

COURT RECORDS: REVISE POLICIES REGARDING FILING & RETENTION OF COURT RECORDS

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House Bill 4064

Sponsor: Rep. Kurt Heise

Committee: Judiciary

Complete to 2-13-13

A SUMMARY OF HOUSE BILL 4064 AS INTRODUCED 1-22-13

The bill would update provisions of the Revised Judicature Act regarding court records in order to conform with recent amendments to the Michigan Court Rules; allow courts to provide enhanced access to certain court records (that is, access through electronic means for pleadings, practice, and procedure, including case records); and repeal Public Act 66 of 1949, an act that deals with the disposition of files and papers relating to prosecutions.

House Bill 4064 would amend the Revised Judicature Act to do the following:

- Delete numerous provisions pertaining to judicial records (for instance, retention of, access to, and destruction of records; offering records slated for disposal for placement in the state archives; and mediums in which a record may be produced).

Instead, the bill would require the State Court Administrative Office (SCAO) to establish and maintain records management policies and procedures for all courts, including a records retention and disposal schedule, in accordance with Supreme Court rules, that is developed and maintained as specified in Section 5 of Public Act 271 of 1913 (the act governs the Michigan Historical Commission).

A court could assess a reasonable fee associated with the creation, reproduction, retrieval, and retention of its records, but only as prescribed by the Supreme Court. "Record" would mean information of any kind that is recorded in any manner and that has been created by a court or filed with a court in accordance with the Supreme Court rules.

- Allow—but not require—a court to provide "enhanced access" and to charge a reasonable fee, as established by the Supreme Court, for providing that access. "Enhanced access" would mean access to a court through electronic means for pleadings, practice, and procedure, including access to its case records as prescribed by Supreme Court rules. "Reasonable fee" would mean a charge calculated to enable a court to recover, over time, operating expenses directly related to enhanced access. "Operating expenses" would include, but not be limited to, a court's direct cost of creating, maintaining, processing, and upgrading access to the court through electronic means. This would include the cost of

computer hardware and software, system development, employee time, and the actual cost of providing the access.

- Repeal Public Act 66 of 1949, MCL 780.221-780.225, which pertains to the disposition of files and papers relating to prosecutions.
- Require the clerk of a probate court, rather than the probate judge or chief probate judge, to have possession of the seal, records, books, files, and papers belonging to that court. (The Michigan Court Rules place the responsibilities of keeping records with the clerk of the court.)

MCL 600.832 et al.

FISCAL IMPACT:

A fiscal analysis is in process.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.