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BILL ANALYSIS

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House Bill 5135 (Substitute S-3 as reported)  
Sponsor: Representative William Van Regenmorter  
House Committee: Judiciary  
Senate Committee: Judiciary

### **CONTENT**

The bill would amend the Code of Criminal Procedure to do all of the following:

- Refer to "interactive video technology" rather than "closed circuit television" in provisions allowing a court to conduct initial criminal arraignments and set bail by audio and video communication, and delete a provision disallowing this technology if the defendant requests physical presence before the court.
- Revise provisions regarding the number of peremptory challenges of potential jurors allowed for the defense and prosecution in criminal cases, and allow a court to grant one or more of the parties an increased number of peremptory challenges upon a motion and good cause shown.
- Allow, rather than require, a court to pay for a psychiatric evaluation in a case involving an insanity plea by an indigent defendant.
- Allow a court to order an offender to pay the cost of compelling his or her appearance before the court.
- In the case of an enhanced sentence for a habitual offender, prohibit the court from setting a maximum sentence that was less than the maximum term for a first conviction.
- Include a copy of a court register of actions among the evidence that may be used to establish the existence of prior convictions when the prosecutor seeks to enhance the sentence for a habitual offender.
- Add a sentencing guidelines designation for a criminal sexual psychopath leaving the State without permission, which would be a Class F felony against the public safety.
- Revise certain directions for scoring sentencing guidelines.

The bill also would repeal a section of the Code that prohibits the appointment of appellate counsel for review of a defendant's conviction or sentence when the defendant pleaded guilty, guilty but mentally ill, or no contest, except under certain circumstances (MCL 770.3a). (The U.S. Supreme Court, in the 2005 case of *Halbert v Michigan*, ruled that provision in violation of the U.S. Constitution's due process and equal protection clauses.)

MCL 767.37a et al.

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Date Completed: 12-4-06

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Analysis available @ <http://www.michiganlegislature.org>

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