

# HOUSE BILL NO. 5326

November 09, 2023, Introduced by Reps. Aragona, Wozniak, BeGole, DeBoyer, Roth, St. Germaine, McKinney and Shannon and referred to the Committee on Government Operations.

A bill to amend 1961 PA 236, entitled  
"Revised judicature act of 1961,"  
by amending sections 5735 and 8511 (MCL 600.5735 and 600.8511),  
section 5735 as amended by 2004 PA 105 and section 8511 as amended  
by 2014 PA 124.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 5735. (1) The court in which a summary proceeding is  
2 commenced shall issue a summons, which may be served on the  
3 defendant by any officer or person authorized to serve process of  
4 the court. The summons shall command the defendant to appear for  
5 trial in accordance with ~~the provisions of~~ subsection (2) unless by

1 local court rule ~~the provisions of subsection (4) have been made~~  
 2 ~~applicable.~~ **applies.**

3 (2) ~~A~~ **Except as provided in subsection (4),** a summons issued  
 4 under this section ~~shall~~ **must** command the defendant to appear for  
 5 trial as follows:

6 (a) Within 30 days ~~of~~ **after** the issuance date of the summons  
 7 in proceedings under section 5726. ~~, in which event the~~ **A** summons  
 8 ~~shall~~ **issued under this subdivision must** be served not ~~less~~ **later**  
 9 than 10 days before the date set for trial.

10 (b) Within 10 days ~~of~~ **after** the issuance date of the summons  
 11 in all other proceedings. ~~, in which event the~~ **A** summons ~~shall~~  
 12 **issued under this subdivision must** be served not ~~less~~ **later** than 3  
 13 days before the date set for trial.

14 (3) If a summons issued under this section is not served  
 15 within the time ~~provided by~~ **required under** subsection (2),  
 16 additional summons ~~shall~~ **must** be issued at the plaintiff's request  
 17 in the same manner and with the same effect as the original  
 18 summons.

19 (4) ~~Instead of the provisions of subsection (2),~~ a **A** court by  
 20 local rule may provide ~~for the application of~~ **that** this subsection  
 21 **applies** to summary proceedings commenced in the court ~~, in which~~  
 22 ~~event~~ **instead of subsection (2). If a court adopts a local rule**  
 23 **under this subsection,** the summons ~~shall~~ **must** command the defendant  
 24 to appear as follows:

25 (a) Within 10 days after service of the summons ~~upon~~ **on** the  
 26 defendant in proceedings under section 5726.

27 (b) Within 5 days after service of the summons ~~upon~~ **on** the  
 28 defendant in all other proceedings.

29 (5) A summons issued under subsection (4) remains in effect

1 until served or quashed or until the action is dismissed, but  
 2 additional summons as needed for service may be issued at any time  
 3 at the plaintiff's request.

4 **(6) At the trial noticed by the summons, the court, or as**  
 5 **allowed under section 8511, a district court magistrate, must**  
 6 **conduct a pretrial hearing consistent with guidance of the state**  
 7 **court administrative office. At the pretrial hearing, the parties**  
 8 **must be verbally informed of all the advice required by the**  
 9 **Michigan court rules.**

10 **(7) ~~(6)~~—Except as otherwise provided by court rule, and**  
 11 **subject to subsection (8), a summary proceeding shall—must** be heard  
 12 within 7 days after the defendant's appearance or trial date and  
 13 ~~shall—must~~ not be adjourned beyond that time other than by  
 14 stipulation of the parties either in writing or on the record.

15 **(8) ~~(7)~~—An action to which section 5714(1)(b) applies shall**  
 16 **must** be heard at the time of the defendant's appearance or trial  
 17 date and ~~shall—must~~ not be adjourned beyond that time except for  
 18 extraordinary reasons.

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

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

27 (i) Part 487 of the natural resources and environmental  
 28 protection act, 1994 PA 451, MCL 324.48701 to 324.48740.

29 (ii) Part 401 of the natural resources and environmental

1 protection act, 1994 PA 451, MCL 324.40101 to 324.40120.

2 (iii) Part 801 of the natural resources and environmental  
3 protection act, 1994 PA 451, MCL 324.80101 to 324.80199.

4 (iv) The motor carrier act, 1933 PA 254, MCL 475.1 to  
5 ~~479.43.479.42~~.

6 (v) Motor carrier safety act of 1963, 1963 PA 181, MCL 480.11  
7 to 480.25.

8 (vi) Dog law of 1919, 1919 PA 339, MCL 287.261 to 287.290.

9 (vii) Section 703 or 915 of the Michigan liquor control code of  
10 1998, 1998 PA 58, MCL 436.1703 and 436.1915.

11 (viii) Part 5 of the natural resources and environmental  
12 protection act, 1994 PA 451, MCL 324.501 to 324.513.

13 (ix) Part 89 of the natural resources and environmental  
14 protection act, 1994 PA 451, MCL 324.8901 to 324.8907.

15 (x) Part 435 of the natural resources and environmental  
16 protection act, 1994 PA 451, MCL 324.43501 to 324.43561.

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

19 (xii) Chapter LXXXV of the Michigan penal code, 1931 PA 328,  
20 MCL ~~750.546~~ **750.552** to 750.552c.

21 (b) To arraign and sentence upon pleas of guilty or nolo  
22 contendere for violations of the Michigan vehicle code, 1949 PA  
23 300, MCL 257.1 to 257.923, or a local ordinance substantially  
24 corresponding to a provision of the Michigan vehicle code, 1949 PA  
25 300, MCL 257.1 to 257.923, except for violations of sections 625  
26 and 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and  
27 257.625m, or a local ordinance substantially corresponding to  
28 section 625 or 625m of the Michigan vehicle code, 1949 PA 300, MCL  
29 257.625 and 257.625m, if authorized by the chief judge of the

1 district court district and if the maximum permissible punishment  
 2 does not exceed 93 days in jail or a fine, or both. However, the  
 3 chief judge may authorize the magistrate to arraign defendants and  
 4 set bond with regard to violations of sections 625 and 625m of the  
 5 Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m, or a  
 6 local ordinance substantially corresponding to section 625 or 625m  
 7 of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and  
 8 257.625m.

9 (c) To arraign and sentence upon pleas of guilty or nolo  
 10 contendere for violations of part 811 or 821 of the natural  
 11 resources and environmental protection act, 1994 PA 451, MCL  
 12 324.81101 to ~~324.81150~~ **324.81151** and 324.82101 to ~~324.82160~~,  
 13 **324.82161**, or a local ordinance substantially corresponding to a  
 14 provision of part 811 or 821 of the natural resources and  
 15 environmental protection act, 1994 PA 451, MCL 324.81101 to  
 16 ~~324.81150~~ **324.81151** and 324.82101 to ~~324.82160~~, **324.82161**, except  
 17 for violations of sections 81134, ~~81135~~, 82128, and 82129 of the  
 18 natural resources and environmental protection act, 1994 PA 451,  
 19 MCL 324.81134, ~~324.81135~~, 324.82128, and 324.82129, or a local  
 20 ordinance substantially corresponding to sections 81134, ~~81135~~,  
 21 82128, and 82129 of the natural resources and environmental  
 22 protection act, 1994 PA 451, MCL 324.81134, ~~324.81135~~, 324.82128,  
 23 and 324.82129, if authorized by the chief judge of the district  
 24 court district and if the maximum permissible punishment does not  
 25 exceed 93 days in jail or a fine, or both. However, the chief judge  
 26 may authorize the magistrate to arraign defendants and set bond  
 27 with regard to violations of sections 81134, ~~81135~~, 82128, and  
 28 82129 of the natural resources and environmental protection act,  
 29 1994 PA 451, MCL 324.81134, ~~324.81135~~, 324.82128, and 324.82129.

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

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

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

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

21 (h) To conduct probable cause conferences and all matters  
22 allowed at the probable cause conference, except for the taking of  
23 pleas and sentencings, under section 4 of chapter VI of the code of  
24 criminal procedure, 1927 PA 175, MCL 766.4, when authorized to do  
25 so by the chief **judge of the** district court ~~judge-district~~.

26 **(i) To conduct a trial under section 5735, if authorized by**  
27 **the chief judge of the district court district and if the**  
28 **magistrate is an attorney at law.**