

SENATE BILL No. 932

May 7, 2014, Introduced by Senators JONES, HANSEN, NOFS and PROOS and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 8511, 8512, 8512a, and 8513 (MCL 600.8511, 600.8512, 600.8512a, and 600.8513), sections 8511 and 8513 as amended by 2008 PA 95, section 8512 as amended by 1995 PA 54, and section 8512a as added by 1984 PA 278.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8511. A district court magistrate has the following
2 jurisdiction and duties:

3 (a) To arraign and sentence upon pleas of guilty or nolo
4 contendere for violations of the following ~~acts or parts of acts,~~
5 **LAWS**, or a local ordinance substantially corresponding to these
6 ~~acts or parts of acts,~~ **LAWS**, when authorized by the chief judge of
7 the district court district and if the maximum permissible

1 punishment does not exceed 90 days in jail or a fine, or both:

2 (i) Part 487 of the natural resources and environmental
3 protection act, 1994 PA 451, MCL 324.48701 to 324.48740.

4 (ii) Part 401 of the natural resources and environmental
5 protection act, 1994 PA 451, MCL 324.40101 to ~~324.40119~~**324.41120**.

6 (iii) Part 801 of the natural resources and environmental
7 protection act, 1994 PA 451, MCL 324.80101 to 324.80199.

8 (iv) The motor carrier act, 1933 PA 254, MCL 475.1 to 479.43.

9 (v) Motor carrier safety act of 1963, 1963 PA 181, MCL 480.11
10 to 480.25.

11 (vi) Dog law of 1919, 1919 PA 339, MCL 287.261 to 287.290.

12 (vii) Section 703 or 915 of the Michigan liquor control code of
13 1998, 1998 PA 58, MCL 436.1703 and 436.1915.

14 (viii) Part 5 of the natural resources and environmental
15 protection act, 1994 PA 451, MCL 324.501 to ~~324.511~~**324.513**.

16 (ix) Part 89 of the natural resources and environmental
17 protection act, 1994 PA 451, MCL 324.8901 to 324.8907.

18 (x) Part 435 of the natural resources and environmental
19 protection act, 1994 PA 451, MCL 324.43501 to 324.43561.

20 (xi) Part 731 of the natural resources and environmental
21 protection act, 1994 PA 451, MCL 324.73101 to 324.73111.

22 (xii) Chapter LXXXV of the Michigan penal code, 1931 PA 328,
23 MCL 750.546 to ~~750.552~~**750.552C**.

24 (b) ~~⊖~~**IN ADDITION TO CIVIL INFRACTION MATTERS DESCRIBED IN**
25 **SECTION 8512, TO** arraign and sentence upon pleas of guilty or nolo
26 contendere for violations of the Michigan vehicle code, 1949 PA
27 300, MCL 257.1 to 257.923, or a local ordinance substantially

1 corresponding to a provision of the Michigan vehicle code, 1949 PA
2 300, MCL 257.1 to 257.923, except for violations of sections 625
3 and 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and
4 257.625m, or a local ordinance substantially corresponding to
5 section 625 or 625m of the Michigan vehicle code, 1949 PA 300, MCL
6 257.625 and 257.625m, when authorized by the chief judge of the
7 district court district and if the maximum permissible punishment
8 does not exceed 93 days in jail or a fine, or both. However, the
9 magistrate may have the jurisdiction to arraign defendants and set
10 bond with regard to violations of sections 625 and 625m of the
11 Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m, or a
12 local ordinance substantially corresponding to section 625 or 625m
13 of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and
14 257.625m.

15 (c) To arraign and sentence upon pleas of guilty or nolo
16 contendere for violations of part 811 or 821 of the natural
17 resources and environmental protection act, 1994 PA 451, MCL
18 324.81101 to 324.81150 and 324.82101 to 324.82160, or a local
19 ordinance substantially corresponding to a provision of part 811 or
20 821 of the natural resources and environmental protection act, 1994
21 PA 451, MCL 324.81101 to 324.81150 and 324.82101 to 324.82160,
22 except for violations of sections 81134, 81135, 82128, and 82129 of
23 the natural resources and environmental protection act, 1994 PA
24 451, MCL 324.81134, 324.81135, 324.82128, and 324.82129, or a local
25 ordinance substantially corresponding to sections 81134, 81135,
26 82128, and 82129 of the natural resources and environmental
27 protection act, 1994 PA 451, MCL 324.81134, 324.81135, 324.82128,

1 and 324.82129, when authorized by the chief judge of the district
2 court district and if the maximum permissible punishment does not
3 exceed 93 days in jail or a fine, or both. However, the magistrate
4 may have the jurisdiction to arraign defendants and set bond with
5 regard to violations of sections 81134, 81135, 82128, and 82129 of
6 the natural resources and environmental protection act, 1994 PA
7 451, MCL 324.81134, 324.81135, 324.82128, and 324.82129.

8 (d) To arraign, when authorized by the chief judge of the
9 district court district, for a contempt violation or a violation of
10 a condition of probation when either arises directly out of a case
11 for which a judge or district court magistrate conducted the
12 arraignment under subdivision (a), (b), or (c), or the first
13 appearance under section 8513, involving the same defendant. This
14 subdivision applies only to offenses punishable by imprisonment for
15 not more than 1 year or a fine, or both. The district court
16 magistrate may set bond and accept a plea but may not conduct a
17 violation hearing or sentencing.

18 (e) To issue warrants for the arrest of a person upon the
19 written authorization of the prosecuting or municipal attorney,
20 except written authorization shall not be required for a vehicle
21 law or ordinance violation within the jurisdiction of the
22 magistrate if a police officer issued a traffic citation pursuant
23 to section 728 of the Michigan vehicle code, 1949 PA 300, MCL
24 257.728, and the defendant failed to appear.

25 (f) To fix bail and accept bond in all cases.

26 (g) To issue search warrants, when authorized to do so by a
27 district court judge.

1 Sec. 8512. (1) A district court magistrate may hear and
2 preside over civil infraction admissions, ~~and admissions with~~
3 explanation, **MOTIONS TO SET ASIDE DEFAULT OR WITHDRAW ADMISSIONS,**
4 and conduct informal hearings in civil infraction actions pursuant
5 to ~~UNDER~~ section 746 of the Michigan vehicle code, ~~Act No. 300 of~~
6 the ~~Public Acts of 1949, being section 257.746 of the Michigan~~
7 ~~Compiled Laws, 1949 PA 300, MCL 257.746, OR~~ section 8719 ~~,~~ or
8 section 8819 **OF THIS ACT**, as applicable. In exercising the
9 authority conferred by this subsection, ~~the~~ **A DISTRICT COURT**
10 magistrate may administer oaths, examine witnesses, and make
11 findings of fact and conclusions of law. If ~~the~~ **A** defendant is
12 determined to be responsible for a civil infraction, the **DISTRICT**
13 **COURT** magistrate may impose the civil sanctions authorized by
14 section 907 of ~~Act No. 300 of the Public Acts of 1949, being~~
15 ~~section 257.907 of the Michigan Compiled Laws, section 8727, THE~~
16 **MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.907, or section 8827 OF**
17 **THIS ACT**, as applicable.

18 (2) A district court magistrate shall not conduct an informal
19 hearing in a civil infraction action involving a traffic or parking
20 violation governed by ~~Act No. 300 of the Public Acts of 1949, being~~
21 ~~sections 257.1 to 257.923 of the Michigan Compiled Laws, THE~~
22 **MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.1 TO 257.923,** until he
23 or she has successfully completed a special training course in
24 traffic law adjudication and sanctions. The course shall be given
25 periodically by the state court 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 district
2 court district.

3 Sec. 8512a. Only to the extent expressly authorized by the
4 chief judge, presiding judge, or only judge of the district court
5 district, a district court magistrate may do 1 or more of the
6 following:

7 (a) Accept an admission of responsibility, **DECIDE A MOTION TO**
8 **SET ASIDE A DEFAULT OR WITHDRAW AN ADMISSION**, and order civil
9 sanctions for a civil infraction and order an appropriate civil
10 sanction permitted by the statute or ordinance defining the act or
11 omission.

12 (b) Accept a plea of guilty or nolo contendere and impose
13 sentence for a misdemeanor or ordinance violation punishable by a
14 fine and which is not punishable by imprisonment by the terms of
15 the statute or ordinance creating the offense.

16 Sec. 8513. (1) When authorized by the chief judge of the
17 district and whenever a district judge is not immediately
18 available, a district court magistrate may conduct the first
19 appearance of a defendant before the court in all criminal and
20 ordinance violation cases, including acceptance of any written
21 demand or waiver of preliminary examination and acceptance of any
22 written demand or waiver of jury trial. However, this section does
23 not authorize a district court magistrate to accept a plea of
24 guilty or nolo contendere not expressly authorized ~~pursuant to~~
25 **UNDER** section 8511 or 8512a. A defendant neither demanding nor
26 waiving preliminary examination in writing is deemed to have
27 demanded preliminary examination and a defendant neither demanding

1 nor waiving jury trial in writing is considered to have demanded a
2 jury trial.

3 (2) If authorized by the chief judge of the district, a
4 district court magistrate may do any of the following:

5 (a) Approve and grant petitions for the appointment of an
6 attorney to represent an indigent defendant accused of any
7 misdemeanor punishable by imprisonment for not more than 1 year or
8 ordinance violation punishable by imprisonment.

9 (b) Suspend payment of court fees by an indigent party in any
10 civil, small claims, or summary proceedings action, until after
11 judgment has been entered.

12 (c) Upon written authorization of the prosecuting or city
13 attorney, sign a nolle prosequi ~~—~~ dismissing any criminal or
14 ordinance violation case over which the district court has
15 jurisdiction and release any bail bond or bail bond deposit to the
16 persons entitled to the bail bond or deposit. However, if the
17 preliminary examination or trial has commenced or a plea of guilty
18 or nolo contendere has been accepted by a district court judge, the
19 dismissal order may be entered only by that judge or his or her
20 alternate.

21 (d) Execute and issue process to carry into effect authority
22 expressly granted by law to district court magistrates.

23 (3) A district court magistrate, for acts ~~done within his or~~
24 ~~her jurisdiction as provided~~ **EXPRESSLY AUTHORIZED BY THE CHIEF**
25 **JUDGE AND** by law, has judicial immunity to the extent accorded a
26 district court judge.