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House Bill 5154 (Substitute S-1 as reported by the Committee of the Whole)  
House Bill 5155 (as reported without amendment)  
Sponsor: Representative Tom Leonard (H.B. 5154)  
Representative John Walsh (H.B. 5155)  
House Committee: Judiciary  
Senate Committee: Judiciary

### **CONTENT**

House Bill 5154 (S-1) would amend Chapter 6 (Examination of Offenders) of the Code of Criminal Procedure to do the following:

- Require a district court judge, after a person had been arraigned on a felony charge, to schedule a probable cause conference (rather than a preliminary examination) between seven and 14 days after the arraignment, and to set a date for a preliminary examination between five and seven days after the probable cause conference.
- Specify issues to be discussed at the conference, including a plea agreement.
- Allow the prosecutor and the defendant to agree to waive the conference.
- Authorize a district court judge to accept a felony plea.
- Require a preliminary exam to be held as scheduled if a plea agreement were not reached and the defendant did not waive the exam with the consent of the prosecutor.
- Require a consolidated probable cause conference and a consolidated preliminary exam for codefendants, under certain circumstances.
- Require the judge to permit a witness (except a complaining witness, an alleged eyewitness, or a law enforcement officer to whom the defendant allegedly made an incriminating statement) to testify by telephonic, voice, or video conferencing.
- Provide that testimony taken by video conferencing would be admissible in any subsequent trial or hearing as otherwise permitted by law.
- Provide that the rules of evidence would apply at preliminary exams, but make exceptions to the rule against hearsay for certain reports or records (described below).
- Require the judge either to discharge the defendant or to reduce the charge to an offense that is not a felony, if the judge determined at the conclusion of the preliminary exam that a felony had not been committed or that there was not probable cause to charge the defendant with a felony.
- Authorize the judge to conduct the circuit court arraignment as provided by court rule.

The following reports or records could be admitted despite the rule against hearsay, and without the testimony of the author or record-keeper or additional information:

- A report of the results of properly performed drug analysis field testing to establish that the substance tested was a controlled substance.
- A certified copy of any written or electronic order, judgment, decree, docket entry, register of actions, or other record of any court or governmental agency of the State.
- A report other than a law enforcement report that was made or kept in the ordinary course of business.
- A report prepared by a law enforcement officer or other public agency, except for the police investigative report.

House Bill 5155 would amend the Revised Judicature Act to do the following:

- Give the district court jurisdiction of probable cause conferences in all felony cases and misdemeanor cases not cognizable by the district court, and all matters allowed at a probable cause conference.
- Give the district jurisdiction of circuit court arraignments in felony cases and misdemeanor cases not cognizable by the district court.
- Give district court magistrates the jurisdiction and duty to conduct probable cause conferences and all matters allowed at such conferences, except the taking of pleas and sentencing, as authorized by the chief district court judge.

House Bill 5155 is tie-barred to House Bill 5154.

Both bills would apply to cases in which the defendant was arraigned in the district court or municipal court on or after September 1, 2014.

MCL 766.1 et al. (H.B. 5154)  
600.8311 & 600.8511 (H.B. 5155)

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bills would modify the existing process for preliminary examinations in criminal cases. Mainly, the bills would establish a probable cause conference and allow district courts to arraign felony cases. In addition, the bills would expand the use of telephonic, voice, and video conferencing for use in giving testimony in preliminary examinations. The fiscal costs at the State and local government levels from these bills would result from an additional request for technology improvement for expanded remote testimony. Also, an increased fiscal cost for the courts could result from a rebalancing of caseload with the probable cause and district court felony arraignments.

Date Completed: 3-27-14

Fiscal Analyst: John Maxwell

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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.