

SENATE BILL No. 77

February 1, 2001, Introduced by Senator BULLARD and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
(MCL 600.101 to 600.9948) by adding chapter 10A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER 10A

CIRCUIT COURT MAGISTRATES

SEC. 1080. (1) NOT LATER THAN 3 MONTHS AFTER THIS SECTION
TAKES EFFECT, THE CHIEF CIRCUIT JUDGE OF EACH JUDICIAL CIRCUIT
SHALL ASSESS THE NEED TO DESIGNATE 1 OR MORE CIRCUIT COURT MAGIS-
TRATES IN THAT CIRCUIT. THE CHIEF CIRCUIT JUDGE SHALL REPORT HIS
OR HER CONCLUSIONS, IN WRITING, TO THE STATE COURT ADMINISTRATOR
AND THE COUNTY BOARD OF COMMISSIONERS OF EACH COUNTY THAT COM-
PRISES THE CIRCUIT.

(2) THE COUNTY OR COUNTIES THAT COMPRISE A CIRCUIT SHALL
CONSIDER THE REPORT SUBMITTED UNDER SUBSECTION (1) AND SHALL

1 DETERMINE THE NUMBER OF MAGISTRATES, IF ANY, WHO SHALL SERVE IN
2 THAT CIRCUIT. THE COUNTIES ALSO SHALL DETERMINE THE SALARY TO BE
3 PAID TO A MAGISTRATE, WHICH SHALL CONSTITUTE FULL COMPENSATION
4 FOR HIS OR HER SERVICE AS A MAGISTRATE.

5 SEC. 1082. IN EACH JUDICIAL CIRCUIT FOR WHICH THE MEMBER
6 COUNTIES HAVE DETERMINED THAT 1 OR MORE CIRCUIT COURT MAGISTRATES
7 SHOULD BE DESIGNATED, THE JUDGE OR JUDGES OF THAT CIRCUIT SHALL
8 DESIGNATE THOSE CIRCUIT COURT MAGISTRATES AS PROVIDED IN THIS
9 SECTION. IN A CIRCUIT WITH MORE THAN 1 JUDGE, THE DESIGNATION
10 SHALL BE BY A CONCURRENCE OF A MAJORITY OF THE JUDGES. IF A
11 MAJORITY OF THE JUDGES CANNOT CONCUR ON A DESIGNATION, THE CHIEF
12 JUDGE OF THE CIRCUIT SHALL MAKE THE DESIGNATION.

13 SEC. 1084. (1) TO BE QUALIFIED FOR DESIGNATION AS A CIRCUIT
14 COURT MAGISTRATE, AN INDIVIDUAL SHALL BE ADMITTED TO THE PRACTICE
15 OF LAW IN THIS STATE AND SHALL BE A RESIDENT OF THE COUNTY IN
16 WHICH HE OR SHE WILL SERVE AS A MAGISTRATE. AT THE TIME OF HIS
17 OR HER DESIGNATION AS A MAGISTRATE, THE DESIGNEE SHALL NOT BE
18 RELATED TO ANY JUDGE OF THAT CIRCUIT BY BLOOD OR MARRIAGE.

19 (2) AN INDIVIDUAL SHALL NOT BE DESIGNATED AS A CIRCUIT COURT
20 MAGISTRATE UNLESS THE DESIGNATING JUDGE OR JUDGES DETERMINE THAT
21 THE INDIVIDUAL IS COMPETENT TO PERFORM THE DUTIES OF THAT
22 OFFICE.

23 (3) THE JUDGES OF A JUDICIAL CIRCUIT MAY REMOVE A CIRCUIT
24 COURT MAGISTRATE SERVING IN THAT CIRCUIT ONLY FOR INCOMPETENCE,
25 MISCONDUCT, NEGLECT OF DUTY, OR PHYSICAL OR MENTAL DISABILITY. A
26 MAJORITY VOTE OF THE JUDGES IN A CIRCUIT IS REQUIRED FOR AN ORDER
27 REMOVING A MAGISTRATE FROM OFFICE.

1 SEC. 1086. A CIRCUIT COURT MAGISTRATE HAS ALL OF THE
2 FOLLOWING POWERS:

3 (A) THE POWER TO ADMINISTER AN OATH OR AFFIRMATION.

4 (B) THE POWER TO ARRAIGN.

5 (C) ANY POWERS CONFERRED BY THE MICHIGAN COURT RULES AND ANY
6 POWERS CONFERRED ON REFEREES BY THE MICHIGAN COURT RULES OR CHAP-
7 TER 10 OF THIS ACT.

8 SEC. 1088. (1) A CIRCUIT JUDGE MAY ASSIGN A MAGISTRATE TO
9 HEAR AND DECIDE ANY PRETRIAL MATTER PENDING BEFORE THE COURT,
10 EXCEPT A PRETRIAL MATTER LISTED IN SUBSECTION (2). THE CIRCUIT
11 JUDGE MAY RECONSIDER ANY PRETRIAL MATTER THAT WAS HEARD AND
12 DECIDED BY A MAGISTRATE IF THE JUDGE DETERMINES THAT THE
13 MAGISTRATE'S DECISION OR ORDER IN THE MATTER IS CLEARLY ERRONEOUS
14 OR CONTRARY TO LAW.

15 (2) A CIRCUIT JUDGE MAY ASSIGN A MAGISTRATE TO CONDUCT HEAR-
16 INGS, INCLUDING EVIDENTIARY HEARINGS, ON ANY OF THE FOLLOWING:

17 (A) A MOTION FOR INJUNCTIVE RELIEF.

18 (B) A MOTION FOR SUMMARY DISPOSITION.

19 (C) A MOTION TO SUPPRESS EVIDENCE IN A CRIMINAL CASE.

20 (D) A MOTION TO DISMISS OR PERMIT MAINTENANCE OF A CLASS
21 ACTION.

22 (E) A MOTION TO INVOLUNTARILY DISMISS AN ACTION.

23 (F) A DEFENDANT'S MOTION TO DISMISS OR QUASH AN INDICTMENT
24 OR INFORMATION.

25 (G) A MOTION WITHIN THE JURISDICTION OF THE FAMILY DIVISION
26 OF CIRCUIT COURT PURSUANT TO THE MICHIGAN COURT RULES OR CHAPTER
27 10 OF THIS ACT.

1 (3) THE MAGISTRATE SHALL SUBMIT TO THE JUDGE A REPORT OF HIS
2 OR HER PROPOSED FINDINGS OF FACT AND RECOMMENDED DISPOSITION OF
3 ANY MOTION DESCRIBED IN SUBSECTION (2) AND SHALL MAIL A COPY OF
4 THE REPORT TO EACH OF THE PARTIES. NOT LATER THAN 21 DAYS AFTER
5 A COPY OF THE REPORT IS MAILED TO EACH PARTY, A PARTY MAY SERVE
6 AND FILE WRITTEN OBJECTIONS AND SET FOR ORAL ARGUMENT AS PROVIDED
7 BY THE MICHIGAN COURT RULES. AFTER A HEARING ON THE WRITTEN
8 OBJECTIONS, THE CIRCUIT JUDGE SHALL MAKE A DE NOVO DETERMINATION
9 OF THOSE PORTIONS OF THE REPORT TO WHICH OBJECTION WAS MADE. THE
10 JUDGE MAY ACCEPT, REJECT, OR MODIFY, IN WHOLE OR IN PART, THE
11 MAGISTRATE'S REPORT. THE JUDGE MAY ALSO RECEIVE ADDITIONAL EVI-
12 DENCE OR RESUBMIT THE MATTER TO THE MAGISTRATE WITH ADDITIONAL
13 INSTRUCTIONS.

14 (4) IF A PARTY SEEKS RECONSIDERATION UNDER SUBSECTION (1) OR
15 OBJECTS UNDER SUBSECTION (3), AND THE DECISION OR RECOMMENDATION
16 OF THE MAGISTRATE IS ACCEPTED BY THE JUDGE, THE MOVING PARTY MAY
17 BE ASSESSED REASONABLE COSTS AND ATTORNEY FEES INCURRED DUE TO
18 THE RECONSIDERATION OR OBJECTION.

19 (5) A CIRCUIT JUDGE MAY ASSIGN A MAGISTRATE TO SERVE AS A
20 SETTLEMENT FACILITATOR SUBJECT TO APPLICABLE LAW AND COURT
21 RULES.

22 (6) A CIRCUIT JUDGE MAY ASSIGN ADDITIONAL DUTIES TO A MAGIS-
23 TRATE THAT ARE CONSISTENT WITH LAW AND COURT RULES.

24 SEC. 1090. (1) THE PRACTICE AND PROCEDURE FOR THE MATTERS
25 BEFORE MAGISTRATES SERVING UNDER THIS CHAPTER SHALL CONFORM TO
26 RULES PROMULGATED BY THE SUPREME COURT.

1 (2) IN MATTERS BEFORE A MAGISTRATE, ANY OF THE FOLLOWING
2 ACTS OR CONDUCT CONSTITUTES A CONTEMPT OF THE CIRCUIT COURT:

3 (A) DISOBEDIENCE OR RESISTANCE TO ANY LAWFUL ORDER, PROCESS,
4 OR WRIT.

5 (B) MISBEHAVIOR AT A HEARING OR OTHER PROCEEDING, OR SO NEAR
6 THE PLACE OF THE HEARING OR PROCEEDING AS TO OBSTRUCT IT.

7 (C) FAILURE TO PRODUCE, AFTER HAVING BEEN ORDERED TO DO SO,
8 ANY PERTINENT DOCUMENT.

9 (D) REFUSING TO APPEAR AFTER HAVING BEEN SUBPOENAED OR, UPON
10 APPEARING, REFUSING TO TAKE THE OATH OR AFFIRMATION AS A WITNESS
11 OR, HAVING TAKEN THE OATH OR AFFIRMATION, REFUSING TO BE EXAMINED
12 ACCORDING TO LAW.

13 (E) ANY OTHER ACT OR CONDUCT THAT IF COMMITTED BEFORE A
14 JUDGE OF THE CIRCUIT COURT WOULD CONSTITUTE CONTEMPT OF CIRCUIT
15 COURT.

16 (3) UPON THE COMMISSION OF ANY ACT OR CONDUCT DESCRIBED IN
17 SUBSECTION (2), THE MAGISTRATE SHALL CERTIFY THE FACTS TO THE
18 JUDGE OF THE CIRCUIT COURT WHO ASSIGNED THE MATTER TO THE MAGIS-
19 TRATE AND MAY SERVE OR CAUSE TO BE SERVED UPON THE PERSON WHO
20 COMMITTED THE ACT OR CONDUCT AN ORDER REQUIRING THE PERSON TO
21 APPEAR BEFORE THE JUDGE OF THAT COURT UPON A DAY CERTAIN TO SHOW
22 CAUSE WHY HE OR SHE SHOULD NOT BE ADJUDGED IN CONTEMPT BY REASON
23 OF THOSE FACTS. THE CIRCUIT JUDGE SHALL, IN A SUMMARY MANNER,
24 HEAR THE EVIDENCE AS TO THE ACT OR CONDUCT COMPLAINED OF AND, IF
25 IT WARRANTS PUNISHMENT, PUNISH THE PERSON IN THE SAME MANNER AND
26 TO THE SAME EXTENT AS FOR A CONTEMPT COMMITTED BEFORE A JUDGE OF
27 THE COURT OR COMMIT THE PERSON UPON THE CONDITIONS APPLICABLE IN

1 THE CASE OF DEFIANCE OF THE PROCESS OF THE CIRCUIT COURT OR
2 MISCONDUCT IN THE PRESENCE OF A JUDGE OF THAT COURT.

3 SEC. 1092. THE MICHIGAN JUDICIAL INSTITUTE SHALL CONDUCT
4 PERIODIC TRAINING PROGRAMS AND SEMINARS FOR CIRCUIT COURT MAGIS-
5 TRATES, INCLUDING AN INTRODUCTORY TRAINING PROGRAM FOR NEW MAGIS-
6 TRATES TO BE HELD WITHIN 1 YEAR AFTER THE MAGISTRATE'S INITIAL
7 DESIGNATION.