

MAGISTRATE RESIDENCY REQUIREMENTS: REVISE FOR CONCURRENT JURISDICTIONS

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Senate Bill 453 (S-1 as reported from House committee)

Analysis available at
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Sponsor: Sen. Rick Jones

House Committee: Judiciary

Senate Committee: Judiciary

(Enacted as Public Act 165 of 2016)

Complete to 4-18-16

SUMMARY:

Currently, a magistrate can only work in a court located in the district in which the magistrate resides and is registered to vote. Some would like to ease this residency requirement to have more flexibility in assigning magistrates, particularly among courts under a concurrent jurisdiction plan.

Senate Bill 453 amends the Revised Judicature Act (RJA) to allow a person to be appointed as a magistrate in a district of the third class if the person is a registered elector in the district where appointed or in an adjoining district if the appointment is made under a plan of concurrent jurisdiction adopted under Chapter 4 of the RJA. This would apply also to an appointment for the 36th District (City of Detroit). As noted above, currently, a person must be a registered elector in the district in which he or she will serve as a magistrate. The bill would take effect 90 days after enactment.

MCL 600.8501

BACKGROUND INFORMATION:

District court magistrate

A district court magistrate is an employee of a district court, is not elected, and may or may not be an attorney. The duties of a district court magistrate (DCM) are authorized in statute under Section 8511 of the Revised Judicature Act; however, a DCM may only engage in duties specifically authorized by the chief judge (or only judge) of the district court that employs the DCM. Duties may include issuing arrest warrants, presiding over civil infraction proceedings (e.g., traffic offenses and municipal and state civil infraction cases), and conducting the first appearance of a defendant in all criminal and ordinance violation cases.

District of the third class

A district of the third class is a district consisting of one or more political subdivisions within a county where each political subdivision constituting the district is responsible for maintaining, financing, and operating the district court within its respective political subdivision, except as otherwise provided in the RJA. Under recommendations by the Supreme Court Administrative Office, and as approved by the Legislature, certain court districts may be merged or consolidated for efficiency and cost savings.

The third class district courts are located in the following counties: Genesee, Ingham, Kent, Macomb, Oakland, Washtenaw, and Wayne. The 36th District Court is located in the City of Detroit.

Concurrent jurisdiction

In a typical trial court, district, circuit, and probate judges handle different types of cases. Some of these differences are outlined in statute, but some are constitutionally defined. However, if courts wish to distribute their caseload differently, they need to adopt plans of concurrent jurisdiction. They can consolidate as many or as few of the courts' services and processes as considered appropriate. Under such a plan, for example, a district judge may take partial responsibility for the operation of a family court, which would otherwise be assigned exclusively to a circuit judge. Such plans give courts more discretion on how they assign cases, which supporters of concurrent jurisdiction argue make the courts more efficient.

Public Act 338 of 2012 requires each judicial circuit or county to develop and implement concurrent jurisdiction plans, unless a majority of the judges in the jurisdiction vote to not have a plan. The plans are developed by the courts and submitted to the local funding unit or units, then are submitted to the state supreme court for final approval.

BRIEF DISCUSSION OF THE ISSUES:

The bill simply allows certain district courts (courts in a district of the third class and the 36th District) whose jurisdictions are adjacent to share magistrates if the courts operate under a concurrent jurisdiction plan and the magistrate lives in one or the other court district. Thus, as an example, a magistrate that lives in the City of Wayne could work in the City of Westland, and vice versa. The amendment proposed by the bill is in line with the benefits afforded by a concurrent jurisdiction plan, such as encouraging court districts to design a court system customized to meet the specific needs of the community, thereby increasing efficiency and decreasing costs.

FISCAL IMPACT:

The bill would have no fiscal impact on the state. Third class district courts and the 36th District Court could experience savings. Savings could be achieved as a result of the sharing of resources when appointing magistrates from adjoining districts.

POSITIONS:

A representative of the State Court Administrative Office testified in support of the bill. (3-15-16)

The State Bar of Michigan indicated support for the bill. (3-15-16)

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