



HOUSE BILL No. 4505

March 2, 1995, Introduced by Rep. Gubow and referred to the Committee on Judiciary and Civil Rights.

A bill to amend sections 113, 8313, 8375, 8391, 8511, and 8512 of Act No. 236 of the Public Acts of 1961, entitled as amended

"Revised judicature act of 1961,"

sections 113, 8313, 8375, and 8512 as amended by Act No. 12 of the Public Acts of 1994 and section 8511 as amended by Act No. 266 of the Public Acts of 1990, being sections 600.113, 600.8313, 600.8375, 600.8391, 600.8511, and 600.8512 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 113, 8313, 8375, 8391, 8511, and 8512
2 of Act No. 236 of the Public Acts of 1961, sections 113, 8313,
3 8375, and 8512 as amended by Act No. 12 of the Public Acts of
4 1994 and section 8511 as amended by Act No. 266 of the Public
5 Acts of 1990, being sections 600.113, 600.8313, 600.8375,

1 600.8391, 600.8511, and 600.8512 of the Michigan Compiled Laws,
2 are amended to read as follows:

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

4 (a) "Civil infraction" means an act or omission that is pro-
5 hibited by a law and is not a crime under that law or that is
6 prohibited by an ordinance and is not a crime under that ordi-
7 nance, and for which civil sanctions may be ordered. Civil
8 infraction includes, but is not limited to, the following:

9 (i) A violation of the Michigan vehicle code, Act No. 300 of
10 the Public Acts of 1949, being sections 257.1 to 257.923 of the
11 Michigan Compiled Laws, designated as a civil infraction.

12 (ii) A violation of a city, township, or village ordinance
13 substantially corresponding to a provision of Act No. 300 of the
14 Public Acts of 1949, if the ordinance designates the violation as
15 a civil infraction.

16 (iii) A violation of an ordinance adopted pursuant to Act
17 No. 235 of the Public Acts of 1969, being sections 257.941 to
18 257.943 of the Michigan Compiled Laws.

19 (iv) A violation of a city, township, or village ordinance
20 adopting the ~~Uniform~~ UNIFORM traffic code promulgated under Act
21 No. 62 of the Public Acts of 1956, being sections 257.951 to
22 257.954 of the Michigan Compiled Laws, if the uniform traffic
23 code designates the violation as a civil infraction.

24 (v) A violation of an ordinance adopted by the governing
25 board of a state university or college pursuant to Act No. 291 of
26 the Public Acts of 1967, being sections 390.891 to 390.893 of the

1 Michigan Compiled Laws, if the ordinance designates the violation
2 as a civil infraction.

3 (vi) A violation of regulations adopted by a county board of
4 commissioners pursuant to Act No. 58 of the Public Acts of 1945,
5 being section 46.201 of the Michigan Compiled Laws.

6 (vii) A violation of the marine safety act, Act No. 303 of
7 the Public Acts of 1967, being sections 281.1001 to 281.1199 of
8 the Michigan Compiled Laws, or of an ordinance enacted pursuant
9 to sections 17 and 166 of Act No. 303 of the Public Acts of 1967,
10 being sections 281.1017 and 281.1166 of the Michigan Compiled
11 Laws, if the violation is ~~designed~~ DESIGNATED by Act No. 303 of
12 the Public Acts of 1967 as a marine law civil infraction.

13 (viii) A municipal civil infraction.

14 (b) "Civil infraction action" means a civil action in which
15 the defendant is alleged to be responsible for a civil
16 infraction.

17 (c) "Municipal civil infraction" means a civil infraction
18 involving a violation of an ordinance. Municipal civil infrac-
19 tion includes, but is not limited to, a trailway municipal civil
20 infraction. Municipal civil infraction does not include a viola-
21 tion described in subdivision (a)(i) to (vii) or any act or omis-
22 sion that constitutes a crime under any of the following:

23 (i) Article 7 or section 17766a of the public health code,
24 Act No. 368 of the Public Acts of 1978, being sections 333.7101
25 to 333.7545 and 333.17766a of the Michigan Compiled Laws.

1 (ii) The Michigan penal code, Act No. 328 of the Public Acts
2 of 1931, being sections 750.1 to 750.568 of the Michigan Compiled
3 Laws.

4 (iii) The Michigan vehicle code, Act No. 300 of the Public
5 Acts of 1949. ~~, being sections 257.1 to 257.923 of the Michigan~~
6 ~~Compiled Laws.~~

7 (iv) The Michigan liquor control act, Act No. 8 of the
8 Public Acts of the Extra Session of 1933, being sections 436.1 to
9 436.58 of the Michigan Compiled Laws.

10 (v) The marine safety act, Act No. 303 of the Public Acts of
11 1967. ~~, being sections 281.1001 to 281.1199 of the Michigan~~
12 ~~Compiled Laws.~~

13 (vi) The aeronautics code of the state of Michigan, Act
14 No. 327 of the Public Acts of 1945, being sections 259.1 to
15 259.208 of the Michigan Compiled Laws.

16 (vii) THE MICHIGAN SNOWMOBILE ACT, Act No. 74 of the Public
17 Acts of 1968, being sections 257.1501 to ~~257.1518~~ 257.1543 of
18 the Michigan Compiled Laws.

19 (viii) Act No. 319 of the Public Acts of 1975, being sec-
20 tions 257.1601 to 257.1626 of the Michigan Compiled Laws.

21 ~~(ix) Act No. 4 of the Public Acts of 1986, being sections~~
22 ~~470.201 to 470.210 of the Michigan Compiled Laws.~~

23 (ix) ~~(x)~~ Any law of this state under which the act or
24 omission is punishable by imprisonment for more than 90 days.

25 (d) "Municipal civil infraction action" means a civil action
26 in which the defendant is alleged to be responsible for a
27 municipal civil infraction. Municipal civil infraction action

1 includes, but is not limited to, a trailway municipal civil
2 infraction action.

3 (e) "Trailway municipal civil infraction" means a municipal
4 civil infraction involving the operation of a vehicle on a recre-
5 ational trailway at a time, in a place, or in a manner prohibited
6 by ordinance.

7 (f) "Trailway municipal civil infraction action" means a
8 civil infraction action in which the defendant is alleged to be
9 responsible for a trailway municipal civil infraction.

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

15 (3) Except as otherwise provided in this act, a municipal
16 civil infraction action is governed by chapter 87.

17 (4) EXCEPT AS OTHERWISE PROVIDED IN THIS ACT, A CIVIL
18 INFRACTION ACTION INVOLVING A MARINE LAW VIOLATION IS GOVERNED BY
19 THE MARINE SAFETY ACT, ACT NO. 303 OF THE PUBLIC ACTS OF 1967.

20 (5) ~~(4)~~ A determination that a defendant is responsible
21 for a civil infraction and thus subject to civil sanctions shall
22 be by a preponderance of the evidence.

23 Sec. 8313. ~~All violations~~ A PROSECUTING ATTORNEY SHALL
24 PROSECUTE A PERSON FOR A VIOLATION of state criminal law ~~shall~~
25 ~~be prosecuted~~ in the district court. ~~by the prosecuting~~
26 ~~attorney. All ordinance violations that are misdemeanors or that~~
27 ~~are not designated as civil infractions shall be prosecuted in~~

1 ~~the district court by the attorney for the political subdivision~~
2 ~~whose ordinance was violated.~~ THE ATTORNEY FOR A POLITICAL SUB-
3 DIVISION SHALL PROSECUTE A PERSON FOR AN ALLEGED VIOLATION OF AN
4 ORDINANCE OF THAT POLITICAL SUBDIVISION IF THE VIOLATION IS A
5 MISDEMEANOR OR IF THE VIOLATION IS NOT DESIGNATED A CIVIL
6 INFRACTION. If the violation is a civil infraction, the prosecut-
7 ing attorney or attorney for the political subdivision ~~shall be~~
8 IS required to appear in court only in ~~those~~ A CONTESTED civil
9 infraction ~~actions that are contested~~ FORMAL HEARING before a
10 judge of the district court ~~in a formal hearing~~ as provided in
11 ~~section~~ THE FOLLOWING:

12 (A) SECTION 747 of the Michigan vehicle code, Act No. 300 of
13 the Public Acts of 1949, being section 257.747 of the Michigan
14 Compiled Laws. ~~, or section~~

15 (B) SECTION 8721, as applicable.

16 (C) SECTION 194F OF THE MARINE SAFETY ACT, ACT NO. 303 OF
17 THE PUBLIC ACTS OF 1967, BEING SECTION 281.1194F OF THE MICHIGAN
18 COMPILED LAWS.

19 Sec. 8375. (1) The district court may assess the same costs
20 as are permitted in the circuit court. In civil infraction
21 actions the district court may assess costs as provided in
22 ~~section~~ THE FOLLOWING:

23 (A) SECTION 907 of the Michigan vehicle code, Act No. 300 of
24 the Public Acts of 1949, being section 257.907 of the Michigan
25 Compiled Laws. ~~, or section~~

26 (B) SECTION 8727, as applicable.

1 (C) SECTION 195 OF THE MARINE SAFETY ACT, ACT NO. 303 OF THE
2 PUBLIC ACTS OF 1967, BEING SECTION 281.1195 OF THE MICHIGAN
3 COMPILED LAWS.

4 (2) A district court magistrate may assess costs in an
5 amount fixed by rule of the district court.

6 Sec. 8391. (1) With the approval of the governing body of a
7 district control unit, the district court may establish within
8 the court a traffic bureau which may be administered by clerks or
9 other personnel of the district court to accept, as authorized by
10 the judges of the district, admissions for THE FOLLOWING civil
11 infractions ~~under Act No. 300 of the Public Acts of 1949, as~~
12 ~~amended, being sections 257.1 to 257.923 of the Michigan Compiled~~
13 ~~Laws, or a local ordinance corresponding thereto,~~ and to collect
14 civil fines and costs as prescribed by the judges of the district
15 FOR THE FOLLOWING CIVIL INFRACTIONS:

16 (A) CIVIL INFRACTIONS UNDER THE MICHIGAN VEHICLE CODE, ACT
17 NO. 300 OF THE PUBLIC ACTS OF 1949, BEING SECTIONS 257.1 TO
18 257.923 OF THE MICHIGAN COMPILED LAWS, OR A CORRESPONDING LOCAL
19 ORDINANCE.

20 (B) MARINE LAW CIVIL INFRACTIONS UNDER THE MARINE SAFETY
21 ACT, ACT NO. 303 OF THE PUBLIC ACTS OF 1967, BEING
22 SECTIONS 281.1001 TO 281.1199 OF THE MICHIGAN COMPILED LAWS, OR A
23 CORRESPONDING LOCAL ORDINANCE.

24 (2) Beginning August 1, 1979, a traffic bureau may also
25 accept ~~pleas~~ A PLEA of guilty for ~~such~~ A traffic ~~offenses~~
26 ~~as~~ OFFENSE FOR WHICH ACCEPTANCE OF A GUILTY PLEA IS authorized
27 by the judges of the district, except for violations of sections

1 625, ~~625b~~ 625M, 626, 626b, and 904 of THE MICHIGAN VEHICLE
2 CODE, Act No. 300 of the Public Acts of 1949, ~~as amended~~ BEING
3 SECTIONS 257.625, 257.625M, 257.626, 257.626B, AND 257.904 OF THE
4 MICHIGAN COMPILED LAWS, or a local ordinance corresponding
5 ~~thereto~~ TO THOSE SECTIONS, and collect fines and costs as pre-
6 scribed by the judges of the district, if the offense occurred
7 before August 1, 1979 and if the maximum permissible punishment
8 for the offense at the time the offense was committed did not
9 exceed 90 days in jail or a fine of not more than \$100.00, or
10 both.

11 (3) ~~The~~ SUBJECT TO SUPREME COURT SUPERVISION, THE presid-
12 ing judge of ~~the~~ A district ~~, subject to the supervision of~~
13 ~~the supreme court, shall have~~ HAS authority over ~~the~~ TRAFFIC
14 BUREAU personnel and SHALL determine the location and number of
15 traffic bureau offices IN THAT DISTRICT.

16 (4) Appeals as of right may be taken from the traffic bureau
17 to the district court. Appeals shall be taken within 7 days
18 after the entry of the civil infraction admission and shall be
19 heard de novo.

20 Sec. 8511. A district court magistrate shall have the fol-
21 lowing jurisdiction and duties:

22 (a) To arraign and sentence upon pleas of guilty or nolo
23 contendere for violations of the following acts or parts of acts,
24 or a local ordinance substantially corresponding to these acts or
25 parts of acts, when authorized by the chief judge of the district
26 court and if the maximum permissible punishment does not exceed
27 90 days in jail or a fine, or both:

1 (i) Michigan vehicle code, Act No. 300 of the Public Acts of
2 1949, ~~as amended,~~ being sections 257.1 to 257.923 of the
3 Michigan Compiled Laws, except for violations of ~~sections~~
4 SECTION 625 ~~and 625b~~ of Act No. 300 of the Public Acts of 1949,
5 being ~~sections~~ SECTION 257.625 ~~and 257.625b~~ of the Michigan
6 Compiled Laws. However, the magistrate may have the jurisdiction
7 to arraign defendants and set bond with regard to violations of
8 ~~sections~~ SECTION 625 ~~and 625b~~ of Act No. 300 of the Public
9 Acts of 1949.

10 (ii) Michigan ~~sportsmen~~ SPORTS fishing law, Act No. 165 of
11 the Public Acts of 1929, ~~as amended,~~ being sections 301.1
12 to 306.3 of the Michigan Compiled Laws.

13 (iii) The wildlife conservation act, Act No. 256 of the
14 Public Acts of 1988, being sections 300.251 to 300.270 of the
15 Michigan Compiled Laws.

16 (iv) Marine safety act, Act No. 303 of the Public Acts of
17 1967, ~~as amended,~~ being sections 281.1001 to 281.1199 of the
18 Michigan Compiled Laws, EXCEPT FOR VIOLATIONS OF SECTION 171(1)
19 AND (3) OF ACT NO. 303 OF THE PUBLIC ACTS OF 1967, BEING
20 SECTION 281.1171 OF THE MICHIGAN COMPILED LAWS. HOWEVER, THE
21 MAGISTRATE MAY HAVE JURISDICTION TO ARRAIGN DEFENDANTS AND SET
22 BOND WITH REGARD TO VIOLATIONS OF SECTION 171(1) AND (3) OF ACT
23 NO. 303 OF THE PUBLIC ACTS OF 1967.

24 (v) The motor carrier act, Act No. 254 of the Public Acts of
25 1933, ~~as amended,~~ being sections 475.1 to ~~479.20~~ 479.53 of
26 the Michigan Compiled Laws.

1 (vi) Motor carrier safety act of 1963, Act No. 181 of the
2 Public Acts of 1963, ~~as amended,~~ being sections 480.11 to
3 480.21 of the Michigan Compiled Laws.

4 (vii) MICHIGAN SNOWMOBILE ACT, Act No. 74 of the Public Acts
5 of 1968, ~~as amended,~~ being sections 257.1501 to ~~257.1518-~~
6 257.1543 of the Michigan Compiled Laws.

7 (viii) Dog law of 1919, Act No. 339 of the Public Acts of
8 1919, ~~as amended,~~ being sections 287.261 to 287.290 of the
9 Michigan Compiled Laws.

10 (ix) ~~Sections~~ SECTION 33a, 33b, OR 34 ~~, or 34a~~ of the
11 Michigan liquor control act, Act No. 8 of the Public Acts of the
12 Extra Session of 1933, ~~as amended,~~ being sections 436.33a,
13 436.33b, AND 436.34 ~~, and 436.34a~~ of the Michigan Compiled
14 Laws.

15 (x) Act No. 17 of the Public Acts of 1921, ~~as amended,~~
16 being sections 299.1 to 299.10 of the Michigan Compiled Laws.

17 (xi) Act No. 319 of the Public Acts of 1975, being
18 sections 257.1601 to 257.1626 of the Michigan Compiled Laws.

19 (xii) Act No. 106 of the Public Acts of 1963, ~~as amended,~~
20 being sections 752.901 to 752.906 of the Michigan Compiled Laws.

21 (xiii) The hunting and fishing license act, Act No. 86 of
22 the Public Acts of 1980, being sections 316.101 to ~~316.902-~~
23 316.901 of the Michigan Compiled Laws.

24 (xiv) Recreational trespass act, Act No. 323 of the Public
25 Acts of 1976, being sections 317.171 to 317.181 of the Michigan
26 Compiled Laws.

1 (xv) Chapter LXXXV of the Michigan penal code, Act No. 328
2 of the Public Acts of 1931, being sections 750.546 to 750.552a of
3 the Michigan Compiled Laws.

4 (b) To issue warrants for the arrest of a person upon the
5 written authorization of the prosecuting or municipal attorney,
6 except written authorization shall not be required for a vehicle
7 law or ordinance violation within the jurisdiction of the magis-
8 trate if a police officer issued a traffic citation pursuant to
9 section 728 of the Michigan vehicle code, Act No. 300 of the
10 Public Acts of 1949, ~~as amended,~~ being section 257.728 of the
11 Michigan Compiled Laws, and the defendant failed to appear.

12 (c) To fix bail and accept bond in all cases.

13 (d) To issue search warrants, when authorized to do so by a
14 district court judge.

15 Sec. 8512. (1) A district court magistrate may hear and
16 preside over civil infraction admissions and admissions with
17 explanation and conduct informal hearings in civil infraction
18 actions pursuant to section 746 of the Michigan vehicle code, Act
19 No. 300 of the Public Acts of 1949, being section 257.746 of the
20 Michigan Compiled Laws, SECTION 194E OF THE MARINE SAFETY ACT,
21 ACT NO. 303 OF THE PUBLIC ACTS OF 1967, BEING SECTION 281.1194E
22 OF THE MICHIGAN COMPILED LAWS, or section 8719, as applicable.
23 In exercising the authority conferred by this subsection, the
24 magistrate may administer oaths, examine witnesses, and make
25 findings of fact and conclusions of law. If the defendant is
26 determined to be responsible for a civil infraction, the
27 magistrate may impose the civil sanctions authorized by section

1 907 of Act No. 300 of the Public Acts of 1949, being section
2 257.907 of the Michigan Compiled Laws, SECTION 195 OF ACT NO. 303
3 OF THE PUBLIC ACTS OF 1967, BEING SECTION 281.1195 OF THE
4 MICHIGAN COMPILED LAWS, or section 8727, as applicable.

5 (2) A district court magistrate shall not conduct an infor-
6 mal hearing in a civil infraction action involving ~~a~~ traffic
7 ~~or parking violation governed by Act No. 300 of the Public Acts~~
8 ~~of 1949, being sections 257.1 to 257.923 of the Michigan Compiled~~
9 ~~Laws,~~ LAW until he or she has successfully completed a special
10 training course in traffic law adjudication and sanctions. ~~The~~
11 ~~course shall be given periodically by the~~ A DISTRICT COURT MAG-
12 ISTRATE SHALL NOT CONDUCT AN INFORMAL HEARING IN A MARINE LAW
13 CIVIL INFRACTION ACTION UNTIL HE OR SHE HAS SUCCESSFULLY COM-
14 PLETED A SPECIAL TRAINING COURSE IN MARINE LAW ADJUDICATIONS AND
15 SANCTIONS.

16 (3) THE state court administrator SHALL PERIODICALLY PROVIDE
17 A SPECIAL TRAINING COURSE IN TRAFFIC AND MARINE LAW ADJUDICATIONS
18 AND SANCTIONS FOR DISTRICT COURT MAGISTRATES.

19 (4) ~~(3)~~ A district court magistrate may exercise the
20 authority conferred by this section only to the extent expressly
21 authorized by the chief judge, presiding judge, or only judge of
22 the district court district.

23 Section 2. This amendatory act shall take effect April 1,
24 1995.

25 Section 3. This amendatory act shall not take effect unless
26 all of the following bills of the 88th Legislature are enacted
27 into law:

1 (a) Senate Bill No. _____ or House Bill No. 4506
2 (request no. 01096'95).

3 (b) Senate Bill No. _____ or House Bill No. 4507
4 (request no. 01096'95 b).