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BILL ANALYSIS

Senate Fiscal Agency

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Senate Bill 113 (Substitute S-1 as reported)
Sponsor: Senator Rudy J. Nichols
Committee: Judiciary

Date Completed: 2-15-89

RATIONALE

In a 1986 Federal case in the Western District of Michigan, the Court reiterated the U.S. Supreme Court's holding that the Fourth Amendment "requires a judicial determination of probable cause as a prerequisite to extended restraint of liberty following arrest", and the recognition that "persons may be detained for a brief period...until a judicial officer can make a determination of whether there is probable cause to justify continued detention" (Mabry v County of Kalamazoo, 626 FSupp 912). To meet this standard, Michigan's district courts sometimes have to conduct such procedures as issuing arrest warrants, holding probable cause hearings and arraignments, and setting bond after normal court hours. The State's more populous counties are divided into several districts and the inconvenience and expense of authorizing a court officer in each of those districts to conduct after-hours hearings at specific locations within the district can be prohibitive. For this reason, representatives of some of those counties and their district courts would like to authorize a single judge or magistrate to conduct court procedures after normal court hours for all of the districts within the county. Some people feel that statutory approval is necessary for such multi-district authorization. (See BACKGROUND for a discussion of Mabry.)

CONTENT

The bill would amend the Revised Judicature Act to permit the chief judges of the various district courts within a county, acting jointly, to designate a location in which a judge or magistrate could conduct arraignments or perform other duties permitted by law and authorized by the chief judges outside of normal court hours for all of the county's districts. The bill also would allow the chief judges, acting jointly and with both the approval of the State Court Administrator and the concurrence of the county's governing body, to appoint or authorize a magistrate to conduct such procedures.

MCL 600.8251 and 600.8501

BACKGROUND

The Mabry case involved the warrantless arrest of the plaintiff on the evening of Saturday, July 2, 1983, on a charge of felonious assault. After Roy Mabry was detained, without a hearing to determine probable cause, until sometime the following Tuesday, an assistant prosecutor for Kalamazoo County determined that no charges would be filed against Mabry and he was released from jail. In the suit, Mabry claimed that the lengthy detention (over 60 hours) without a probable cause determination violated his rights under the Fourth and Fourteenth Amendments to the U.S. Constitution.

Although the Court did not set a specific standard for the length of time a suspect may be detained without a judicial determination of probable cause, it cited the U.S. Supreme Court's finding that such detention can be for only a "brief period", which the Supreme Court defined in Gerstein v Pugh (420 U.S. 103 (1975)) as the time necessary "to take the administrative steps incident to arrest". While stating that several other Courts "have found that holding a person for longer than 24 hours without a determination of probable cause by a judicial officer violates the Fourth Amendment", the Court in Mabry held that it "need not determine whether a 'twenty-four hour rule' is constitutionally required in order to find that plaintiff's detention of 60 plus hours was unconstitutional".

The Court ruled further that such a lengthy detention as the one in Mabry was improper regardless of "the good faith or bad faith of the arresting and holding officers", or the availability of a judicial officer. It stated that the arresting and holding officers "are constitutionally obligated to ensure that a judicial officer is available to make a probable cause determination within the requisite period of time".

FISCAL IMPACT

The bill would have no impact on State government. The bill would provide cost savings specifically to counties with multiple district courts by allowing for the administrative centralization of arraignments and other duties outside of normal court hours for all of the districts within a county.

ARGUMENTS

Supporting Argument

Since each district court's jurisdiction is limited to the geographical boundaries of its district, after-hours personnel and facilities must be made available in each district whenever it is necessary to pursue after-hours court procedures. In the larger counties that contain several districts, such as Wayne, Oakland, Washtenaw, Genesee, and Kent, this requirement can involve considerable costs in

overtime pay, additional paperwork, transport of suspects, and other related functions. By allowing these larger counties to hold county-wide after-hours court procedures and to appoint or authorize a magistrate to conduct such procedures, the bill would go a long way toward helping the counties keep down costs.

Opposing Argument

The bill is unnecessary. Some of the multi-district counties to which the bill would apply reportedly already are using the county-wide after-hours procedure, and don't feel that specific statutory authorization to do so is required. In any event, the State Court Administrator can cross-assign judges to different districts without any additional legislative approval.

Response: Although some counties already use the procedure proposed by the bill, there is some question as to whether it is currently in their legal capacity to authorize multi-district court proceedings. The State Court Administrator's office believes that statutory approval of those policies is necessary to avoid future challenges to the proceedings. In addition, although the State Court Administrator does have the authority to grant district judges jurisdiction in other districts, doing so can be time-consuming and involves a great deal of paperwork. Besides, the State Court Administrator's office has such authority only with respect to judges; it cannot authorize a magistrate to act in an official capacity in other districts.

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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.