

# Legislative Analysis



## AUTHORITY OF DISTRICT COURT MAGISTRATES

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**Senate Bill 845 (Substitute S-1 with committee amendment)**  
**Sponsor: Sen. Goeff Hansen**

**Senate Bill 931 (as passed the Senate without amendment)**  
**Senate Bill 932 (Substitute H-1)**  
**Sponsor: Sen. Rick Jones**

**House Committee: Judiciary**  
**Senate Committee: Judiciary**

### First Analysis (12-2-14)

**BRIEF SUMMARY:** All three bills would replace references to a "magistrate" with "district court magistrate". In addition, SB 845 would allow complaints filed for arrest warrants to be filed electronically from anywhere in the state under certain circumstances and allow the oath to be made electronically, as well. SB 931 would allow a judge or district court magistrate to sign an electronically-issued search warrant from anywhere in the state. SB 932 authorizes district court magistrates to set aside default or withdraw admissions in civil infraction cases and removes the residency requirement for a district court magistrate employed by a district court in a district of the third class.

**FISCAL IMPACT:** The bills are not expected to have a fiscal impact on state or local government.

### **THE APPARENT PROBLEM:**

A district court magistrate is an employee of a district court, is not elected, and may or may not be an attorney. The duties of a district court magistrate (DCM) are authorized in statute under Section 8511 of the Revised Judicature Act; however, a DCM may only engage in duties specifically authorized by the chief judge (or only judge) of the district court that employs the DCM.

The bills seek to address ambiguity across several statutes in regards to what duties a DCM may or may not be statutorily authorized to do. For example, the Revised Judicature Act clearly imbues a DCM with authority to issue arrest and search warrants. However, the statutes establishing the processes for arrest and search warrants use the term "magistrate." The term "magistrate" is defined in the Code of Criminal Procedure to mean "a judge of the district court or a judge of a municipal court." The definition specifically excludes a district court magistrate unless other provisions in the Code of Criminal Procedure, Revised Judicature Act, or other statutes specifically authorize a DCM to "exercise the powers, jurisdiction, and duties of a magistrate." Thus, it is unclear in some situations whether or not a DCM is indeed statutorily authorized to carry out a specific function.

A package of bills has been offered to eliminate these inconsistencies and, in some circumstances, to expand the authority of a DCM to engage in matters related to statutorily-authorized duties.

***THE CONTENT OF THE BILLS:***

**Senate Bill 845** amends the Code of Criminal Procedure (MCL 764.1) to clarify that a judge or a district court magistrate may issue arrest warrants and to allow a complaint for an arrest warrant to be made from any location in the state when submitting it electronically (subject to other restrictions in the code).

In addition, when filing a complaint for an arrest warrant by electronic or electromagnetic means of communication, the prosecuting attorney must authorize the issuance of the warrant, the applicant must sign the complaint, and the judge must orally administer the oath or affirmation to the applicant. Regarding administering the oath or affirmation, the bill would specify that the judge *or district court magistrate* must orally administer the oath or affirmation *in person or by any electronic or electromagnetic means of communication* to the applicant for the arrest warrant.

**Senate Bill 931** would amend Public Act 189 of 1966 (MCL 780.651), which establishes search warrant procedures, to replace references to "magistrate" with "a judge or district court magistrate." The bill would also allow a judge or district court magistrate to sign an electronically-issued search warrant when at any location in the state.

**Senate Bill 932** amends the Revised Judicature Act (MCL 600.8501 et al.) to replace references to a *magistrate* with *district court magistrate*.

Currently, a DCM may hear and preside over civil infraction admission, and admissions with explanation, and may conduct informal hearings in civil infraction actions involving traffic offenses and municipal and state civil infraction cases. The bill would also authorize a district court magistrate to hear and preside over motions to set aside default or withdraw admissions in civil infraction cases.

Similarly, a DCM may, only to the extent expressly authorized by the chief judge (or presiding or only judge of the district court district), accept an admission of responsibility and order appropriate civil sanctions for a civil infraction as permitted by the underlying statute or ordinance. The bill would amend this provision to grant DCMs the statutory authority to decide a motion to set aside a default or withdraw an admission.

Further, the bill would remove the residency requirement for a district court magistrate appointed in a district of the third class. A district of the third class is a district consisting of one or more political subdivisions within a county where each political subdivision constituting the district is responsible for maintaining, financing, and operating the district court within its respective political subdivision, except as otherwise provided in this act. However, the elimination of the residency requirement would not apply to DCMs appointed to the 36<sup>th</sup> District (City of Detroit).

Lastly, the bill clarifies that a district court magistrate *expressly authorized by the chief judge* and by law has judicial immunity to the extent accorded a district court judge.

**HOUSE COMMITTEE ACTION:**

The House Judiciary Committee adopted an amendment to SB 845 to allow the oath or affirmation administered to an applicant for an arrest warrant filed by electronic means to be administered either in person or also by electronic means. The committee adopted a substitute for SB 932 to remove the residency requirement for district court magistrates appointed to serve in a district court in a district of the third class.

**BACKGROUND INFORMATION:**

In Michigan, district courts are known as courts of limited jurisdiction. Their jurisdiction includes the following:

- Civil cases up to \$25,000 in damages.
- Garnishment and eviction proceedings.
- Misdemeanors for offenses having a maximum term of imprisonment of one year.
- Arraignment and preliminary examinations in felony cases.
- Accepting bail on felony cases.
- Traffic civil infractions.
- State and municipal nontraffic civil infractions for adults (17 or older) or juveniles waived to adult court.
- Juvenile nontraffic civil infractions if under agreement with family division of circuit court.

A district court magistrate (DCM) is a non-elected employee of a district court who serves at the pleasure of the chief judge of the district. A DCM's authority is established in statute, but a chief judge has discretion to specify which of the authorized functions a DCM may perform in that district court district. A district judge may not extend the jurisdiction of a DCM beyond the jurisdiction expressly provided by law. Statutorily-authorized duties of a DCM include, but are not limited to, the following:

- Arraign and sentence individuals who plead guilty or nolo contendere for violations of certain acts (or corresponding local ordinances).
- Conduct the first appearance of a defendant in all criminal and ordinance violation cases.
- Accept admission of responsibility and order civil sanctions for civil infractions.
- Accept pleas and impose sentence for misdemeanors or ordinance violations punishable only by a fine.
- Approve and grant petitions for appointment of an attorney for indigent defendants, and suspend payment of court fees by an indigent party in a civil, small claims, or summary proceedings action until after judgment is rendered.
- Under certain circumstances, dismiss a criminal or ordinance violation case and release the bail bond or bail bond deposit.

- Issue arrest warrants and search warrants.
- Fix and accept bond in all criminal cases.
- Hear and preside over, and conduct informal hearings, in civil infraction actions.
- If the DCM is an attorney, perform all the functions that a district judge could perform in trying a case in small claims court.
- Perform marriage ceremonies in the district in which the DCM serves.
- Issue summonses and order actions in dangerous animal cases.
- Provide nonlegal advice and assistance to the public and court staff.
- Record, index, file, and post dispositions of all cases processed.
- Notify arresting agencies and Secretary of State of notices for failure to appear in court.
- Answer correspondence and complaints regarding cases processed.
- Administer oaths and affirmations.
- Issue bond forfeiture notices and take actions associated with bond forfeiture.

***ARGUMENTS:***

***For:***

As a package, the bills address confusion and ambiguity in several statutes concerning the authority given to district court magistrates to engage in certain duties. In that sense, the bills are largely technical in nature as they clarify the role of district court magistrates.

However, the bills would also expand some duties (e.g., allow district court magistrates to hear and preside over motions to set aside default or withdraw admissions in civil infraction cases) in order to increase a court's efficiency. Senate Bill 932 would also enable a magistrate from one jurisdiction to serve in another jurisdiction that was part of concurrent jurisdiction. For example, the Judicial Resources Recommendations Report, a biennial study and report by the Supreme Court Administrative Office, occasionally recommends that certain court districts be merged for efficiency and cost-savings. By removing the residency requirement for a district court magistrate, a DCM in one of the district courts of a city within a concurrent jurisdiction may serve in the district court of a different city. As is currently the case, a DCM appointment must be approved by the governing body or bodies of the district control unit or units. Elimination of the residency requirement for DCMs in districts of the third class does not apply to the 36<sup>th</sup> District, which serves the City of Detroit; a person would still need to be a registered voter in that district in order to be appointed as a district court magistrate.

Senate Bill 931 would allow a DCM or judge to sign an electronic search warrant from anywhere in the state, thus eliminating the need for a DCM to travel back to the office if the DCM was out of the office or outside of the court's jurisdiction; for example, at a restaurant in a neighboring town. Senate Bill 845 would allow a DCM to administer an oath for an arrest warrant electronically. Currently, DCMs may not issue an arrest warrant by electronic means such as by fax or computer network, let alone smart phone. Especially for rural areas, such amendments will allow for greater efficiency not just for court officers, but also for law enforcement officers, who often must travel to the courthouse or other location where a DCM may be in order to execute warrants.

***POSITIONS:***

A representative of the Michigan Magistrates Association testified in support of the bills. (11-13-14)

A representative of the Supreme Court Administrative Office testified in support of the bills. (11-13-14)

The Michigan State Police indicated support for the bills. (11-13-14)

The Michigan District Judges Association indicated support for the bills. (11-13-14)

The State Bar of Michigan indicated support for the bills. (11-13-14)

Legislative Analyst: Susan Stutzky

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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.