

EXPAND DISTRICT COURT MAGISTRATE AUTHORITY OVER CERTAIN MARIJUANA CIVIL ACTIONS

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House Bill 4407 as reported from committee
Sponsor: Rep. Vanessa Guerra
Committee: Judiciary
Complete to 5-22-19

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY: House Bill 4407 would amend the Revised Judicature Act (RJA) to allow a district court magistrate to hear and preside over additional civil infractions pertaining to marijuana.

FISCAL IMPACT: Under the bill, a district court magistrate would be authorized to conduct informal hearings and impose civil sanctions under Initiated Law 1 of 2018. The fiscal impact on local court systems would depend on the number of additional hearings occurring under the bill and how the additional hearings affected court caseloads and related administrative costs. (See **Fiscal Information**, below, for further discussion.)

THE APPARENT PROBLEM:

A district court magistrate (DCM) is allowed to hear all civil matters. However, this authority is delineated in statute, and a DCM does not have any authority over matters that are not named in statute. The RJA lists many different civil infractions that a DCM has the authority to adjudicate in court (see **Background Information**, below), yet currently none involve marijuana civil infractions. Even with the recent passage of Initiated Law 1 of 2018 (which legalized certain uses of marijuana in Michigan and moved most violations to civil jurisdiction from criminal jurisdiction), a DCM does not have the authority to adjudicate civil cases involving marijuana. As a result, the State Court Administrative Office has urged the passage of legislation to update the statute and allow a DCM to properly exercise authority over all civil matters.

THE CONTENT OF THE BILL:

Currently under the RJA, a DCM may execute certain functions over various civil actions. The bill would add that a DCM may also have the following authority:

- To conduct informal hearings in civil *infraction* actions under the Michigan Regulation and Taxation of Marihuana Act (Initiated Law 1 of 2018).
- To conduct informal hearings in civil *fine* actions under the Michigan Medical Marihuana Act (Initiated Law 1 of 2008).
- To impose civil sanctions authorized by the Michigan Regulation and Taxation of Marihuana Act and the Michigan Medical Marihuana Act if a defendant is determined to be responsible for a civil *infraction*.
- To impose civil sanctions authorized by the Michigan Medical Marihuana Act if a defendant is determined to be responsible for a civil *fine*.

MCL 600.8512

BACKGROUND INFORMATION:

In Michigan, district courts are known as courts of limited jurisdiction. Their jurisdiction includes the following:

- Civil cases up to \$25,000 in damages.
- Garnishment and eviction proceedings.
- Misdemeanors for offenses having a maximum term of imprisonment of one year.
- Arraignment and preliminary examinations in felony cases.
- Accepting bail on felony cases.
- Traffic civil infractions.
- State and municipal nontraffic civil infractions for adults or juveniles waived to adult court.
- Juvenile nontraffic civil infractions if under agreement with family division of circuit court.

A DCM is a nonelected employee of a district court who serves at the pleasure of the chief judge of the district. A DCM's authority is established in statute, but a chief judge has discretion to specify which of the authorized functions a DCM may perform in that district. A district judge may not extend the jurisdiction of a DCM beyond the jurisdiction expressly provided by law. Statutorily authorized duties of a DCM include the following:

- Arraign and sentence individuals who plead guilty or nolo contendere for violations of certain acts (or corresponding local ordinances).
- Conduct a defendant's first appearance in all criminal and ordinance violation cases.
- Accept admission of responsibility and order civil sanctions for civil infractions.
- Accept pleas and impose sentence for misdemeanors or ordinance violations punishable only by a fine.
- Approve and grant petitions for appointment of an attorney for indigent defendants and suspend payment of court fees by an indigent party in a civil, small claims, or summary proceedings action until after judgment is rendered.
- Under certain circumstances, dismiss a criminal or ordinance violation case and release the bail bond or bail bond deposit.
- Issue arrest warrants and search warrants.
- Fix and accept bond in all criminal cases.
- Hear and preside over, and conduct informal hearings in, civil infraction actions.
- If the DCM is an attorney, perform all of the functions that a district judge could perform in trying a case in small claims court.
- Perform marriage ceremonies in the district in which the DCM serves.
- Issue summonses and order actions in dangerous animal cases.
- Provide nonlegal advice and assistance to the public and court staff.
- Record, index, file, and post dispositions of all cases processed.
- Notify arresting agencies and the Secretary of State of notices for failure to appear in court.
- Answer correspondence and complaints regarding cases processed.
- Administer oaths and affirmations.
- Issue bond forfeiture notices and take actions associated with bond forfeiture.

FISCAL INFORMATION:

Under House Bill 4407, a district court magistrate would be authorized to conduct informal hearings and impose civil sanctions under Initiated Law 1 of 2018. The fiscal impact on local court systems would depend on the number of additional hearings occurring under provisions of the bill and how the additional hearings affected court caseloads and related administrative costs. Increased costs could be offset, to some degree, depending on the amount of additional court-imposed fee revenue generated. Depending on the number of additional sanctions, the state could see an increase in civil fine revenue. If the fine revenue is a result of violating provisions of the Michigan Regulation and Taxation of Marihuana Act, the state would see an increase in General Fund/General Purpose revenue. If the fine revenue is a result of violating provisions of the Michigan Medical Marihuana Act, fine revenues would be applied to the support of public and county law libraries. The state could see an increase in revenue if Justice System assessment revenue is deposited into the state Justice System Fund, which supports various justice-related endeavors in the judicial and legislative branches of government and the Departments of State Police, Corrections, Health and Human Services, and Treasury.

ARGUMENTS:

For:

Supporters of the bill argue that a DCM is currently unable to fully execute proper authority over civil matters as a DCM is unable to conduct court functions over marijuana civil cases. With many marijuana matters now classified as civil cases, courts across Michigan are scrambling to keep cases flowing through the court system. Supporters argue that the bill would restore proper authority of all civil matters to a DCM and keep court dockets flowing smoothly.

Against:

No arguments were presented against the bill during committee testimony.

POSITIONS:

A representative of the State Court Administrative Office testified in support of the bill. (5-7-19; and indicated support 5-21-19)

The Michigan District Judges Association indicated support for the bill. (5-7-19)

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