



Michigan Supreme Court

State Court Administrative Office

Michigan Hall of Justice

P.O. Box 30048

Lansing, Michigan 48909

Phone (517) 373-0128

John A. Hohman, Jr.
State Court Administrator

MEMORANDUM

DATE: May 7, 2015

TO: District Court Judges and Administrators

FROM: John A. Hohman, Jr.

RE: Weekend Arraignment and Interim Bond

The practice of weekend arraignment and interim bond setting was recently discussed at a regional district judges meeting and prompted circulation of the following questions and answers intended to provide clarification on trial court procedures. District courts may want to review their current practices in light of the referenced court rules and the following information.

- Q1: Are judges or magistrates required to arraign felony and domestic violence (DV) offenders on holidays and weekends?
- A1: Courts must either make a judicial officer available to conduct arraignments for felony cases each day of the year, pursuant to MCR 6.104(G)(1), or be available to set bail on felonies each day of the year pursuant to MCR 6.104(G)(2). For DV cases, the judge or magistrate must be available to either set interim bond, as provided by statute, or to conduct the arraignment. MCL 780.582a. MCR 6.104(G), which requires the plan for judicial availability, only applies to felony cases. See MCR 6.001(B).
- Q2: Are judges or magistrates required to arraign misdemeanor offenders on holidays and weekends?
- A2: Courts may set interim bond amounts for release on misdemeanor warrants and work with local law enforcement to develop an interim bond schedule for release of offenders pending arraignment on a misdemeanor offense. MCL 780.581. However, unless the defendant is released beforehand, the arrested person must be arraigned without unnecessary delay. See MCR 6.104(A). The United States Supreme Court in *County of Riverside v McLaughlin*, 500 US 44 (1991), determined that an arrest without a warrant is unreasonable if it is not followed by arraignment within forty-eight hours.

Q3: Do the court rules and statutes allow a judge or magistrate to set interim bond *with conditions* (including no contact orders) on the weekend and then conduct the arraignments on Monday morning?

A3: No, a court that sets interim bond is only allowed to impose a protective condition on defendants in DV cases, as provided by MCL 780.582a. If a court wants to impose conditions on a defendant in a non-DV case, the court must arraign the defendant first and consider the factors outlined in MCR 6.106.

Please feel free to direct any questions to Julia Norton at 517-373-3756 or nortonj@courts.mi.gov or Bobbi Morrow at 517-373-2173 or morrowb@courts.mi.gov