rearrested. There would still be restrictions; the new provision would only apply to cases a magistrate has authorization in statute to preside over and only for a defendant whose new violation arose from the original violation and then only if the new violation was a misdemeanor punishable by imprisonment for not more than one year, a fine, or both. Increasing the types of cases to include those with a maximum term of imprisonment of one year for a second or subsequent violation (instead of the current limit of 93 days imprisonment placed on first

arraignments) would allow magistrates to arraign a probationer arrested for a second DUI, the punishment for which includes a maximum term of imprisonment of one year.

Apparently, many courts are already using magistrates to conduct these second and subsequent arraignments for misdemeanor violations to increase the court's efficiency and avoid case backlogs. The bill would therefore "legalize" the current practice. Furthermore, it makes sense that the magistrate who presided over the first arraignment, and who was more familiar with the defendant, be the one to set bond for a subsequent violation.

Against:

Section 8513 of the RJA limits a magistrate to conducting the first appearance of a defendant before the court in a criminal or ordinance violation case when authorized by the chief judge of the district and also whenever a judge is not available. An arraignment is generally the first time a defendant appears before a court, at which time the indictment is read, a plea is accepted, and bond is set. However, by changing the wording of the provision to read "an appearance," it appears that the bill is expanding a magistrate's scope of jurisdiction beyond just the arraignment and to any type of proceeding the chief judge authorized. In light of the continued budget shortfalls experienced by many courts, which impacts staffing and case loads, a chief judge may be enticed to authorize a magistrate to go beyond historical boundaries and conduct any proceeding that is not specifically prohibited by statute. Not all magistrates are lawyers; therefore it could be argued that is inappropriate to elevate them, even temporarily, to the level of "judge." There may be a better way to amend the RJA to allow magistrates to conduct a second arraignment for a defendant he or she previously arraigned without inadvertently expanding their jurisdiction.

POSITIONS:

The Michigan Association of District Court Magistrates indicated support for the bill. (5-23-07)

The State Court Administrative Office (SCAO) indicated support for the bill. (5-23-07)

The State Bar of Michigan indicated support for the bill. (5-23-07)

Rosemarie E. Aquilina, Chief Judge of the 55th District Court, testified in support of the bill. (5-23-07)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.