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COURTS: MULTIDISTRICT PLANS

House Bill 4602 (Substitute H-2)
First Analysis (10-21-93)

Sponsor: Rep. David Galloway
Committee: Judiciary

THE APPARENT PROBLEM:

In a 1986 federal case in the Western District of Michigan (Mabry v. County of Kalamazoo, 626 F. Supp. 912), the court reiterated the 1975 holding of the U.S. Supreme Court in Gerstein v. Pugh (420 U.S. 103, 95 S.Ct. 854): that the Fourth Amendment "requires a judicial determination of probable cause as a prerequisite to extended restraint of liberty following arrest." In Mabry, the court noted that the U.S. Supreme Court had recognized that a person could be detained pending a determination of probable cause for the period of time necessary to take the administrative steps incident to arrest. The court cited several decisions in which courts limited the permissible period of time to 24 hours, but stopped short of determining that a "24-hour rule" was constitutionally required, instead holding that "the plaintiff's detention for 60 plus hours without a judicial determination of probable cause violated his rights under the fourth amendment." The court, however, did say that the defendants were "constitutionally obligated to make a probable cause determination within the requisite period of time" (that is, the period of time allowable under Gerstein), and that the onus was on the arresting and holding officers to ensure that the suspect received a prompt determination of probable cause.

The Mabry decision and others formed the backdrop for a new court rule (MCR 6.104[G], effective April 1, 1990) that requires each court with jurisdiction over felony cases to develop a plan for "judicial availability" ensuring that a judicial officer is available for conducting arraignments or setting bail each day of the year.

Reports are that several counties have developed a weekend arraignment system in which the various districts within a county use a single magistrate. However, without statutory authorization, many districts are reluctant to participate in such a system. Legislation has been developed to

overcome those concerns by specifically authorizing multiple district arraignments.

THE CONTENT OF THE BILL:

The bill would amend the Revised Judicature Act (RJA) to provide for multiple district areas in which a judge or magistrate could conduct arraignments, appoint counsel, set bail, and make determinations of probable cause and issue warrants for participating districts within the multiple district area. A multiple district area would consist of either two or more districts within the same county, or two adjoining districts of the first class (a district of the first class consists of one or more counties).

Multiple district operations would be conducted under a plan developed by the chief district judges, and approved by the state court administrator. A plan would have to specify who has superintending control over a district court magistrate acting under the plan, and could include provisions on compensation for a magistrate and support personnel, use of facilities, and other matters.

The plan could authorize a magistrate appointed as provided by the RJA to serve at any location and on behalf of all participating districts in the multiple district area. Under multiple district plans involving adjoining districts of the first class, a magistrate appointed in a county of one district could be appointed to serve in a county of the adjoining district. While serving in the adjoining district, the magistrate would be subject to the superintending control of the chief judge of that district.

The bill would explicitly allow the chief judge of a multiple-county district to authorize a magistrate appointed in one county of the district to serve in another county in the district.

A district judge could not serve outside his or her district unless assigned by the supreme court.

MCL 600.8251 et al.

FISCAL IMPLICATIONS:

The House Fiscal Agency says that the bill presents potential cost savings for local units of government, and no fiscal impact for the state. (10-19-93)

ARGUMENTS:

For:

The need to be able to conduct arraignments daily has exacerbated strains on district court resources. The bill would provide statutory authority for the shared use of magistrates, and ratify existing arrangements for weekend arraignments. Outstate districts, which typically include more than one county and lie within one circuit, while allowed to participate in multiple district plans, would further benefit by being authorized to have their magistrates sit in any county in the district. As the bill would not be limited to after-hours or weekend arraignments, as earlier proposals would have been, it offers courts the opportunity to make the most efficient use of their personnel throughout the week, with accompanying reductions in expenses. For example, magistrates could rotate assignments to conduct arraignments at the county jail, saving the county the costs of transporting and guarding prisoners travelling from the jail to the courthouse.

Against:

The use of magistrates throughout multiple district areas should be limited to hours outside of normal working hours. The primary impetus for the bill stems from the need to be able conduct after-hours arraignments to meet the 24-hour arraignment rule. By authorizing round-the-clock use of multiple-district magistrates, the bill goes farther than necessary and raises constitutional questions. A magistrate serves as a limited surrogate for the district judge, who in turn has been elected to serve a particular district. To allow blanket use of judges or magistrates outside of their districts would be inconsistent with a constitutional provision that says the supreme court may appoint elected judges to perform judicial duties for limited periods or specific assignments. By implication, any cross-district use of magistrates also should be for limited periods--that is, during off-hours.

POSITIONS:

The Michigan Court Administrators Association supports the bill. (10-19-93)

The Michigan District Judges Association supports the bill. (10-19-93)

The State Court Administrative Office supports the bill. (10-19-93)