

Act No. 12
Public Acts of 1994
Approved by the Governor
February 23, 1994
Filed with the Secretary of State
February 24, 1994

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Senator Conroy

ENROLLED SENATE BILL No. 731

AN ACT to amend sections 113 8302 8313 8375 and 8512 of Act No 236 of the Public Acts of 1961 entitled as amended 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 and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act section 8302 as added by Act No 438 of the Public Acts of 1980 and section 8512 as amended by Act No 278 of the Public Acts of 1984 being sections 600 113 600 8302 600 8313 600 8375 and 600 8512 of the Michigan Compiled Laws and to add section 8396 and chapter 87

The People of the State of Michigan enact

Section 1 Sections 113 8302 8313 8375 and 8512 of Act No 236 of the Public Acts of 1961 section 8302 as added by Act No 438 of the Public Acts of 1980 and section 8512 as amended by Act No 278 of the Public Acts of 1984 being sections 600 113 600 8302 600 8313 600 8375 and 600 8512 of the Michigan Compiled Laws are amended and section 8396 and chapter 87 are added to read as follows

Sec 113 (1) As used in this act

(a) Civil infraction means an act or omission that is prohibited by a law and is not a crime under that law or that is prohibited by an ordinance and is not a crime under that ordinance and for which civil sanctions may be ordered Civil infraction includes but is not limit to the following

(i) A violation of the Michigan vehicle code Act No 300 of the Public Acts of 1949 being sections 257 1 to 257 923 of the Michigan Compiled Laws designated as a civil infraction

(ii) A violation of a city township or village ordinance substantially corresponding to a provision of Act No 300 of the Public Acts of 1949 if the ordinance designates the violation as a civil infraction

(iii) A violation of an ordinance adopted pursuant to Act No 235 of the Public Acts of 1969 being sections 257 941 to 257 943 of the Michigan Compiled Laws

(iv) A violation of a city township or village ordinance adopting the Uniform traffic code promulgated under Act No 62 of the Public Acts of 1956 being sections 257 951 to 257 954 of the Michigan Compiled Laws if the uniform traffic code designates the violation as a civil infraction

(v) A violation of an ordinance adopted by the governing board of a state university or college pursuant to Act No 291 of the Public Acts of 1967 being sections 390 891 to 390 893 of the Michigan Compiled Laws if the ordinance designates the violation as a civil infraction

(vi) A violation of regulations adopted by a county board of commissioners pursuant to Act No 58 of the Public Acts of 1945 being section 46 201 of the Michigan Compiled Laws

(vii) A violation of the marine safety act Act No 303 of the Public Acts of 1967 being sections 281 1001 to 281 1199 of the Michigan Compiled Laws or of an ordinance enacted pursuant to sections 17 and 166 of Act No 303 of the Public Acts of 1967 being sections 281 1017 and 281 1166 of the Michigan Compiled Laws if the violation is designed by Act No 303 of the Public Acts of 1967 as a marine law civil infraction

(viii) A municipal civil infraction

(b) Civil infraction action means a civil action in which the defendant is alleged to be responsible for a civil infraction

(c) Municipal civil infraction means a civil infraction involving a violation of an ordinance Municipal civil infraction includes but is not limited to a trailway municipal civil infraction Municipal civil infraction does not include a violation described in subdivision (a)(i) to (vi) or any act or omission that constitutes a crime under any of the following

(i) Article 7 or section 17766a of the public health code Act No 368 of the Public Acts of 1978 being sections 333 7101 to 333 7545 and 333 17766a of the Michigan Compiled Laws

(ii) The Michigan penal code Act No 328 of the Public Acts of 1931 being sections 750 1 to 750 568 of the Michigan Compiled Laws

(iii) The Michigan vehicle code Act No 300 of the Public Acts of 1949 being sections 257 1 to 257 923 of the Michigan Compiled Laws

(iv) The Michigan liquor control act Act No 8 of the Public Acts of the Extra Session of 1933 being sections 436 1 to 436 58 of the Michigan Compiled Laws

(v) The marine safety act Act No 303 of the Public Acts of 1967 being sections 281 1001 to 281 1199 of the Michigan Compiled Laws

(vi) The aeronautics code of the state of Michigan Act No 327 of the Public Acts of 1945 being sections 259 1 to 259 208 of the Michigan Compiled Laws

(vii) Act No 74 of the Public Acts of 1968 being sections 257 1501 to 257 1518 of the Michigan Compiled Laws

(viii) Act No 319 of the Public Acts of 1975 being sections 257 1601 to 257 1626 of the Michigan Compiled Laws

(ix) Act No 4 of the Public Acts of 1986 being sections 470 201 to 470 210 of the Michigan Compiled Laws

(x) Any law of this state under which the act or omission is punishable by imprisonment for more than 90 days

(d) Municipal civil infraction action means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction Municipal civil infraction action includes but is not limited to a trailway municipal civil infraction action

(e) Trailway municipal civil infraction means a municipal civil infraction involving the operation of a vehicle on a recreational trailway at a time in a place or in a manner prohibited by ordinance

(f) Trailway municipal civil infraction action means a civil infraction action in which the defendant is alleged to be responsible for a trailway municipal civil infraction

(2) Except as otherwise provided in this act a civil infraction action involving a traffic or parking violation shall be governed by the Michigan vehicle code Act No 300 of the Public Acts of 1949 as amended being sections 257 1 to 257 923 of the Michigan Compiled Laws

(3) Except as otherwise provided in this act a municipal civil infraction action is governed by chapter 87

(4) A determination that a defendant is responsible for a civil infraction and thus subject to civil sanctions shall be by a preponderance of the evidence

Sec 8302 (1) In addition to the civil jurisdiction provided in sections 5704 and 8301 the district court has equitable jurisdiction and authority concurrent with that of the circuit court in the matters and to the extent provided by this section

(2) In cases brought under chapter 84 the district court may issue and enforce an injunctive order or an order rescinding or reforming a contract

(3) In an action under chapter 57 the district court may hear and determine an equitable claim relating to or arising under chapter 31 33 or 38 or involving a right interest obligation or title in land The court may issue and enforce a judgment or order necessary to effectuate the court's equitable jurisdiction as provided in this subsection including the establishment of escrow accounts and receiverships

(4) In an action under chapter 87 the district court may issue and enforce any judgment writ or order necessary to enforce the ordinance The grant of equitable jurisdiction and authority to the district court under this subsection does not affect the jurisdiction of the circuit court to do either of the following

(a) Hear and decide claims based on nuisance or abate nuisances under section 2940

(b) Hear and decide actions challenging the validity or applicability of an ordinance and in those actions enjoin a defendant from enforcing the ordinance in the district court or in a municipal court pending the outcome of the action in circuit court

Sec 8313 All violations of state criminal law shall be prosecuted in the district court by the prosecuting attorney All ordinance violations that are misdemeanors or that are not designated as civil infractions shall be prosecuted in the district court by the attorney for the political subdivision whose ordinance was violated If the violation is a civil infraction the prosecuting attorney or attorney for the political subdivision shall be required to appear in court only in those civil infraction actions that are contested before a judge of the district court in a formal hearing as provided in section 747 of the Michigan vehicle code Act No 300 of the Public Acts of 1949 being section 257 747 of the Michigan Compiled Laws or section 8721 as applicable

Sec 8375 The district court may assess the same costs as are permitted in the circuit court In civil infraction actions the district court may assess costs as provided in section 907 of the Michigan vehicle code Act No 300 of the Public Acts of 1949 being section 257 907 of the Michigan Compiled Laws or section 8727 as applicable A district court magistrate may assess costs in an amount fixed by rule of the district court

Sec 8396 A county city village or township may by ordinance establish a municipal ordinance violations bureau to accept admissions of responsibility for municipal civil infractions and to collect and retain civil fines and costs pursuant to a schedule as prescribed by ordinance The expense of operating a municipal ordinance violations bureau shall be borne by the county city village or township and the personnel of the bureau shall be county city village or township employees

Sec 8512 (1) A district court magistrate may hear and preside over civil infraction admissions and admissions with explanation and conduct informal hearings in civil infraction actions pursuant to section 746 of the Michigan vehicle code Act No 300 of the Public Acts of 1949 being section 257 746 of the Michigan Compiled Laws or section 8719 as applicable In exercising the authority conferred by this subsection the magistrate may administer oaths examine witnesses and make findings of fact and conclusions of law If the defendant is determined to be responsible for a civil infraction the magistrate may impose the civil sanctions authorized by section 907 of Act No 300 of the Public Acts of 1949 being section 257 907 of the Michigan Compiled Laws or section 8727 as applicable

(2) A district court magistrate shall not conduct an informal hearing in a civil infraction action involving a traffic or parking violation governed by Act No 300 of the Public Acts of 1949 being sections 257 1 to 257 923 of the Michigan Compiled Laws until he or she has successfully completed a special training course in traffic law adjudication and sanctions The course shall be given periodically by the state court administrator

(3) A district court magistrate may exercise the authority conferred by this section only to the extent expressly authorized by the chief judge presiding judge or only judge of the district court district

CHAPTER 87

MUNICIPAL CIVIL INFRACTIONS

Sec 8701 As used in this chapter

(a) Authorized local official means a police officer or other personnel of a county city village township or regional parks and recreation commission created under section 2 of Act No 265 of the Public Acts of 1961 being section 46 352 of the Michigan Compiled Laws legally authorized to issue municipal civil infraction citations

(b) Citation means a written complaint or notice to appear in court upon which an authorized local official records the occurrence or existence of 1 or more municipal civil infractions by the person cited

(c) Municipal civil infraction determination means a determination that a defendant is responsible for a municipal civil infraction by 1 of the following

(i) An admission of responsibility for the municipal civil infraction

(ii) An admission of responsibility for the municipal civil infraction with explanation

(iii) A preponderance of the evidence at an informal hearing or formal hearing on the question under section 8719 or 8721 respectively

(iv) A default judgment for failing to appear as directed by a citation or other notice at a scheduled appearance under section 8715(3)(b) or (4) at an informal hearing under section 8719 or at a formal hearing under section 8721

Sec 8703 (1) A municipal civil infraction action is commenced upon the issuance of a citation as provided in section 8707 The plaintiff in a municipal civil infraction action is the political subdivision whose ordinance has been violated

(2) Except as provided in subsection (5) the district court and any municipal court have jurisdiction over municipal civil infraction actions

(3) The time specified in a citation for appearance shall be within a reasonable time after the citation is issued

(4) The place specified in the citation for appearance shall be the court referred to in subsection (2) that has territorial jurisdiction of the place where the municipal civil infraction occurred Venue in the district court is governed by section 8312

(5) If the person cited for a municipal civil infraction is under the age of 17 at the time of the occurrence of the violation the juvenile division of the probate court of the county where the violation is alleged to have occurred has jurisdiction over the proceedings and shall proceed to hear and dispose of the case as provided by chapter XIIIA of Act No 288 of the Public Acts of 1939 being sections 712A 1 to 712A 28 of the Michigan Compiled Laws

Sec 8705 (1) Each citation shall be numbered consecutively be in a form as approved by the state court administrator and consist of the following parts

(a) The original which is a complaint and notice to appear by the authorized official and shall be filed with the court in which the appearance is to be made

(b) The first copy which shall be retained by the ordinance enforcement agency

(c) The second copy which shall be issued to the alleged violator if the violation is a misdemeanor

(d) The third copy which shall be issued to the alleged violator if the violation is a municipal civil infraction

(2) With the prior approval of the state court administrator the citation may be modified as to content or number of copies to accommodate law enforcement and local court procedures and practices Use of this citation for violations other than municipal civil infractions is optional

(3) A citation for a municipal civil infraction signed by an authorized local official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the authorized local official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official I declare under the penalties of perjury that the statements above are true to the best of my information knowledge and belief

Sec 8707 (1) An authorized local official who witnesses a person violate an ordinance a violation of which is a municipal civil infraction shall prepare and subscribe as soon as possible and as completely as possible an original and 3 copies of a citation except as provided in subsection (6)

(2) An authorized local official may issue a citation to a person if based upon investigation the official has reasonable cause to believe that the person is responsible for a municipal civil infraction An authorized local official may issue a citation to a person if based upon investigation of a complaint by someone who allegedly witnessed the person violate an ordinance a violation of which is a municipal civil infraction the official has reasonable cause to believe that the person is responsible for a municipal civil infraction and if the prosecuting attorney or other attorney for the political subdivision employing the authorized local official approves in writing the issuance of the citation

(3) Except as otherwise provided under subsection (4) the authorized local official shall personally serve the third copy of the citation upon the alleged violator

(4) In a municipal civil infraction action involving the use or occupancy of land or a building or other structure a copy of the citation need not be personally served upon the alleged violator but may be served upon an owner or occupant of the land building or structure by posting the copy on the land or attaching the copy to the building or structure In addition a copy of the citation shall be sent by first class mail to the owner of the land building or structure at the owner s last known address

(5) A citation served under subsection (4) for a violation involving the use or occupancy of land or a building or other structure shall be processed in the same manner as a citation served personally upon a defendant pursuant to subsection (1) or (2)

(6) Except under the circumstances described in section 8709(5)(a) or (b) if a county city village or township has established a municipal ordinance violations bureau an authorized local official of the county city village or township may issue and serve a municipal ordinance violation notice instead of a citation under the same circumstances and upon the same persons as provided in this section for the service of a citation If an authorized local official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and the civil fine and costs if any prescribed by ordinance for the violation are not paid at the municipal ordinance violations bureau a citation may be filed with the court described in section 8703(4) and a copy of the citation may be served by first class mail upon the alleged violator at his or her last known address The citation filed with the court pursuant to this subsection need not comply in all particulars with sections 8705 and 8709 but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the defendant how to respond to the citation A citation issued under this subsection shall be processed in the same manner as a citation issued personally to a defendant pursuant to subsection (1) or (2) As used in this subsection municipal ordinance violation notice means a

notice other than a citation directing a person to appear at a municipal ordinance violations bureau in the city village township or county in which the notice is issued and to pay the fine and costs if any prescribed by ordinance for the violation of the ordinance

Sec 8709 (1) A citation issued pursuant to section 8707 shall contain the name of the plaintiff the name and address of the defendant the municipal civil infraction alleged the place where the defendant shall appear in court the telephone number of the court the time at or by which the appearance shall be made and the additional information required by this section

(2) Except as provided in subsection (5) the citation shall inform the defendant that he or she may do 1 of the following

(a) Admit responsibility for the municipal civil infraction by mail in person or by representation at or by the time specified for appearance

(b) Admit responsibility for the municipal civil infraction with explanation by mail by the time specified for appearance or in person or by representation

(c) Deny responsibility for the municipal civil infraction by doing either of the following

(i) Appearing in person for an informal hearing before a judge or district court magistrate without the opportunity of being represented by an attorney unless a formal hearing before a judge is requested by the plaintiff

(u) Appearing in court for a formal hearing before a judge with the opportunity of being represented by an attorney

(3) Except as provided in subsection (5) the citation shall inform the defendant of all of the following

(a) That if the defendant desires to admit responsibility with explanation in person or by representation the defendant must apply to the court in person by mail by telephone or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance

(b) That if the defendant desires to deny responsibility the defendant must apply to the court in person by mail by telephone or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing unless a hearing date is specified on the citation

(c) That a hearing shall be an informal hearing unless a formal hearing is requested by the defendant or the plaintiff political subdivision

(d) That at an informal hearing the defendant must appear in person before a judge or district court magistrate without the opportunity of being represented by an attorney

(e) That at a formal hearing the defendant must appear in person before a judge with the opportunity of being represented by an attorney

(4) The citation shall contain a notice in boldfaced type that the failure of the defendant to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgment against the defendant on the municipal civil infraction Except as provided in subsection (5) return of the citation with an admission of responsibility and with full payment of applicable civil fines and costs return of the citation with an admission of responsibility with explanation or timely application to the court for a scheduled date and time for an appearance under subsection (3)(a) or a hearing under subsection (3)(b) constitutes a timely appearance

(5) A citation that may be issued for a trailway municipal civil infraction shall be designed to allow the authorized local official to indicate that the defendant is required to appear at a formal hearing An authorized local official issuing a citation for a trailway municipal civil infraction shall require the defendant to appear at a formal hearing if either or both of the following apply

(a) The trailway municipal civil infraction caused damage to a natural resource or facility

(b) The authorized local official impounds the vehicle

Sec 8711 If an authorized local official issues a citation under section 8707 the court may accept an admission with explanation or an admission or denial of responsibility upon the citation without the necessity of a sworn complaint If the defendant denies responsibility for the municipal civil infraction further proceedings shall not be held until a sworn complaint is filed with the court A warrant for arrest for failure to appear on the municipal civil infraction citation under section 8727(9) shall not be issued until a sworn complaint relative to the municipal civil infraction is filed with the court

Sec 8713 An authorized local official who knowing the statement is false makes a materially false statement in a citation issued under section 8707 is guilty of perjury a felony punishable by imprisonment for not more than 15 years and in addition is in contempt of court

Sec 8715 (1) A person to whom a citation is issued under section 8707 shall appear by or at the time specified in the citation and except as otherwise provided by section 8709(5) may respond to the allegations in the citation as provided in this section

(2) If the defendant wishes to admit responsibility for the municipal civil infraction the defendant may do so by appearing in person by representation or by mail If appearance is made by representation or mail the court may accept the admission with the same effect as though the defendant personally appeared in court Upon acceptance of the admission the court may order any of the sanctions permitted under section 8727

(3) If the defendant wishes to admit responsibility for the municipal civil infraction with explanation the defendant may do so in either of the following ways

(a) By appearing by mail

(b) By contacting the court in person by mail by telephone or by representation to obtain from the court a scheduled date and time for an appearance at which time the defendant shall appear in court in person or by representation

(4) If a defendant admits responsibility for a municipal civil infraction with explanation under subsection (3) the court shall accept the admission as though the defendant has admitted responsibility under subsection (2) and may consider the defendant's explanation by way of mitigating any sanction that the court may order under section 8727 If appearance is made by representation or mail the court may accept the admission with the same effect as though the defendant personally appeared in court but the court may require the defendant to provide a further explanation or to appear in court

(5) If the defendant wishes to deny responsibility for a municipal civil infraction the defendant shall do so by appearing for an informal or formal hearing If the hearing date is not specified on the citation the defendant shall contact the court in person by representation by mail or by telephone and obtain a scheduled date and time to appear for an informal or formal hearing If the hearing date is specified on the citation the defendant shall appear on that date The hearing shall be an informal hearing unless a formal hearing is requested by the defendant or the plaintiff as provided by section 8717 If a hearing is scheduled by telephone the court shall mail the defendant a confirming notice of that hearing by regular mail to the address appearing on the citation or to an address that is furnished by the defendant An informal hearing shall be conducted pursuant to section 8719 and a formal hearing shall be conducted pursuant to section 8721

Sec 8717 (1) The court shall schedule a formal hearing if either the defendant or the plaintiff expressly requests a formal hearing as provided by this section

(2) A request for a formal hearing must be received by the court at least 10 days before the hearing date The request may be made in person by representation by mail or by telephone

(3) The party requesting a formal hearing shall notify the other party or parties of the request Notification of the request must be received by the other parties at least 10 days before the hearing date The notification of a request for a formal hearing may be made in person by representation by mail or by telephone

(4) In a trailway municipal civil infraction action the court shall also schedule a formal hearing if either or both of the following apply

(a) The trailway municipal civil infraction caused damage to a natural resource or facility

(b) The authorized local official impounded the vehicle

Sec 8719 (1) An informal hearing shall be conducted by a district court magistrate if authorized by the judge or judges of the district court district or by a judge of the district court or a municipal court A district court magistrate may administer oaths examine witnesses and make findings of fact and conclusions of law at an informal hearing The judge or district court magistrate shall conduct the informal hearing in an informal manner so as to do substantial justice according to the rules of substantive law but is not bound by the statutory provisions or rules of practice procedure pleading or evidence except provisions relating to privileged communications There shall not be a jury at an informal hearing A verbatim record of an informal hearing is not required

(2) At an informal hearing the defendant shall not be represented by an attorney and the plaintiff shall not be represented by the prosecuting attorney or attorney for a political subdivision

(3) Notice of a scheduled informal hearing shall be given to the plaintiff The plaintiff and defendant may subpoena witnesses Witness fees need not be paid in advance to a witness Witness fees for a witness on behalf of the plaintiff are payable by the district control unit of the district court for the place where the hearing occurs or by the city or village if the hearing involves an ordinance violation in a district where the district court is not functioning

(4) If the judge or district court magistrate determines by a preponderance of the evidence that the defendant is responsible for a municipal civil infraction the judge or magistrate shall enter an order against the defendant as

provided in section 8727 Otherwise a judgment shall be entered for the defendant but the defendant is not entitled to costs of the action

(5) The plaintiff and defendant are entitled to appeal an adverse judgment entered at an informal hearing An appeal from a municipal judge shall be a trial de novo in the circuit court In other instances an appeal shall be de novo in the form of a scheduled formal hearing as follows

(a) The appeal from a judge of the district court shall be heard by a different judge of the district

(b) The appeal from a district court magistrate shall be heard by a judge of the district

Sec 8721 (1) A formal hearing shall be conducted only by a judge of the district court or a municipal court

(2) In a formal hearing the defendant may be represented by an attorney but is not entitled to counsel appointed at public expense

(3) Notice of a formal hearing shall be given to the prosecuting attorney or the attorney who represents the plaintiff political subdivision That attorney shall appear in court for a formal hearing and is responsible for the issuance of a subpoena to each witness for the plaintiff The defendant may also subpoena witnesses Witness fees need not be paid in advance to a witness Witness fees for a witness on behalf of the plaintiff are payable by the district control unit of the district court for the place where the hearing occurs or by the city or village if the hearing involves an ordinance violation in a district where the district court is not functioning

(4) There shall not be a jury trial in a formal hearing

(5) If the judge determines by a preponderance of the evidence that the defendant is responsible for a municipal civil infraction the judge shall enter an order against the defendant as provided in section 8727 Otherwise a judgment shall be entered for the defendant but the defendant is not entitled to costs of the action

Sec 8723 If the defendant fails to appear as directed by the citation or other notice at a scheduled appearance under section 8715(3)(b) or (4) at a scheduled informal hearing or at a scheduled formal hearing the court shall enter a default judgment against the defendant

Sec 8725 (1) An authorized local official issuing a citation under this chapter for a municipal civil infraction shall not accept a fee for issuing the citation

(2) An authorized local official who violates this section is guilty of misconduct in office and subject to removal from office

Sec 8727 (1) A municipal civil infraction is not a lesser included offense of a criminal offense or an ordinance violation that is not a civil infraction

(2) If a defendant is determined to be responsible or responsible with explanation for a municipal civil infraction the judge or district court magistrate may order the defendant to pay a civil fine costs as provided in subsection (3) and if applicable damages and expenses as provided in section 8733(2) In the order of judgment the judge or district court magistrate may grant a defendant permission to pay a civil fine costs and damages and expenses within a specified period of time or in specified installments Otherwise the civil fine costs and damages and expenses are due immediately

(3) If a defendant is ordered to pay a civil fine under subsection (2) the judge or district court magistrate shall summarily tax and determine the costs of the action which are not limited to the costs taxable in ordinary civil actions and may include all expenses direct and indirect to which the plaintiff has been put in connection with the municipal civil infraction up to the entry of judgment Costs of not less than \$9 00 or more than \$500 shall be ordered Except as otherwise provided by law costs shall be payable to the general fund of the plaintiff

(4) In addition to ordering the defendant to pay a civil fine costs and damages and expenses the judge or district court magistrate may issue a writ or order under section 8302

(5) A district court magistrate shall impose the sanctions permitted under subsections (2) and (4) only to the extent expressly authorized by the chief judge or only judge of the district court district

(6) Each district of the district court and each municipal court may establish a schedule of civil fines and costs to be imposed for municipal civil infractions that occur within the district or city If a schedule is established it shall be prominently posted and readily available for public inspection A schedule need not include all municipal civil infractions A schedule may exclude cases on the basis of a defendant's prior record of municipal civil infractions

(7) A default in the payment of a civil fine costs or damages or expenses ordered under subsection (2) or (3) or an installment of the fine costs or damages or expenses may be collected by a means authorized for the enforcement of a judgment under chapter 40 or chapter 60

(8) If a defendant fails to comply with an order or judgment issued pursuant to this section within the time prescribed by the court the court may proceed under section 8729 8731 or 8733 as applicable

(9) A defendant who fails to answer a citation or notice to appear in court for a municipal civil infraction is guilty of a misdemeanor

Sec 8729 (1) If a defendant defaults in the payment of a civil fine costs or if applicable damages or expenses as provided in section 8733(2) if applicable or any installment as ordered pursuant to section 8727 the court upon the motion of the plaintiff or upon its own motion may require the defendant to show cause why the defendant should not be held in civil contempt and may issue a summons order to show cause or a bench warrant of arrest for the defendant's appearance

(2) If a corporation or an association is ordered to pay a civil fine costs or damages or expenses the individuals authorized to make disbursement shall pay the fine costs or damages or expenses and their failure to do so shall be civil contempt unless they make the showing required in this section

(3) Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good faith effort to obtain the funds required for payment the court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the amount due is paid

(4) If it appears that the default in the payment of a fine costs or damages or expenses does not constitute civil contempt the court may enter an order allowing the defendant additional time for payment reducing the amount of payment or of each installment or revoking the fine costs or damages or expenses

(5) The term of imprisonment on civil contempt for nonpayment of a civil fine costs or damages or expenses shall be specified in the order of commitment and shall not exceed 1 day for each \$30.00 due. A person committed for nonpayment of a civil fine costs or damages or expenses shall be given credit toward payment for each day of imprisonment and each day of detention in default of recognizance before judgment at the rate of \$30.00 per day

(6) A defendant committed to imprisonment for civil contempt for nonpayment of a civil fine costs or damages or expenses shall not be discharged from custody until 1 of the following occurs

(a) The defendant is credited with the amount due pursuant to subsection (5)

(b) The amount due is collected through execution of process or otherwise

(c) The amount due is satisfied pursuant to a combination of subdivisions (a) and (b)

(7) The civil contempt shall be purged upon discharge of the defendant pursuant to subsection (6)

Sec 8731 (1) If a defendant does not pay a civil fine or costs or an installment ordered under section 8727 within 30 days after the date on which payment is due under section 8727 in a municipal civil infraction action brought for a violation involving the use or occupation of land or a building or other structure the plaintiff may obtain a lien against the land building or structure involved in the violation by recording a copy of the court order requiring payment of the fine and costs with the register of deeds for the county in which the land building or structure is located. The court order shall not be recorded unless a legal description of the property is incorporated in or attached to the court order. The lien is effective immediately upon recording of the court order with the register of deeds

(2) The court order recorded with the register of deeds shall constitute notice of the pendency of the lien. In addition a written notice of the lien shall be sent by the plaintiff by first class mail to the owner of record of the land building or structure at the owner's last known address

(3) The lien may be enforced and discharged by a county city village or township in the manner prescribed by its charter by the general property tax act Act No 206 of the Public Acts of 1893 being sections 211.1 to 211.157 of the Michigan Compiled Laws or by an ordinance duly passed by the governing body of the county city village or township. However property is not subject to sale under section 60 of Act No 206 of the Public Acts of 1893 being section 211.60 of the Michigan Compiled Laws for nonpayment of a civil fine or costs or an installment ordered under section 8727 unless the property is also subject to sale under section 60 of Act No 206 of the Public Acts of 1893 for delinquent property taxes

(4) A lien created under this section has priority over any other lien unless 1 or more of the following apply

(a) The other lien is a lien for taxes or special assessments

(b) The other lien is created before the effective date of the amendatory act that added this section

(c) Federal law provides that the other lien has priority

(d) The other lien is recorded before the lien under this section is recorded

(5) A political subdivision may institute an action in a court of competent jurisdiction for the collection of the fines and costs imposed by a court order for a municipal civil infraction. However an attempt by a county city village or township to collect the fines or costs by any process does not invalidate or waive the lien upon the land building or structure

(6) A lien provided for by this section shall not continue for a period longer than 5 years after a copy of the court order imposing a fine or costs is recorded unless within that time an action to enforce the lien is commenced

Sec 8733 (1) An authorized local official may seize and impound a vehicle operated in the commission of a trailway municipal civil infraction. Upon impoundment the vehicle is subject to a lien subordinate to a prior lien of record in the amount of any fine and costs that the defendant may be ordered to pay under section 8727 and any expenses described in subsection (2) that the defendant may be ordered to pay under section 8727. The defendant or a person with an ownership interest in the vehicle may post with the court a cash or surety bond in the amount of \$750.00. If such a bond is posted the vehicle shall be released from impoundment. The vehicle shall also be released and the lien shall be discharged upon a judicial determination that the defendant is not responsible for the trailway municipal civil infraction or upon payment of the fine, costs, and damages and expenses.

(2) In a trailway municipal civil infraction action, an order under section 8727 may require the defendant to pay 1 or both of the following:

(a) The amount of damages to any land, water, wildlife, vegetation, or other natural resource or to any facility damaged by the violation of the ordinance. Money collected under this subdivision shall be distributed to the governmental entity that has jurisdiction over the recreational trailway.

(b) The reasonable expense of impoundment under subsection (2). Money collected under this subdivision shall be distributed to the governmental entity employing the authorized local official who impounded the vehicle involved in the trailway municipal civil infraction.

(3) If the court determines that the defendant is responsible for the trailway municipal civil infraction and the defendant defaults in the payment of the fine, costs, or damages or expenses, or in any installment as ordered pursuant to section 8727, any bond posted under subsection (1) shall be forfeited and applied to the fine, costs, damages, expenses, or installment. The court shall certify any remaining unpaid amount to the attorney for the governmental entity whose ordinance was violated. The attorney for the governmental entity may enforce the lien by a foreclosure sale. The foreclosure sale shall be conducted in the manner provided and subject to the same rights as apply in the case of execution sales under sections 6031, 6032, 6041, 6042, and 6044 to 6047 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.6031, 600.6032, 600.6041, 600.6042, and 600.6044 to 600.6047 of the Michigan Compiled Laws.

(4) Not less than 21 days before the foreclosure sale, the attorney for the governmental entity whose ordinance was violated shall by certified mail send written notice of the time and place of the foreclosure sale to each person with a known ownership interest in or lien of record on the vehicle. In addition, not less than 10 days before the foreclosure sale, the attorney shall twice publish notice of the time and place of the foreclosure sale in a newspaper of general circulation in the county in which the vehicle was seized. The proceeds of the foreclosure sale shall be distributed in the following order of priority:

(a) To discharge any lien on the vehicle that was recorded prior to the creation of the lien under subsection (1).

(b) To the clerk of the court for the payment of the fine, costs, damages, and expenses that the defendant was ordered to pay under section 8727.

(c) To discharge any lien on the vehicle that was recorded after the creation of the lien under subsection (1).

(d) To the owner of the vehicle.

Section 2. This amendatory act shall take effect May 1, 1994.

This act is ordered to take immediate effect

Secretary of the Senate

Co Clerk of the House of Representatives

Approved

Governor