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Senate Bill 1282 (as introduced 5-17-00)
Sponsor: Senator Shirley Johnson
Committee: Judiciary

Date Completed: 5-23-00

CONTENT

The bill would amend Public Act 44 of 1961, which provides for the release of misdemeanor prisoners on interim bond, to establish restrictions on an interim bond set by a judge or district court magistrate for a person arrested for domestic assault, and to make other revisions pertaining to the interim bond process. Under the bill, a person arrested for domestic assault could not be released on interim bond to a police officer, could not be released prior to appearing before a judge or magistrate, and could be released only on the condition that he or she have no contact with the victim. The bill would take effect on July 1, 2000.

Overview of the Act

Under Public Act 44, if a person is arrested without a warrant for a misdemeanor or a local ordinance violation, and the offense is punishable by not more than one year's imprisonment, the arresting officer must take the person, without delay, before the most convenient magistrate to answer the complaint. If a magistrate is not available or immediate trial cannot be had, the person arrested may deposit an interim bond with the arresting officer or his or her direct supervisor or department, or with the sheriff in charge of the county jail if the person is lodged in the jail, in order to guarantee his or her appearance.

A person arrested with or without a warrant for simple or aggravated assault in a domestic situation, however, may not be released on an interim bond or on his or her own recognizance. A person arrested on a domestic assault charge instead must be held until he or she can be brought before a magistrate for arraignment. If a magistrate is not available or immediate trial cannot be held within 24 hours, the person must be held for 20 hours, after which he or she may be released on an interim bond payable to a law enforcement officer or on his or her own recognizance.

Domestic Assault Restrictions

Under the bill, a person arrested for domestic assault would have to be held until he or she could be arraigned or have interim bond set by a judge or district court magistrate. If a judge or magistrate set interim bond, the person could be released only subject to the condition that he or she not have or attempt to have contact of any kind with the victim. If a judge or magistrate released a person subject to protective conditions, the judge or magistrate would have to inform the person, on the record, either orally or by a writing personally delivered to the person, of the specific conditions imposed and that if the person violated a condition of release he or she would be subject to arrest without a warrant and could have his or her bond forfeited or revoked and new conditions of release imposed, in addition to any other penalties that could be imposed if he or she were found in contempt of court.

An order or amended order issued under this provision would have to contain all of the following:

- A statement of the person's full name.
- A statement of the person's height, weight, race, sex, date of birth, hair color, eye color, and any other identifying information the judge or magistrate considered appropriate.
- A statement of the date the conditions became effective.

- A statement of the date on which the order would expire.
- A statement of the conditions imposed.

The judge or magistrate immediately would have to direct in writing that a law enforcement agency within the court's jurisdiction enter the order or amended order into the Law Enforcement Information Network (LEIN). If the order or amended order were rescinded, the judge or magistrate immediately would have to order the law enforcement agency to remove the order or amended order from the LEIN. A law enforcement agency within the court's jurisdiction immediately would have to enter an order or amended order into the LEIN, as provided in the LEIN Policy Council Act, or remove the order or amended order from the LEIN upon expiration of the order or as directed by the court.

The bill states that it would not limit the authority of judges or district court magistrates to impose protective or other release conditions under other applicable statutes or court rules.

Other Revisions

The bill specifies that, subject to the Act's requirements, the acceptance an interim bond would be at the discretion of the person authorized to receive it.

The Act provides that, if in the opinion of the arresting officer or department, an arrested person is under the influence of liquor or a controlled substance, is wanted by police authorities to answer another charge, or is unable to establish or demonstrate his or her identity, or if it is otherwise unsafe to release the person, the arrested person must be held until he or she is in a proper condition to be released or until the next session of court. The bill would extend that provision to a person arrested for a misdemeanor violation of operating a motor vehicle while under the influence of, or while impaired by, liquor or a controlled substance.

MCL 780.581 & 780.582a

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have an indeterminate impact on local units of government. The potential impact on jail time cannot be estimated.

Fiscal Analyst: B. Bowerman

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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.