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SFA**BILL ANALYSIS**

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Senate Bill 536 (as introduced 5-27-97)
Sponsor: Senator Michael J. Bouchard
Committee: Judiciary

Date Completed: 10-14-97

CONTENT

The bill would amend the Code of Criminal Procedure to provide that, if a criminal charge were filed against a person who was imprisoned or detained in a jail or correctional facility outside of the jurisdiction of the court in which the action was filed, a judge or magistrate could arraign that person or take his or her plea by telephone, mail, or document filed with the court, unless the person requested a physical appearance before the court. The bill also would include plea takings in the current authorization to conduct certain court proceedings by two-way closed circuit television.

Proceedings By Telephone

If an arraignment or plea taking were to be conducted by telephone, the court would have to notify the prosecuting attorney, the accused, and the accused's attorney of the time set for the arraignment or plea taking. The proceeding would have to be conducted in open court and on the record, in a manner that allowed the court, prosecuting attorney, accused, and accused's attorney to hear and speak to each other simultaneously. If proceedings conducted under the bill were not recorded by a person certified by the State Court Administrative Office, the court would have to record and maintain an original audio recording of the entire proceeding. The recording would be part of the court record.

Proceedings By Mail

If an arraignment or plea taking were conducted by mail or a document filed with the court, the court could accept the plea and set a date and time for further proceedings. The State Court Administrator would have to develop forms to be used for this purpose. A copy of any document used for the proceeding would have to be made available to the prosecuting attorney, the accused, and the accused's attorney.

Proceedings By Closed Circuit Television

The Code allows a judge or magistrate to conduct initial criminal arraignments and the setting of bail by two-way closed circuit television communication between a court facility and a prison, jail, or other place in which an accused person is imprisoned or detained, unless the accused requests physical presence before the court. The bill would add plea takings to that provision and would delete "initial" from the authorization to conduct criminal arraignments via closed circuit television.

MCL 767.37a et al.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have an indeterminate, yet potentially cost-saving, fiscal impact on State and local government.

The bill would allow prisoners in State or local facilities to plead in an arraignment via telephone, mail, or a document filed with the court. For a State prisoner to be escorted to court, depending upon security level, one or two guards are assigned. In addition to regular pay, guards are provided meals and paid overtime for working more than eight hours. Also, the State provides a vehicle and mileage to get the prisoner to court. Based on figures from the Department of Corrections, transporting a prisoner to court for a day with one guard and without overtime, costs about \$200. In 1996, about 4,600 prisoners were released to court on writ for pleadings, for trial, and as witnesses. If one assumes that 20% of these releases were for a prisoner entering a plea in an arraignment, the cost-savings could be approximately \$184,000. With less distance to court, requiring less overtime and mileage costs, local governments could expect a lower level of cost-savings.

Fiscal Analyst: K. Firestone

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.