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BILL ANALYSIS

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Senate Bill 105 (as introduced 1-30-07)
Sponsor: Senator Valde Garcia
Committee: Judiciary

Date Completed: 4-30-07

CONTENT

The bill would amend the Revised Judicature Act (RJA) 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 nolo contendere (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 off-road vehicles (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.

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

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government. To the extent that this 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.