



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 525 (as passed by the Senate)
Sponsor: Senator Rick Jones
Committee: Judiciary

Date Completed: 11-6-17

RATIONALE

Under the direction of the Michigan Supreme Court, the State Court Administrative Office (SCAO) conducts a biennial review of the judicial resource needs of Michigan courts; that is, the need for more or fewer judges. The review begins with a statistical analysis in which case filings are weighted to reflect the amount of judicial time needed to handle each type of case. For courts in which the statistical analysis indicates that a significant judicial need or excess exists, the SCAO conducts a secondary analysis focusing on the particular court or courts and any factor that may not have been accounted for in the weighted caseload formula. Based on these procedures, the 2017 Judicial Resources Recommendations report, issued in July 2017, recommended the elimination of four trial court judgeships by attrition, the conversion of a district judgeship to a circuit judgeship, the merger of two sets of district courts, and the retention of two judgeships that are scheduled to be eliminated. It has been suggested that some of those recommendations and certain other revisions be adopted in statute.

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 two district court judgeships.**

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 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 had 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.

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 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.

MCL 600.511 et al.

BACKGROUND

Recommendations: Reductions & Additions

The July 2017 Judicial Resources Recommendations (JRR) report issued by the Michigan Supreme Court and the State Court Administrative Office recommended that four trial court judgeships be eliminated by attrition, and that two judgeships that are scheduled to be eliminated be retained. The recommendations were based on the SCAO's most recent biennial review of the judicial needs of State courts.

Specifically, the JRR report recommended the elimination of two district judgeships in the 36th district (City of Detroit), and one circuit judgeship in 10th circuit (Saginaw County). In the 97th district (Baraga, Houghton, and Keweenaw Counties), the SCAO also recommended either: a) the creation of a probate court district of Houghton and Keweenaw Counties and the elimination through attrition of the Keweenaw County Probate Court judgeship, or b) the reduction through attrition of one judgeship.

Currently, the 44th District Court (Cities of Royal Oak and Berkley) and the 29th Circuit Court (Clinton and Gratiot Counties) are scheduled to lose one judgeship by attrition each. The JRR report recommended that these planned reductions be reversed.

Recommendations: Conversions

According to the JRR report, the three courts in Livingston County have a total of six judgeships: the 44th Circuit Court has two, the Livingston County Probate Court has one, and the 53rd District Court has three. The term for one district judge ends on December 31, 2018, and that judge will be unable to run in the 2018 general election under Article IV, Section 19 of the Michigan Constitution (which prohibits the election or appointment of a person to judicial office after he or she reaches 70 years of age). The SCAO recommended that one district judgeship be eliminated, effective December 31, 2018, and that one circuit court judgeship be created, effective January 1, 2019.

Recommendations: Mergers

The JRR report recommended the merger of two sets of district courts: the 18th (City of Westland) and the 29th (City of Wayne), and the 38th (City of Eastpointe) and the 39th (Cities of Roseville and Fraser). The report recommended that the governing bodies of the respective cities approve by resolution the consolidation of those districts and that all of their judgeships be maintained. In the alternative, for the 38th and 39th districts, the report recommended that the courts enter into a concurrent jurisdiction plan to balance the workload.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Judgeships are expensive for taxpayers and it is not economical to retain judgeships in courts where they are not needed. Also, more judges are sometimes needed in other courts. The demand for judicial resources in a particular court can change over time as caseloads fluctuate based on various factors, including the number and types of cases that a court handles.

The JRR reports issued in recent years, and subsequent legislative action in response to the recommendations in those reports, have focused on "right-sizing" Michigan's judiciary. The research done by the SCAO in compiling those reports has used both quantitative and qualitative analysis of courts' caseloads and their judicial resource needs. Through the use of weighted analysis of court cases, and secondary analysis of certain courts' caseloads, the 2011, 2013, and

2015 JRR reports led to legislation that has already eliminated 31 unneeded judgeships, with 14 more slated for future elimination. Those recommendations also resulted in the authorization of five additional judgeships for courts in which the caseload merited more judicial resources, meaning there eventually will be a net reduction of 40 judges.

According to the 2017 JRR report, those reductions have saved the State more than \$19.5 million since 2011, and further savings are expected as more judgeships are eliminated by attrition. Savings also accrue to local units, as the need for facilities and staff decreases when judgeships are eliminated. Together with the net reductions proposed in the 2017 report, the SCAO has estimated cumulative savings of approximately \$200.0 million. By adopting some of the recommendations in the 2017 JRR report and making other revisions, the bill would continue efforts to streamline Michigan's judiciary and save millions of dollars in unnecessary State and local spending.

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 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 a net reduction of two district court judges. The savings to the State would be approximately \$318,000 per year. This analysis assumes no additional cost for the retained circuit court judgeship or the retained district court judgeship. 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.