

Act No. 95
Public Acts of 2008
Approved by the Governor
April 8, 2008
Filed with the Secretary of State
April 8, 2008
EFFECTIVE DATE: April 8, 2008

**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008**

Introduced by Senator Garcia

ENROLLED SENATE BILL No. 105

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending sections 8511 and 8513 (MCL 600.8511 and 600.8513), section 8511 as amended by 1999 PA 75 and section 8513 as added by 1984 PA 278.

The People of the State of Michigan enact:

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

(a) To arraign and sentence upon pleas of guilty or nolo contendere for violations of the following acts or parts of acts, or a local ordinance substantially corresponding to these acts or parts of acts, when authorized by the chief judge of the district court district and if the maximum permissible punishment does not exceed 90 days in jail or a fine, or both:

- (i) Part 487 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.48701 to 324.48740.
- (ii) Part 401 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.40101 to 324.40119.
- (iii) Part 801 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80101 to 324.80199.
- (iv) The motor carrier act, 1933 PA 254, MCL 475.1 to 479.43.
- (v) Motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.25.
- (vi) Dog law of 1919, 1919 PA 339, MCL 287.261 to 287.290.
- (vii) Section 703 or 915 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703 and 436.1915.
- (viii) Part 5 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.501 to 324.511.
- (ix) Part 89 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.8901 to 324.8907.
- (x) Part 435 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.43501 to 324.43561.

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

(xii) Chapter LXXXV of the Michigan penal code, 1931 PA 328, MCL 750.546 to 750.552.

(b) To arraign and sentence upon pleas of guilty or nolo contendere for violations of the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a local ordinance substantially corresponding to a provision of the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, except for violations of sections 625 and 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m, or a local ordinance substantially corresponding to section 625 or 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m, when authorized by the chief judge of the district court district and if the maximum permissible punishment does not exceed 93 days in jail or a fine, or both. However, the magistrate may have the jurisdiction to arraign defendants and set bond with regard to violations of sections 625 and 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m, or a local ordinance substantially corresponding to section 625 or 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m.

(c) To arraign and sentence upon pleas of guilty or nolo contendere for violations of part 811 or 821 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81101 to 324.81150 and 324.82101 to 324.82160, or a local ordinance substantially corresponding to a provision of part 811 or 821 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81101 to 324.81150 and 324.82101 to 324.82160, except for violations of sections 81134, 81135, 82128, and 82129 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134, 324.81135, 324.82128, and 324.82129, or a local ordinance substantially corresponding to sections 81134, 81135, 82128, and 82129 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134, 324.81135, 324.82128, and 324.82129, when authorized by the chief judge of the district court district and if the maximum permissible punishment does not exceed 93 days in jail or a fine, or both. However, the magistrate may have the jurisdiction to arraign defendants and set bond with regard to violations of sections 81134, 81135, 82128, and 82129 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134, 324.81135, 324.82128, and 324.82129.

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

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

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

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

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

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

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

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

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

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

(3) A district court magistrate, for acts done within his or her jurisdiction as provided by law, has judicial immunity to the extent accorded a district court judge.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Richard J. Brown

Clerk of the House of Representatives

Approved

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Governor