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BILL ANALYSIS



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Senate Bill 525 (as introduced 9-6-17)
Sponsor: Senator Rick Jones
Committee: Judiciary

Date Completed: 9-26-17

CONTENT

The bill would amend the Revised Judicature Act to do the following:

- **Eliminate a circuit court judgeship in Saginaw County and retain a circuit court judgeship in Clinton and Gratiot Counties.**
- **Authorize one additional circuit court judgeship in Livingston County.**
- **Eliminate language prohibiting certain probate judges from engaging in the practice of law, and, instead, allow only a probate judge who is not a judge of the First Probate Court District to practice law.**
- **Extend the authorization for the consolidation of the 18th (Westland) and 29th (Wayne) Judicial Districts to January 1, 2020.**
- **Authorize the consolidation of the 38th and 39th Judicial Districts if the governing bodies of those cities (Eastpointe, Roseville, and Fraser) approved of the consolidation before January 1, 2020.**
- **Eliminate three district court judgeships.**
- **Require the question of creating the First Probate Court District to be submitted to the electors of the affected counties (Houghton and Keweenaw) and, if the voters did not approve the probate district, authorize the probate judges in those counties and Baraga County to act as district judges upon the elimination of a district judgeship.**

The bill would take effect 90 days after its enactment.

Elimination, Addition, or Retention of Circuit Judgeships

Saginaw County. The 10th Judicial Circuit consists of Saginaw County and has five judges. Under the bill, beginning on the earlier of the following dates, the 10th circuit would have four judges:

- The date on which a vacancy occurred in the office of circuit judge in the 10th circuit, unless the vacancy occurred after the vacating judge had been defeated in a primary or general election.
- The beginning date of the term for which an incumbent circuit judge in the 10th circuit no longer sought election or re-election to that office.

Clinton & Gratiot Counties. The 29th Judicial Circuit consists of Clinton and Gratiot Counties and has two judges. The 29th circuit will have one judge beginning on the earlier of the following dates:

- The date on which a vacancy occurs in the office of circuit judge in the 29th circuit, unless the vacancy occurs after the vacating judge has been defeated in a primary or general election.
- The beginning date of the term for which an incumbent circuit judge in the 29th circuit no longer seeks election or re-election to that office.

The bill would delete the provision that eliminates one judgeship from the 29th circuit; the 29th circuit would continue to have two judges.

Livingston County. The 44th Judicial Circuit consists of Livingston County and has two judges. Under the bill, subject to Section 550, the 44th circuit could have one additional judge beginning January 1, 2019. If this judgeship were added, the initial term of office would be eight years.

(Under Section 550, additional circuit judgeships may not be created unless approved by each county in the circuit.)

Practice of Law by Probate Judges

The Act prohibits the following probate judges from engaging in the practice of law other than as a judge:

- A probate judge of a county that is not described in Section 807.
- The probate judge in each probate court district described in Section 807 in which a majority of the electors voting on the question in each county of the probate court district has approved or approves creation of the district.
- A probate judge in a county having a population of 15,000 or more according to the 1990 Federal decennial census, if the county is not part of a probate court district created by law.
- A probate judge who has the jurisdiction, powers, duties, and title of a district judge within his or her county under Section 810a.

The bill would eliminate these provisions. Instead, except for a probate judge in Keweenaw County who was not a judge of the First Probate Court District described in Section 807, probate judges would be prohibited from engaging in the practice of law other than as a judge.

(Section 807 allows for creation of a probate court district in certain districts when a majority of the electors voting on the question in each affected county approve it.)

(Section 810a extends the powers, jurisdiction, and duties of a district judge to the probate judges in Arenac, Crawford, Kalkaska, Lake, Iron, and Ontonagon Counties, as well as to the probate judges in Alcona, Baraga, Benzie, Missaukee, Montmorency, Oscoda, and Presque Isle Counties. Section 810a also provides that, in counties where the only district judgeship is being eliminated and the section of the Act that governs that district court states that Section 810a applies, the probate judge in that county has the jurisdiction, powers, duties of a district judge within the county, in addition to those of a probate judge.)

Consolidation of Judicial Districts

Westland & Wayne. Except as otherwise provided, the 18th Judicial District consists of the City of Westland and has two judges. The 29th Judicial District consists of the City of Wayne, and has one judge. If the governing bodies of the cities of Westland and Wayne approved by resolutions the consolidation of the 18th and 29th districts before January 1, 2016, the districts would have been consolidated as the 18th district with three judges beginning on that date. Under the bill, the date would be extended to January 1, 2020.

If the consolidation were approved, the 29th district would be abolished and the 18th district would consist of the Cities of Westland and Wayne and would have three judges, as is currently provided. The bill would eliminate language pertaining to the November 2018 general election.

Also, the city clerks of Westland and Wayne would have to file copies of the resolutions with the State Court Administrator, who would have to notify the Elections Division of the Department of State that the consolidation has been approved. Where the Act specifies that a resolution filed before January 2, 2015, is a valid approval of the consolidation, the bill would refer to a resolution filed before January 2, 2019.

Eastpointe, Roseville, & Fraser. The 38th Judicial District consists of the City of Eastpointe and has one judge. The 39th Judicial District consists of the Cities of Roseville and Fraser, and has three judges. Under the bill, if the governing bodies of the Cities of Roseville, Fraser, and Eastpointe approved by resolutions the consolidation of the 38th and 39th districts before January 1, 2020, all of the following would apply.

The 38th district would be abolished and the 39th district would consist of Roseville, Fraser, and Eastpointe. The district would be a district of the third class and would have four judges. The additional judgeship would be filled by the incumbent judge of the 38th district, who would become a judge of the 39th district for the balance of the term to which he or she was elected.

The city clerks of Roseville, Fraser, and Eastpointe would have to file copies of the resolutions with the State Court Administrator, who, as authorized by the Supreme Court, would have to notify the Elections Division of the Department of State that the consolidation had been approved. A resolution that was filed before January 2, 2019, would be a valid approval of the consolidation.

The bill specifies that by proposing or authorizing the consolidation of the 38th and 39th districts, the Legislature would not be creating a new obligation for any affected district control unit. If a district control unit, acting through its governing body, approved of the consolidation, the approval would constitute an exercise of the unit's option to increase the level of activity and service offered in that unit beyond that required by existing law, as the elements of that option are provided by Public Act 101 of 1979 (which provides for State disbursements to local units of government for costs required to implement activities required of local units of government by the State), and a voluntary acceptance by the unit of all expenses and capital improvements that could result from the consolidation. However, the exercise of the option would not affect the State's obligation to pay the same portion of each judge's salary that the State paid to other district judges as provided by law, or to appropriate and disburse funds to the district control unit for the necessary costs of State requirements established by a State law that became effective on or after December 23, 1978.

Elimination of District Judgeships

City of Detroit. The 36th Judicial District consists of the City of Detroit and has 30 judges. Under the bill, beginning on the earlier of the following dates, the 36th district would have 29 judges:

- The date on which a vacancy occurred in the office of district judge in the 36th district, unless the vacancy occurred after the vacating judge had been defeated in a primary or general election.
- The beginning date of the term for which an incumbent district judge in the 36th district no longer sought election or re-election to that office.

Following or simultaneously with the elimination of this judgeship, beginning on earlier of the following dates, the 36th district would have 28 judges:

- The date on which a vacancy occurred in the office of district judge in the 36th district, unless the vacancy occurred after the vacating judge had been defeated in a primary or general election.
- The beginning date of the term for which an incumbent district judge in the 36th district no longer sought election or re-election to that office.

Livingston County. The 53rd Judicial District consists of Livingston County, and has three judges. Under the bill, at noon, January 1, 2019, the 53rd district would have two judges. The one judgeship eliminated from the district would be that of a judge who was not eligible to run for reelection in 2018 due to constitutional limitation on the bill's effective date.

First Probate District/Baraga, Houghton, & Keweenaw Counties

As described above, Section 807 of the Act provides that a probate court district is created in each of several multicounty districts listed in that section when a majority of the electors voting on the question in each affected county approves the probate court district. Under Section 808, when each county board of commissioners in a district listed in Section 807 agrees by resolution to form a probate court district, the question of creating the probate district must be submitted to the electors of those counties at the next primary, general, or special election that occurs more than 49 days after the resolution is adopted. If approved by a majority of the electors voting on the question in each affected county, those counties then constitute the probate court district identified in Section 807.

The 97th Judicial District consists of Baraga, Houghton, and Keweenaw Counties and has one judge. Under the bill, if a majority of the electors in Houghton and Keweenaw Counties did not approve of the formation of the First Probate Court District under Section 807 to 810 on or before the November 2018 general election, the following provisions would apply beginning on the date on which a vacancy occurred in the office of district judge in the 97th district, unless the vacancy occurred after the vacating judge had been defeated in a primary or general election, or on the beginning date of the term for which an incumbent district judge in the 97th district no longer sought election or re-election to that office, whichever was earlier:

- The 97th district would consist of Baraga, Houghton, and Keweenaw Counties and would be a district of the first class.
- Under Section 810a, the probate judge for each county would serve as judge of the 97th district within that county.

MCL 600.511 et al.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would have a positive fiscal impact on the State and local units of government.

According to the July 2017 Judicial Resources Recommendations report, each circuit and probate court judgeship has a cost to the State of \$161,146, and each district court judgeship has a cost to the State of \$159,342. These costs include salary, retirement contributions up to 7%, and the employer share of FICA taxes (OASI and Medicare). The local court system pays for the remaining judgeship costs, including fringe benefits, facility costs, and overhead. The costs for circuit, district, and probate courts differ by location.

The full implementation of the bill would mean either a net reduction of four district court judges, or a net reduction of three district court judges and one-half probate court judge (as the Keweenaw County probate court judgeship is considered part-time and State law permits the judge to also engage in the practice of law), depending on what choice Houghton and Keweenaw County voters made in the November 2018 general election. The savings to the State would be between \$558,000 and \$637,000 per year. This analysis assumes no additional cost for the retained circuit court judgeship or the retained district court judgeship.

Because the local costs for courts differ by location, it is difficult to measure the potential savings to local units of government, but to the extent that local courts were able to reduce staff or equipment costs, they would realize savings.

Fiscal Analyst: Ryan Bergan

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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.