




Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

Senate Bill 105 (Substitute S-3 as passed by the Senate)  
Sponsor: Senator Valde Garcia  
Committee: Judiciary

Date Completed: 5-7-07

### **RATIONALE**

Chapter 85 of the Revised Judicature Act (RJA) governs the qualifications and activities of district court magistrates, which "serve at the pleasure of the judges of the district court" (MCL 600.8507). The RJA allows a district court magistrate to arraign and sentence, upon a plea of guilty or nolo contendere (no contest), when authorized by the chief judge of the district court, for certain violations of State law or substantially corresponding local ordinances. The sentencing authority does not extend to drunk driving cases or drunk operation of an off-road vehicle (ORV) or snowmobile, but a magistrate may arraign defendants and set bond in those cases. Similarly, the RJA provides that, when authorized by the chief judge and whenever a district judge is not immediately available, a district court magistrate may conduct "the first" appearance of a defendant before the court in criminal and ordinance violation cases. Often, another violation by the same defendant, such as a probation or contempt of court violation, will arise out of a case in which a magistrate has statutory authority to conduct an arraignment. Typically, the magistrate will conduct the arraignment on those subsequent charges, but the RJA does not explicitly grant magistrates that authority. Some people believe that the RJA should specify that a district court magistrate may conduct the subsequent arraignment in such a case.

### **CONTENT**

**The bill would amend Chapter 85 (Magistrates) of the Revised Judicature Act to do both of the following:**

- **Authorize a district court magistrate to conduct arraignments for violations arising directly out of cases for which a magistrate currently may conduct an arraignment.**
- **Allow a magistrate, under certain circumstances, to conduct "an" appearance rather than "the first" appearance of a criminal defendant before the district court.**

Under the RJA, a district court magistrate has jurisdiction to arraign and sentence, upon a plea of guilty or no contest, when authorized by the chief judge, for certain violations of State law or substantially corresponding local ordinances, if the maximum penalty does not exceed 90 days' imprisonment and/or a fine.

Also, with the chief judge's authorization, a magistrate may arraign and sentence, upon a plea of guilty or no contest, on violations of the Michigan Vehicle Code or substantially corresponding local ordinances, if the maximum penalty does not exceed 93 days' imprisonment and/or a fine. That authority does not extend to drunk driving cases, although a magistrate may arraign defendants and set bond with regard to drunk driving violations.

Similarly, with the chief judge's authorization, the RJA allows a magistrate to arraign and sentence, upon a plea of guilty or no contest, on violations of the Natural Resources and Environmental Protection Act's provisions pertaining to ORVs and snowmobiles, if the maximum penalty does not exceed 93 days' imprisonment and/or a fine. That authority does not extend to

drunk operation of an ORV or snowmobile, although a magistrate may arraign defendants and set bond with regard to those violations.

Under the bill, when authorized by the chief judge, a magistrate also would have jurisdiction to arraign for a violation arising directly out of a case for which a judge or magistrate conducted an arraignment described above, involving the same defendant. This provision would apply only to violations punishable by up to one year's imprisonment and/or a fine, and would include a contempt violation or a violation of a condition of probation imposed in the original case. The bill specifies that a magistrate could set bond and accept a plea in such a case, but could not conduct a violation hearing or sentencing.

In addition, under the RJA, when authorized by the chief judge and whenever a district judge is not immediately available, a district court magistrate may conduct "the first" appearance of a defendant before the court in all criminal and ordinance violation cases, including acceptance of any written demand or waiver of preliminary examination and acceptance of any written demand or waiver of a jury trial (although this provision does not authorize a magistrate to accept a plea of guilty or no contest not otherwise expressly authorized under the Act). The bill would refer to "an" appearance rather than "the first" appearance.

MCL 600.8511 & 600.8513

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

District courts deal with thousands of cases every year, and using district court magistrates to conduct arraignments and set bond in many of those cases allows the courts to operate in a more efficient manner that they would otherwise. Evidently, in district courts across the State, it is common for a district court chief judge to authorize a magistrate to conduct arraignments on subsequent violations, such as probation violations and contempt of court charges. It has been pointed out, however, that the RJA's authorization of magistrates to

conduct arraignments does not specifically include those in subsequent violations arising out of cases in which they are explicitly authorized to conduct arraignments. Also, another provision states that a magistrate may conduct a defendant's "first" appearance before a court, which suggests the magistrate may not conduct subsequent arraignments of that defendant.

By expressly allowing a magistrate to conduct arraignments and set bond for violations arising out of cases in which they already may conduct arraignments, and providing that they may conduct "an" appearance of a defendant before the court, the bill would reflect what apparently already is widespread accepted practice that helps district courts operate in a streamlined manner. If district judges had to assume these responsibilities, the judges' caseload would increase dramatically and the efficiencies achieved by using magistrates to conduct these proceedings would be undermined.

Legislative Analyst: Patrick Affholter

## **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government. To the extent that the bill would allow magistrates to conduct arraignments in more cases, there could be some shifting of judges' time and resources, but there would be no overall fiscal impact.

Fiscal Analyst: Stephanie Yu

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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.