

HOUSE BILL No. 5512

February 18, 1992, Introduced by Reps. Nye, Bandstra, Bartnik, Martin, Gubow, Profit, Palamara, Perry Bullard, Hoffman, Fitzgerald, McNutt, Dalman, Power, Jondahl, Strand and London and referred to the Committee on Judiciary.

A bill to amend sections 113, 8313, 8375, and 8512 of Act No. 236 of the Public Acts of 1961, entitled as amended "Revised judicature act of 1961," section 8512 as amended by Act No. 278 of the Public Acts of 1984, being sections 600.113, 600.8313, 600.8375, and 600.8512 of the Michigan Compiled Laws; and to add section 8392 and chapter 88.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 113, 8313, 8375, and 8512 of Act
2 No. 236 of the Public Acts of 1961, section 8512 as amended by
3 Act No. 278 of the Public Acts of 1984, being sections 600.113,
4 600.8313, 600.8375, and 600.8512 of the Michigan Compiled Laws,
5 are amended and section 8392 and chapter 88 are added to read as
6 follows:

1 Sec. 113. (1) As used in this act:

2 (a) "Civil infraction" means an act or omission THAT IS
3 prohibited by STATE OR LOCAL law ~~which~~ AND THAT is not a crime
4 as defined in section 5 of THE MICHIGAN PENAL CODE, Act No. 328
5 of the Public Acts of 1931, being section 750.5 of the Michigan
6 Compiled Laws, and for which civil sanctions may be ordered.

7 (b) "Civil infraction action" means a civil action in which
8 the defendant is alleged to be responsible for a civil
9 infraction.

10 (2) Except as otherwise provided in this act, a civil
11 infraction action involving a traffic or parking violation shall
12 be governed by THE MICHIGAN VEHICLE CODE, Act No. 300 of the
13 Public Acts of 1949, as amended, being sections 257.1 to 257.923
14 of the Michigan Compiled Laws.

15 (3) EXCEPT AS OTHERWISE PROVIDED IN THIS ACT, A CIVIL
16 INFRACTION ACTION IS GOVERNED BY CHAPTER 88.

17 (4) ~~-(3)-~~ A determination that a person is responsible for a
18 civil infraction and thus subject to civil sanctions shall be by
19 a preponderance of the evidence.

20 Sec. 8313. ~~All violations~~ A VIOLATION of state criminal
21 law shall be prosecuted in the district court by the prosecuting
22 attorney. ~~All ordinance violations which are misdemeanors or~~
23 ~~which are~~ A VIOLATION OF A LAW OF A POLITICAL SUBDIVISION THAT
24 IS A MISDEMEANOR OR THAT IS not designated as A civil
25 ~~infractions~~ INFRACTION shall be prosecuted in the district
26 court by the attorney for the political subdivision whose law was
27 violated. If the violation is a civil infraction, the

1 prosecuting attorney or attorney for the political subdivision
2 shall ~~be required to~~ appear in court only in those civil
3 infraction actions ~~which~~ THAT are contested before a judge of
4 the district court in a formal hearing as provided in section 747
5 of THE MICHIGAN VEHICLE CODE, Act No. 300 of the Public Acts of
6 1949, being section 257.747 of the Michigan Compiled Laws, OR
7 SECTION 8821, AS APPLICABLE.

8 Sec. 8375. The district court may assess the same costs as
9 are permitted in the circuit court. In civil infraction actions
10 the district court may assess costs as provided in section 907 of
11 THE MICHIGAN VEHICLE CODE, Act No. 300 of the Public Acts of
12 1949, being section 257.907 of the Michigan Compiled Laws, OR
13 SECTION 8827, AS APPLICABLE. A district court magistrate may
14 assess costs in an amount fixed by rule of the district court.

15 SEC. 8392. (1) UPON THE APPROVAL OF THE GOVERNING BODY OF
16 A DISTRICT CONTROL UNIT, THE DISTRICT COURT MAY ESTABLISH WITHIN
17 THE COURT A CIVIL INFRACTION BUREAU. THE CIVIL INFRACTION BUREAU
18 MAY BE ADMINISTERED BY CLERKS OR OTHER PERSONNEL OF THE DISTRICT
19 COURT TO ACCEPT, AS AUTHORIZED BY THE JUDGES OF THE DISTRICT,
20 ADMISSIONS FOR CIVIL INFRACTIONS UNDER CHAPTER 88, AND TO COLLECT
21 CIVIL FINES AND COSTS AS PRESCRIBED BY THE JUDGES OF THE
22 DISTRICT. THE CHIEF OR ONLY JUDGE OF THE DISTRICT, SUBJECT TO
23 THE SUPERVISION OF THE SUPREME COURT, SHALL HAVE AUTHORITY OVER
24 THE CIVIL INFRACTION BUREAU PERSONNEL AND DETERMINE THE LOCATION
25 AND NUMBER OF CIVIL INFRACTION BUREAU OFFICES. APPEALS AS OF
26 RIGHT MAY BE TAKEN FROM THE CIVIL INFRACTION BUREAU TO THE
27 DISTRICT COURT. APPEALS SHALL BE TAKEN WITHIN 7 DAYS AFTER THE

1 ENTRY OF THE CIVIL INFRACTION ADMISSION AND SHALL BE HEARD DE
2 NOVO.

3 (2) A CIVIL INFRACTION BUREAU MAY BE COMBINED WITH A TRAFFIC
4 BUREAU.

5 Sec. 8512. (1) A district court magistrate may hear and
6 preside over civil infraction admissions and admissions with
7 explanation and conduct informal hearings in civil infraction
8 actions pursuant to section 746 of THE MICHIGAN VEHICLE CODE, Act
9 No. 300 of the Public Acts of 1949, being section 257.746 of the
10 Michigan Compiled Laws, OR SECTION 8819, AS APPLICABLE. In exer-
11 cising the authority conferred by this subsection, the magistrate
12 may administer oaths, examine witnesses, and make findings of
13 fact and conclusions of law. If the defendant is determined to
14 be responsible for a civil infraction, the magistrate may impose
15 the civil sanctions authorized by section 907 of Act No. 300 of
16 the Public Acts of 1949, being section 257.907 of the Michigan
17 Compiled Laws, OR SECTION 8827, AS APPLICABLE.

18 (2) A district court magistrate shall not conduct an infor-
19 mal hearing in a civil infraction action INVOLVING A TRAFFIC OR
20 PARKING VIOLATION GOVERNED BY ACT NO. 300 OF THE PUBLIC ACTS OF
21 1949, BEING SECTIONS 257.1 TO 257.923 OF THE MICHIGAN COMPILED
22 LAWS, until he or she has successfully completed a special train-
23 ing course in traffic law adjudication and sanctions. ~~which~~
24 THE course shall be given periodically by the state court
25 administrator.

26 (3) A district court magistrate may exercise the authority
27 conferred by this section only to the extent expressly authorized

1 by the chief judge, presiding judge, or only judge of the
2 district court district.

3 CHAPTER 88.

4 CIVIL INFRACTIONS

5 SEC. 8801. (1) THIS CHAPTER SHALL ONLY APPLY TO A CIVIL
6 INFRACTION ACTION INVOLVING A VIOLATION OF STATE LAW THAT IS DES-
7 IGNATED AS A CIVIL INFRACTION.

8 (2) THIS CHAPTER DOES NOT APPLY TO A CIVIL INFRACTION ACTION
9 INVOLVING A TRAFFIC OR PARKING VIOLATION.

10 SEC. 8803. AS USED IN THIS CHAPTER:

11 (A) "CITATION" MEANS A WRITTEN COMPLAINT OR NOTICE TO APPEAR
12 IN COURT UPON WHICH A LAW ENFORCEMENT OFFICER RECORDS THE OCCUR-
13 RENCE OR EXISTENCE OF 1 OR MORE CIVIL INFRACTIONS BY THE PERSON
14 CITED.

15 (B) "CIVIL INFRACTION DETERMINATION" MEANS A DETERMINATION
16 THAT A DEFENDANT IS RESPONSIBLE FOR A CIVIL INFRACTION BY 1 OF
17 THE FOLLOWING:

18 (i) AN ADMISSION OF RESPONSIBILITY FOR THE CIVIL
19 INFRACTION.

20 (ii) AN ADMISSION OF RESPONSIBILITY FOR THE CIVIL INFRAC-
21 TION, "WITH EXPLANATION".

22 (iii) A PREPONDERANCE OF THE EVIDENCE AT AN INFORMAL HEARING
23 OR FORMAL HEARING ON THE QUESTION UNDER SECTION 8819 OR 8821,
24 RESPECTIVELY.

25 (iv) A DEFAULT JUDGMENT, FOR FAILING TO APPEAR AS DIRECTED
26 BY A CITATION OR OTHER NOTICE, AT A SCHEDULED APPEARANCE UNDER

1 SECTION 8817(3)(B) OR (4), AT AN INFORMAL HEARING UNDER
2 SECTION 8819, OR AT A FORMAL HEARING UNDER SECTION 8821.

3 (C) "LAW ENFORCEMENT OFFICER" MEANS ANY OF THE FOLLOWING:

4 (i) A SHERIFF OR DEPUTY SHERIFF.

5 (ii) AN OFFICER OF THE POLICE DEPARTMENT OF A CITY, VILLAGE,
6 OR TOWNSHIP, OR THE MARSHAL OF A CITY, VILLAGE, OR TOWNSHIP.

7 (iii) AN OFFICER OF THE MICHIGAN STATE POLICE.

8 (iv) A CONSERVATION OFFICER.

9 (v) A SECURITY EMPLOYEE EMPLOYED BY THE STATE PURSUANT TO
10 SECTION 6C OF ACT NO. 59 OF THE PUBLIC ACTS OF 1935, BEING
11 SECTION 28.6C OF THE MICHIGAN COMPILED LAWS.

12 (vi) A MOTOR CARRIER OFFICER APPOINTED PURSUANT TO
13 SECTION 6D OF ACT NO. 59 OF THE PUBLIC ACTS OF 1935, BEING
14 SECTION 28.6D OF THE MICHIGAN COMPILED LAWS.

15 (vii) A PUBLIC SAFETY OFFICER EMPLOYED BY A UNIVERSITY AS
16 AUTHORIZED BY EITHER OF THE FOLLOWING:

17 (A) ACT NO. 278 OF THE PUBLIC ACTS OF 1965, BEING
18 SECTIONS 390.711 TO 390.717 OF THE MICHIGAN COMPILED LAWS.

19 (B) ACT NO. 120 OF THE PUBLIC ACTS OF 1990, BEING
20 SECTIONS 390.1511 TO 390.1514 OF THE MICHIGAN COMPILED LAWS.

21 (viii) IF AUTHORIZED BY THE GOVERNING BODY OF A POLITICAL
22 SUBDIVISION, A CONSTABLE OF THE POLITICAL SUBDIVISION.

23 SEC. 8805. (1) A CIVIL INFRACTION ACTION IS COMMENCED UPON
24 THE ISSUANCE OF A CITATION AS PROVIDED IN SECTION 8809. THE
25 PLAINTIFF IN A CIVIL INFRACTION ACTION IS THE STATE.

26 (2) THE DISTRICT COURT AND ANY MUNICIPAL COURT HAVE
27 JURISDICTION OVER CIVIL INFRACTION ACTIONS.

1 (3) THE TIME SPECIFIED IN A CITATION FOR APPEARANCE SHALL BE
2 WITHIN A REASONABLE TIME AFTER THE CITATION IS ISSUED PURSUANT TO
3 SECTION 8809.

4 (4) THE PLACE SPECIFIED IN THE CITATION FOR APPEARANCE SHALL
5 BE THE COURT REFERRED TO IN SUBSECTION (2) THAT HAS TERRITORIAL
6 JURISDICTION OF THE PLACE WHERE THE CIVIL INFRACTION OCCURRED.
7 VENUE IN THE DISTRICT COURT IS GOVERNED BY SECTION 8312.

8 (5) IF THE PERSON CITED IS A MINOR, THAT INDIVIDUAL SHALL BE
9 PERMITTED TO APPEAR IN COURT OR TO ADMIT RESPONSIBILITY FOR A
10 CIVIL INFRACTION WITHOUT THE NECESSITY OF APPOINTMENT OF A GUARD-
11 IAN OR NEXT FRIEND. THE COURTS LISTED IN SUBSECTION (2) SHALL
12 HAVE JURISDICTION OVER THE MINOR AND MAY PROCEED IN THE SAME
13 MANNER AND IN ALL RESPECTS AS IF THAT INDIVIDUAL WERE AN ADULT.

14 SEC. 8807. (1) EACH CITATION SHALL BE NUMBERED CONSECUTIVE-
15 LY, BE IN A FORM AS APPROVED BY THE STATE COURT ADMINISTRATOR,
16 AND CONSIST OF THE FOLLOWING PARTS:

17 (A) THE ORIGINAL, WHICH IS A COMPLAINT AND NOTICE TO APPEAR
18 BY THE LAW ENFORCEMENT OFFICER AND SHALL BE FILED WITH THE COURT
19 IN WHICH THE APPEARANCE IS TO BE MADE.

20 (B) THE FIRST COPY, WHICH SHALL BE RETAINED BY THE LAW
21 ENFORCEMENT AGENCY.

22 (C) THE SECOND COPY, WHICH SHALL BE ISSUED TO THE ALLEGED
23 VIOLATOR IF THE VIOLATION IS A MISDEMEANOR.

24 (D) THE THIRD COPY, WHICH SHALL BE ISSUED TO THE ALLEGED
25 VIOLATOR IF THE VIOLATION IS A CIVIL INFRACTION.

26 (2) WITH THE PRIOR APPROVAL OF THE STATE COURT
27 ADMINISTRATOR, THE CITATION MAY BE MODIFIED AS TO CONTENT OR

1 NUMBER OF COPIES TO ACCOMMODATE LAW ENFORCEMENT AND LOCAL COURT
2 PROCEDURES AND PRACTICES. USE OF THIS CITATION FOR VIOLATIONS
3 OTHER THAN CIVIL INFRACTIONS IS OPTIONAL.

4 (3) A COMPLAINT FOR A CIVIL INFRACTION SIGNED BY A LAW
5 ENFORCEMENT OFFICER SHALL BE TREATED AS MADE UNDER OATH IF THE
6 VIOLATION ALLEGED IN THE COMPLAINT OCCURRED OR WAS COMMITTED IN
7 THE SIGNING OFFICER'S PRESENCE AND IF THE COMPLAINT CONTAINS THE
8 FOLLOWING STATEMENT IMMEDIATELY ABOVE THE DATE AND SIGNATURE OF
9 THE OFFICER: "I DECLARE UNDER THE PENALTIES OF PERJURY THAT THE
10 STATEMENTS ABOVE ARE TRUE TO THE BEST OF MY INFORMATION, KNOWL-
11 EDGE, AND BELIEF."

12 SEC. 8809. (1) A LAW ENFORCEMENT OFFICER WHO WITNESSES A
13 PERSON VIOLATING STATE LAW, THE VIOLATION OF WHICH IS A CIVIL
14 INFRACTION, MAY STOP THE PERSON, DETAIN THE PERSON TEMPORARILY
15 FOR THE PURPOSE OF ISSUING A CITATION, AND PREPARE AND SUBSCRIBE,
16 AS SOON AS POSSIBLE AND AS COMPLETELY AS POSSIBLE, AN ORIGINAL
17 AND 3 COPIES OF A CITATION.

18 (2) A LAW ENFORCEMENT OFFICER MAY ISSUE A CITATION TO A
19 PERSON IF, BASED UPON PERSONAL INVESTIGATION, THE OFFICER HAS
20 REASONABLE CAUSE TO BELIEVE THAT THE PERSON IS RESPONSIBLE FOR A
21 CIVIL INFRACTION IN CONNECTION WITH AN ACCIDENT. A LAW ENFORCE-
22 MENT OFFICER MAY ISSUE A CITATION TO A PERSON IF, BASED UPON PER-
23 SONAL INVESTIGATION BY THE OFFICER OF A COMPLAINT BY SOMEONE WHO
24 WITNESSED THE PERSON VIOLATING STATE LAW, THE VIOLATION OF WHICH
25 IS A CIVIL INFRACTION, THE OFFICER HAS REASONABLE CAUSE TO
26 BELIEVE THAT THE PERSON IS RESPONSIBLE FOR A CIVIL INFRACTION AND

1 IF THE PROSECUTING ATTORNEY APPROVES IN WRITING THE ISSUANCE OF
2 THE CITATION.

3 (3) THE LAW ENFORCEMENT OFFICER SHALL PERSONALLY SERVE THE
4 THIRD COPY OF THE CITATION UPON THE ALLEGED VIOLATOR.

5 SEC. 8811. (1) A CITATION ISSUED PURSUANT TO SECTION 8809
6 SHALL NAME THE STATE AS THE PLAINTIFF AND SHALL CONTAIN THE NAME
7 AND ADDRESS OF THE DEFENDANT, THE CIVIL INFRACTION ALLEGED, THE
8 PLACE WHERE THE DEFENDANT SHALL APPEAR IN COURT, THE TELEPHONE
9 NUMBER OF THE COURT, THE TIME AT OR BY WHICH THE APPEARANCE SHALL
10 BE MADE, AND THE ADDITIONAL INFORMATION REQUIRED BY THIS
11 SECTION.

12 (2) THE CITATION SHALL INFORM THE DEFENDANT THAT HE OR SHE,
13 AT OR BY THE TIME SPECIFIED FOR APPEARANCE, MAY DO 1 OF THE
14 FOLLOWING:

15 (A) ADMIT RESPONSIBILITY FOR THE CIVIL INFRACTION IN PERSON,
16 BY REPRESENTATION, OR BY MAIL.

17 (B) ADMIT RESPONSIBILITY FOR THE CIVIL INFRACTION "WITH
18 EXPLANATION" IN PERSON, BY REPRESENTATION, OR BY MAIL.

19 (C) DENY RESPONSIBILITY FOR THE CIVIL INFRACTION BY DOING
20 EITHER OF THE FOLLOWING:

21 (i) APPEARING IN PERSON FOR AN INFORMAL HEARING BEFORE A
22 JUDGE OR A DISTRICT COURT MAGISTRATE, WITHOUT THE OPPORTUNITY OF
23 BEING REPRESENTED BY AN ATTORNEY.

24 (ii) APPEARING IN COURT FOR A FORMAL HEARING BEFORE A JUDGE,
25 WITH THE OPPORTUNITY OF BEING REPRESENTED BY AN ATTORNEY.

26 (3) THE CITATION SHALL INFORM THE DEFENDANT THAT IF THE
27 DEFENDANT DESIRES TO ADMIT RESPONSIBILITY "WITH EXPLANATION"

1 OTHER THAN BY MAIL OR TO HAVE AN INFORMAL HEARING OR A FORMAL
2 HEARING, THE DEFENDANT MUST APPLY TO THE COURT IN PERSON, BY
3 MAIL, BY TELEPHONE, OR BY REPRESENTATION WITHIN THE TIME SPECI-
4 FIED FOR APPEARANCE AND OBTAIN A SCHEDULED DATE AND TIME TO
5 APPEAR FOR A HEARING. A HEARING DATE MAY BE SPECIFIED ON THE
6 CITATION.

7 (4) THE CITATION SHALL CONTAIN A NOTICE IN BOLDFACED TYPE
8 THAT THE FAILURE OF THE DEFENDANT TO APPEAR WITHIN THE TIME SPEC-
9 IFIED IN THE CITATION OR AT THE TIME SCHEDULED FOR A HEARING OR
10 APPEARANCE WILL RESULT IN ENTRY OF A DEFAULT JUDGMENT AGAINST THE
11 DEFENDANT ON THE CIVIL INFRACTION AND IN THE IMMEDIATE SUSPENSION
12 OF THE DEFENDANT'S OPERATOR'S OR CHAUFFEUR'S LICENSE. TIMELY
13 APPLICATION TO THE COURT FOR A HEARING, RETURN OF THE CITATION
14 WITH AN ADMISSION OF RESPONSIBILITY WITH EXPLANATION, OR RETURN
15 OF THE CITATION WITH AN ADMISSION OF RESPONSIBILITY AND WITH FULL
16 PAYMENT OF APPLICABLE CIVIL FINES AND COSTS CONSTITUTES A TIMELY
17 APPEARANCE.

18 SEC. 8813. IF A LAW ENFORCEMENT OFFICER ISSUES A CITATION
19 UNDER SECTION 8809, THE COURT MAY ACCEPT AN ADMISSION WITH EXPLA-
20 NATION OR AN ADMISSION OR DENIAL OF RESPONSIBILITY UPON THE
21 CITATION WITHOUT THE NECESSITY OF A SWORN COMPLAINT. IF THE
22 DEFENDANT DENIES RESPONSIBILITY FOR THE CIVIL INFRACTION, FURTHER
23 PROCEEDINGS SHALL NOT BE HAD UNTIL A SWORN COMPLAINT IS FILED
24 WITH THE COURT.

25 SEC. 8815. A LAW ENFORCEMENT OFFICER WHO, KNOWING THE
26 STATEMENT IS FALSE, MAKES A MATERIALLY FALSE STATEMENT IN A
27 CITATION ISSUED UNDER SECTION 8809 IS GUILTY OF PERJURY, A FELONY

1 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 15 YEARS, AND IN
2 ADDITION IS IN CONTEMPT OF COURT.

3 SEC. 8817. (1) A PERSON TO WHOM A CITATION IS ISSUED UNDER
4 SECTION 8809 SHALL APPEAR BY OR AT THE TIME SPECIFIED IN THE
5 CITATION AND MAY RESPOND TO THE ALLEGATIONS IN THE CITATION AS
6 PROVIDED IN THIS SECTION.

7 (2) IF THE DEFENDANT WISHES TO ADMIT RESPONSIBILITY FOR THE
8 CIVIL INFRACTION, THE DEFENDANT MAY DO SO BY APPEARING IN PERSON,
9 BY REPRESENTATION, OR BY MAIL. IF APPEARANCE IS MADE BY REPRESENTATION OR MAIL, THE COURT MAY ACCEPT THE ADMISSION WITH THE
10 SAME EFFECT AS THOUGH THE DEFENDANT PERSONALLY APPEARED IN
11 COURT. UPON ACCEPTANCE OF THE ADMISSION, THE COURT MAY ORDER ANY
12 OF THE SANCTIONS PERMITTED UNDER SECTION 8827.

14 (3) IF THE DEFENDANT WISHES TO ADMIT RESPONSIBILITY FOR THE
15 CIVIL INFRACTION "WITH EXPLANATION", THE DEFENDANT MAY DO SO IN
16 EITHER OF THE FOLLOWING WAYS:

17 (A) BY APPEARING BY MAIL.

18 (B) BY CONTACTING THE COURT IN PERSON, BY MAIL, BY TELEPHONE, OR BY REPRESENTATION TO OBTAIN FROM THE COURT A SCHEDULED
19 DATE AND TIME TO APPEAR, AT WHICH TIME THE DEFENDANT SHALL APPEAR
20 IN PERSON OR BY REPRESENTATION.

22 (4) IF A DEFENDANT ADMITS RESPONSIBILITY FOR A CIVIL INFRACTION "WITH EXPLANATION" UNDER SUBSECTION (3), THE COURT SHALL
23 ACCEPT THE ADMISSION AS THOUGH THE DEFENDANT HAS ADMITTED RESPONSIBILITY UNDER SUBSECTION (2) AND MAY CONSIDER THE DEFENDANT'S
24 EXPLANATION BY WAY OF MITIGATING ANY SANCTION THAT THE COURT MAY
25 ORDER UNDER SECTION 8827. IF APPEARANCE IS MADE BY
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1 REPRESENTATION OR MAIL, THE COURT MAY ACCEPT THE ADMISSION WITH
2 THE SAME EFFECT AS THOUGH THE DEFENDANT PERSONALLY APPEARED IN
3 COURT, BUT THE COURT MAY REQUIRE THE DEFENDANT TO PROVIDE A FUR-
4 THER EXPLANATION OR TO APPEAR IN COURT.

5 (5) IF THE DEFENDANT WISHES TO DENY RESPONSIBILITY FOR A
6 CIVIL INFRACTION, THE DEFENDANT SHALL DO SO BY APPEARING FOR AN
7 INFORMAL OR FORMAL HEARING. IF THE HEARING DATE IS NOT SPECIFIED
8 ON THE CITATION, THE DEFENDANT SHALL CONTACT THE COURT IN PERSON,
9 BY REPRESENTATION, BY MAIL, OR BY TELEPHONE, AND OBTAIN A SCHED-
10 ULED DATE AND TIME TO APPEAR FOR AN INFORMAL OR FORMAL HEARING.
11 IF THE HEARING DATE IS SPECIFIED ON THE CITATION, THE DEFENDANT
12 SHALL APPEAR ON THAT DATE FOR AN INFORMAL HEARING UNLESS THE
13 DEFENDANT CONTACTS THE COURT AT LEAST 10 DAYS BEFORE THAT DATE IN
14 PERSON, BY REPRESENTATION, BY MAIL, OR BY TELEPHONE TO REQUEST A
15 FORMAL HEARING. THE COURT SHALL SCHEDULE AN INFORMAL HEARING,
16 UNLESS THE DEFENDANT EXPRESSLY REQUESTS A FORMAL HEARING. IF THE
17 DEFENDANT EXPRESSLY REQUESTS A FORMAL HEARING, THE COURT SHALL
18 SCHEDULE A FORMAL HEARING. IF AN INFORMAL OR FORMAL HEARING IS
19 SCHEDULED BY TELEPHONE, THE COURT SHALL MAIL THE DEFENDANT A CON-
20 FIRMING NOTICE OF THAT HEARING BY REGULAR MAIL TO THE ADDRESS
21 APPEARING ON THE CITATION OR TO AN ADDRESS THAT IS FURNISHED BY
22 THE DEFENDANT. AN INFORMAL HEARING SHALL BE CONDUCTED PURSUANT
23 TO SECTION 8819, AND A FORMAL HEARING SHALL BE CONDUCTED PURSUANT
24 TO SECTION 8821.

25 SEC. 8819. (1) AN INFORMAL HEARING SHALL BE CONDUCTED BY A
26 DISTRICT COURT MAGISTRATE, IF AUTHORIZED BY THE JUDGE OR JUDGES
27 OF THE DISTRICT COURT DISTRICT, OR BY A JUDGE OF THE DISTRICT

1 COURT OR A MUNICIPAL COURT. A DISTRICT COURT MAGISTRATE MAY
2 ADMINISTER OATHS, EXAMINE WITNESSES, AND MAKE FINDINGS OF FACT
3 AND CONCLUSIONS OF LAW AT AN INFORMAL HEARING. THE JUDGE OR DIS-
4 TRICT COURT MAGISTRATE SHALL CONDUCT THE INFORMAL HEARING IN AN
5 INFORMAL MANNER SO AS TO DO SUBSTANTIAL JUSTICE ACCORDING TO THE
6 RULES OF SUBSTANTIVE LAW, BUT IS NOT BOUND BY THE STATUTORY PRO-
7 VISIONS OR RULES OF PRACTICE, PROCEDURE, PLEADING, OR EVIDENCE,
8 EXCEPT PROVISIONS RELATING TO PRIVILEGED COMMUNICATIONS. THERE
9 SHALL NOT BE A JURY AT AN INFORMAL HEARING. A VERBATIM RECORD OF
10 AN INFORMAL HEARING IS NOT REQUIRED.

11 (2) AT AN INFORMAL HEARING, THE DEFENDANT MAY NOT BE REPRE-
12 SENTED BY AN ATTORNEY NOR MAY THE PLAINTIFF BE REPRESENTED BY THE
13 PROSECUTING ATTORNEY.

14 (3) NOTICE OF A SCHEDULED INFORMAL HEARING SHALL BE GIVEN TO
15 THE PLAINTIFF. THE PLAINTIFF AND DEFENDANT MAY SUBPOENA
16 WITNESSES. WITNESS FEES NEED NOT BE PAID IN ADVANCE TO A
17 WITNESS. WITNESS FEES FOR A WITNESS ON BEHALF OF THE PLAINTIFF
18 ARE PAYABLE BY THE DISTRICT CONTROL UNIT OF THE DISTRICT COURT
19 FOR THE PLACE WHERE THE HEARING OCCURS, OR BY THE CITY OR VILLAGE
20 IF THE HEARING INVOLVES AN ORDINANCE VIOLATION IN A DISTRICT
21 WHERE THE DISTRICT COURT IS NOT FUNCTIONING.

22 (4) IF THE JUDGE OR DISTRICT COURT MAGISTRATE DETERMINES BY
23 A PREPONDERANCE OF THE EVIDENCE THAT THE DEFENDANT IS RESPONSIBLE
24 FOR A CIVIL INFRACTION, THE JUDGE OR MAGISTRATE SHALL ENTER AN
25 ORDER AGAINST THE DEFENDANT AS PROVIDED IN SECTION 8827.
26 OTHERWISE, A JUDGMENT SHALL BE ENTERED FOR THE DEFENDANT, BUT THE
27 DEFENDANT IS NOT ENTITLED TO COSTS OF THE ACTION.

1 (5) THE PLAINTIFF OR DEFENDANT MAY APPEAL AN ADVERSE
2 JUDGMENT ENTERED AT AN INFORMAL HEARING. AN APPEAL FROM A MUNIC-
3 IPAL JUDGE SHALL BE A TRIAL DE NOVO IN THE CIRCUIT COURT. IN
4 OTHER INSTANCES, AN APPEAL SHALL BE DE NOVO IN THE FORM OF A
5 SCHEDULED FORMAL HEARING AS FOLLOWS:

6 (A) THE APPEAL FROM A JUDGE OF THE DISTRICT COURT SHALL BE
7 HEARD BY A DIFFERENT JUDGE OF THE DISTRICT.

8 (B) THE APPEAL FROM A DISTRICT COURT MAGISTRATE SHALL BE
9 HEARD BY A JUDGE OF THE DISTRICT.

10 SEC. 8821. (1) A FORMAL HEARING SHALL BE CONDUCTED ONLY BY
11 A JUDGE OF THE DISTRICT COURT OR A MUNICIPAL COURT.

12 (2) IN A FORMAL HEARING, THE DEFENDANT MAY BE REPRESENTED BY
13 AN ATTORNEY, BUT IS NOT ENTITLED TO COUNSEL APPOINTED AT PUBLIC
14 EXPENSE.

15 (3) NOTICE OF A FORMAL HEARING SHALL BE GIVEN TO THE PROSE-
16 CUTING ATTORNEY. THE PROSECUTING ATTORNEY SHALL APPEAR IN COURT
17 FOR A FORMAL HEARING AND IS RESPONSIBLE FOR THE ISSUANCE OF A
18 SUBPOENA TO EACH WITNESS FOR THE PLAINTIFF. THE DEFENDANT MAY
19 ALSO SUBPOENA WITNESSES. WITNESS FEES NEED NOT BE PAID IN
20 ADVANCE TO A WITNESS. WITNESS FEES FOR A WITNESS ON BEHALF OF
21 THE PLAINTIFF ARE PAYABLE BY THE DISTRICT CONTROL UNIT OF THE
22 DISTRICT COURT FOR THE PLACE WHERE THE HEARING OCCURS, OR BY THE
23 CITY OR VILLAGE IF THE HEARING INVOLVES AN ORDINANCE VIOLATION IN
24 A DISTRICT WHERE THE DISTRICT COURT IS NOT FUNCTIONING.

25 (4) THERE SHALL NOT BE A JURY TRIAL IN A FORMAL HEARING.

26 (5) IF THE JUDGE DETERMINES BY A PREPONDERANCE OF THE
27 EVIDENCE THAT THE DEFENDANT IS RESPONSIBLE FOR A CIVIL

1 INFRACTION, THE JUDGE SHALL ENTER AN ORDER AGAINST THE DEFENDANT
2 AS PROVIDED IN SECTION 8827. OTHERWISE, A JUDGMENT SHALL BE
3 ENTERED FOR THE DEFENDANT, BUT THE DEFENDANT IS NOT ENTITLED TO
4 COSTS OF THE ACTION.

5 SEC. 8823. (1) IF THE DEFENDANT FAILS TO APPEAR AS DIRECTED
6 BY THE CITATION OR OTHER NOTICE, AT A SCHEDULED APPEARANCE UNDER
7 SECTION 8817(3)(B) OR (4), AT A SCHEDULED INFORMAL HEARING, OR AT
8 A SCHEDULED FORMAL HEARING, THE COURT SHALL ENTER A DEFAULT JUDG-
9 MENT AGAINST THE DEFENDANT.

10 (2) IF THE LAW ENFORCEMENT OFFICER WHO ISSUED THE CITATION
11 FOR A CIVIL INFRACTION FAILS TO APPEAR AT A SCHEDULED INFORMAL
12 HEARING OR IF THE PROSECUTING ATTORNEY FAILS TO APPEAR AT A
13 SCHEDULED FORMAL HEARING, THE COURT SHALL ENTER A JUDGMENT FOR
14 THE DEFENDANT, BUT THE DEFENDANT IS NOT ENTITLED TO COSTS OF THE
15 ACTION.

16 SEC. 8825. (1) A LAW ENFORCEMENT OFFICER ISSUING A CITATION
17 UNDER THIS CHAPTER FOR A CIVIL INFRACTION SHALL NOT ACCEPT A FEE
18 FOR ISSUING THE CITATION.

19 (2) A LAW ENFORCEMENT OFFICER WHO VIOLATES THIS SECTION IS
20 GUILTY OF MISCONDUCT IN OFFICE AND SUBJECT TO REMOVAL FROM
21 OFFICE.

22 SEC. 8827. (1) A CIVIL INFRACTION IS NOT A LESSER INCLUDED
23 OFFENSE OF A CRIMINAL OFFENSE.

24 (2) IF A DEFENDANT IS DETERMINED TO BE RESPONSIBLE OR
25 RESPONSIBLE "WITH EXPLANATION" FOR A CIVIL INFRACTION, THE JUDGE
26 OR DISTRICT COURT MAGISTRATE MAY ORDER THE DEFENDANT TO PAY A
27 CIVIL FINE AS PROVIDED BY LAW AND COSTS AS PROVIDED IN SUBSECTION

1 (3). IN THE ORDER OF JUDGMENT, THE JUDGE OR DISTRICT COURT
2 MAGISTRATE MAY GRANT A DEFENDANT PERMISSION TO PAY A CIVIL FINE
3 AND COSTS WITHIN A SPECIFIED PERIOD OF TIME OR IN SPECIFIED
4 INSTALLMENTS. OTHERWISE, THE CIVIL FINE AND COSTS ARE PAYABLE
5 IMMEDIATELY.

6 (3) IF A DEFENDANT IS ORDERED TO PAY A CIVIL FINE UNDER
7 SUBSECTION (2), THE JUDGE OR DISTRICT COURT MAGISTRATE SHALL SUM-
8 MARILY TAX AND DETERMINE THE COSTS OF THE ACTION, WHICH ARE NOT
9 LIMITED TO THE COSTS TAXABLE IN ORDINARY CIVIL ACTIONS AND MAY
10 INCLUDE ALL EXPENSES, DIRECT AND INDIRECT, TO WHICH THE PLAINTIFF
11 HAS BEEN PUT IN CONNECTION WITH THE CIVIL INFRACTION, UP TO THE
12 ENTRY OF JUDGMENT. COSTS OF NOT LESS THAN \$5.00 SHALL BE
13 ORDERED. COSTS SHALL NOT BE ORDERED IN EXCESS OF \$100.00. COSTS
14 IN A CIVIL INFRACTION ACTION IN THE DISTRICT COURT SHALL BE DIS-
15 TRIBUTED AS PROVIDED IN SECTIONS 8379 AND 8381. COSTS IN A CIVIL
16 INFRACTION ACTION IN A MUNICIPAL COURT SHALL BE PAID TO THE
17 COUNTY.

18 (4) A DISTRICT COURT MAGISTRATE SHALL IMPOSE THE SANCTIONS
19 PERMITTED UNDER SUBSECTION (2) ONLY TO THE EXTENT EXPRESSLY
20 AUTHORIZED BY THE CHIEF JUDGE OR ONLY JUDGE OF THE DISTRICT COURT
21 DISTRICT.

22 (5) EACH DISTRICT OF THE DISTRICT COURT AND EACH MUNICIPAL
23 COURT MAY ESTABLISH A SCHEDULE OF CIVIL FINES AND COSTS TO BE
24 IMPOSED FOR CIVIL INFRACTIONS THAT OCCUR WITHIN THE DISTRICT OR
25 CITY. IF A SCHEDULE IS ESTABLISHED, IT SHALL BE PROMINENTLY
26 POSTED AND READILY AVAILABLE FOR PUBLIC INSPECTION. A SCHEDULE

1 NEED NOT INCLUDE ALL VIOLATIONS THAT ARE DESIGNATED BY LAW AS
2 CIVIL INFRACTIONS.

3 (6) A DEFAULT IN THE PAYMENT OF A CIVIL FINE OR COSTS
4 ORDERED UNDER SUBSECTION (2) OR (3) OR AN INSTALLMENT OF THE FINE
5 OR COSTS MAY BE COLLECTED BY A MEANS AUTHORIZED FOR THE ENFORCE-
6 MENT OF A JUDGMENT UNDER CHAPTER 40 OR CHAPTER 60.

7 (7) IF A DEFENDANT FAILS TO ANSWER A CITATION OR A NOTICE TO
8 APPEAR IN COURT, OR FOR ANY MATTER PENDING, OR FAILS TO COMPLY
9 WITH AN ORDER OR JUDGMENT ISSUED PURSUANT TO THIS SECTION WITHIN
10 THE TIME PRESCRIBED BY THE COURT, THE OPERATOR'S OR CHAUFFEUR'S
11 LICENSE OF THAT DEFENDANT SHALL BE SUSPENDED UNDER SECTION 321A
12 OF THE MICHIGAN VEHICLE CODE, ACT NO. 300 OF THE PUBLIC ACTS OF
13 1949, BEING SECTION 257.321A OF THE MICHIGAN COMPILED LAWS, UNTIL
14 THE DEFENDANT HAS APPEARED BEFORE THE COURT AND ALL MATTERS
15 RELATING TO THE VIOLATION OR TO THE NONCOMPLIANCE ARE RESOLVED.
16 IN ADDITION TO THE SUSPENSION DESCRIBED IN THIS SUBSECTION, THE
17 COURT MAY PROCEED UNDER SECTION 8829.

18 (8) A DEFENDANT WHO FAILS TO COMPLY WITH AN ORDER OR JUDG-
19 MENT ISSUED UNDER THIS SECTION IS GUILTY OF A MISDEMEANOR.

20 SEC. 8829. (1) IF A DEFENDANT DEFAULTS IN THE PAYMENT OF A
21 CIVIL FINE OR COSTS OR OF ANY INSTALLMENT, AS ORDERED PURSUANT TO
22 SECTION 8827, THE COURT, UPON THE MOTION OF THE PLAINTIFF OR UPON
23 ITS OWN MOTION, MAY REQUIRE THE DEFENDANT TO SHOW CAUSE WHY THE
24 DEFAULT SHOULD NOT BE TREATED AS IN CIVIL CONTEMPT AND MAY ISSUE
25 A SUMMONS, ORDER TO SHOW CAUSE, OR A BENCH WARRANT OF ARREST FOR
26 THE DEFENDANT'S APPEARANCE.

1 (2) IF A CORPORATION OR AN ASSOCIATION IS ORDERED TO PAY A
2 CIVIL FINE OR COSTS, THE INDIVIDUALS AUTHORIZED TO MAKE
3 DISBURSEMENT SHALL PAY THE FINE OR COSTS, AND THEIR FAILURE TO DO
4 SO SHALL BE CIVIL CONTEMPT UNLESS THEY MAKE THE SHOWING REQUIRED
5 IN THIS SECTION.

6 (3) UNLESS THE DEFENDANT SHOWS THAT THE DEFAULT WAS NOT
7 ATTRIBUTABLE TO AN INTENTIONAL REFUSAL TO OBEY THE ORDER OF THE
8 COURT OR TO A FAILURE ON HIS OR HER PART TO MAKE A GOOD FAITH
9 EFFORT TO OBTAIN THE FUNDS REQUIRED FOR PAYMENT, THE COURT SHALL
10 FIND THAT THE DEFAULT CONSTITUTES A CIVIL CONTEMPT AND MAY ORDER
11 THE DEFENDANT COMMITTED UNTIL ALL OR A SPECIFIED PART OF THE
12 CIVIL FINE, COSTS, OR BOTH, IS PAID.

13 (4) IF IT APPEARS THAT THE DEFAULT IN THE PAYMENT OF A FINE
14 OR COSTS DOES NOT CONSTITUTE CIVIL CONTEMPT, THE COURT MAY ENTER
15 AN ORDER ALLOWING THE DEFENDANT ADDITIONAL TIME FOR PAYMENT,
16 REDUCING THE AMOUNT OF PAYMENT OR OF EACH INSTALLMENT, OR REVOK-
17 ING THE FINE OR COSTS.

18 (5) THE TERM OF IMPRISONMENT ON CIVIL CONTEMPT FOR NONPAY-
19 MENT OF A CIVIL FINE OR COSTS SHALL BE SPECIFIED IN THE ORDER OF
20 COMMITMENT, AND SHALL NOT EXCEED 1 DAY FOR EACH \$10.00 OF THE
21 FINE AND COSTS. A PERSON COMMITTED FOR NONPAYMENT OF A CIVIL
22 FINE OR COSTS SHALL BE GIVEN CREDIT TOWARD PAYMENT FOR EACH DAY
23 OF IMPRISONMENT AND EACH DAY OF DETENTION IN DEFAULT OF RECOGNI-
24 ZANCE BEFORE JUDGMENT AT THE RATE OF \$10.00 PER DAY.

25 (6) A DEFENDANT COMMITTED TO IMPRISONMENT FOR CIVIL CONTEMPT
26 FOR NONPAYMENT OF A CIVIL FINE OR COSTS SHALL NOT BE DISCHARGED
27 FROM CUSTODY UNTIL 1 OF THE FOLLOWING OCCURS:

1 (A) THE DEFENDANT IS CREDITED WITH THE AMOUNT DUE PURSUANT
2 TO SUBSECTION (5).

3 (B) THE AMOUNT DUE IS COLLECTED THROUGH EXECUTION OF PROCESS
4 OR OTHERWISE.

5 (C) THE AMOUNT DUE IS SATISFIED PURSUANT TO A COMBINATION OF
6 SUBDIVISIONS (A) AND (B).

7 (7) THE CIVIL CONTEMPT SHALL BE PURGED UPON DISCHARGE OF THE
8 DEFENDANT PURSUANT TO SUBSECTION (6).

9 SEC. 8831. (1) A CIVIL FINE WHICH IS ORDERED UNDER SECTION
10 8827 FOR A VIOLATION OF STATE STATUTE SHALL BE EXCLUSIVELY
11 APPLIED TO THE SUPPORT OF PUBLIC LIBRARIES AND COUNTY LAW LIBRAR-
12 IES IN THE SAME MANNER AS IS PROVIDED BY LAW FOR PENAL FINES
13 ASSESSED AND COLLECTED FOR VIOLATION OF A PENAL LAW OF THE
14 STATE.

15 (2) SUBSECTION (1) IS INTENDED TO MAINTAIN A SOURCE OF REVE-
16 NUE FOR PUBLIC LIBRARIES WHICH PREVIOUSLY RECEIVED PENAL FINES
17 FOR MISDEMEANOR VIOLATIONS OF STATE STATUTE WHICH ARE NOW DESIG-
18 NATED CIVIL INFRACTIONS.

19 Section 2. This amendatory act shall take effect January 1,
20 1993.

21 Section 3. This amendatory act shall not take effect unless
22 Senate Bill No. ____ or House Bill No. 5511 (request
23 no. 03017'91 a) of the 86th Legislature is enacted into law.