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Senate Bill 438 (as enacted)
Sponsor: Senator Curtis S. VanderWall
Senate Committee: Judiciary and Public Safety (discharged)
House Committee: Second Reading

PUBLIC ACT 39 of 2021

Date Completed: 1-6-23

CONTENT

The bill amended Chapter 4 (Arrest) of the Code of Criminal Procedure to prohibit a police officer from issuing to a person an appearance ticket and releasing the person from custody if he or she has been arrested for an operating while intoxicated offense.

The bill took effect on July 1, 2021.

Except as otherwise provided, Chapter 4 requires a police officer to issue and serve upon a person an appearance ticket as defined in Section 9f of Chapter 4 (a complaint or written notice issued and subscribed by a police officer or other public servant authorized by law or ordinance to issue it directing a designated person to appear in a designated local criminal court at a designated future time in connection with his or her alleged commission of a designated violation or violations of state law or local ordinance) and release the person from custody if he or she has been arrested for a misdemeanor or ordinance violation that has a maximum permissible penalty that does not exceed one year in jail or a fine, or both, and is not a serious misdemeanor, assaultive crime, domestic violence violation of Sections 81 or 81a of the Michigan Penal Code (assault or assault and battery, and assault with infliction of serious or aggravated injury), a local ordinance substantially corresponding to a domestic violence violation of Sections 81 or 81a of the Penal Code, or an offense involving domestic violence as that term is defined in Public Act 389 of 1978 (which pertains to the prevention of domestic and sexual violence).

Under the bill, a police officer also may not issue an appearance ticket and release the person from custody if the person has been arrested for an operating while intoxicated offense. "Operating while intoxicated offense" means a violation of any of the following:

- Sections 625 or 625m of the Michigan Vehicle Code.
- A local ordinance, law of an Indian tribe, a law of another state, or a law of the United States substantially corresponding to a violation of Section 625 or 625m of the Vehicle Code.

MCL 764.9c

Legislative Analyst: Stephen P. Jackson

FISCAL IMPACT

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: Joe Carrasco, Jr.
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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.