

PRELIMINARY EXAMINATIONS

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House Bills 6592 and 6593
Sponsor: Rep. Paul Condino
Committee: Judiciary

Complete to 11-11-08

A SUMMARY OF HOUSE BILLS 6592 AND 6593 AS INTRODUCED 11-6-08

House Bill 6592 would allow a district court to accept pleas in felony cases and serious misdemeanor cases, and House Bill 6593 would provide for preliminary examination conferences in district court and make other changes to the preliminary examination process.

The bills are tie-barred to each other.

House Bill 6592 would amend Revised Judicature Act (MCL 600.8311). The bill would expand the jurisdiction of the district court to include accepting pleas in, but not sentencing for, felony cases and misdemeanor cases that are not cognizable by the district court (meaning, misdemeanors having a maximum sentence of imprisonment greater than one year). Sentencing would remain in the circuit court.

The bill would take effect January 1, 2009 and applies to preliminary examinations begun on or after that date. A preliminary examination begun prior to January 1, 2009 would be continued until completion under the law in effect on the date that it began.

House Bill 6593 would amend the Code of Criminal Procedure (MCL 766.1 et al.) to do, among other things, the following:

- Provide for preliminary examination conferences to be held in a district court before any preliminary examinations. A court could conduct a preliminary examination conference with or without a written agreement between the chief judge of the district court, the county prosecutor, or the county sheriff to do so.
- Allow a court to preside over a preliminary examination conference. Rules of evidence would not apply and witnesses would not be presented.
- Specify that the preliminary examination would not be used for purposes of discovery.
- Except in some circumstances, require the preliminary examination to be consolidated for all defendants charged with a felony arising out of the same transaction.

- Apply the rules of evidence at a preliminary examination for a felony for which the maximum term of imprisonment is for life or any term of years.
- If the preliminary examination is for an assaultive felony, allow, under certain circumstances, hearsay testimony from a law enforcement officer involved in the investigation to be admissible in establishing probable cause that a charged felony had been committed and that the defendant committed that felony.
- For all other charged felonies, allow hearsay testimony from a law enforcement officer to establish probable cause.
- Allow each party to subpoena witnesses, offer proofs, and examine and cross-examine witnesses at the preliminary examinations. Except as otherwise provided, the rules of evidence must be followed and a verbatim record of the proceeding must be made.
- Allow an adjournment, continuance, or delay of a preliminary examination by agreement of the parties.
- Make numerous revisions of an editorial nature for clarification and to update language.

The bill would take effect January 1, 2009 and would apply to probable cause hearings commenced on or after that date. A preliminary hearing commenced before that date would be continued until completion under the law in effect on the date it began.

FISCAL IMPACT:

A fiscal analysis is in process.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.