

Legislative Analysis



REORGANIZATION OF SPECIFIED COURTS

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Senate Bill 654 (H-1) as reported from House committee
Senate Bill 694 (H-1) as reported from House committee

Analysis available at
<http://www.legislature.mi.gov>

Sponsor: Sen. Jon Bumstead
House Committee: Judiciary
Senate Committee: Judiciary and Public Safety
Complete to 1-25-21

(Enacted as Public Acts 7 and 8 of 2022)

SUMMARY:

Senate Bills 654 and 694 would each amend the Revised Judicature Act to change provisions related to the organization of specific Michigan courts.

Senate Bill 654 would reorganize the 27th Judicial Circuit, 51st Judicial Circuit, 78th Judicial District, and 79th Judicial District.

27th Judicial Circuit

Currently, the 27th Judicial Circuit consists of Newaygo and Oceana Counties and has two judges. However, the act now provides that one of the judgeships will be eliminated if a vacancy occurs in the office of circuit judge or if an incumbent judge no longer seeks election or reelection, whichever occurs first.

Under the bill, the 27th Judicial Circuit would consist of Newaygo and Oceana Counties and have two judges until June 30, 2022. Beginning July 1, 2022, the 27th Judicial Circuit would consist of Newaygo and Lake Counties and have one judge. The incumbent judge who resides in Newaygo County would become the judge of the reformed 27th Judicial Circuit and would serve until the term for which he or she was elected in the 27th Judicial Circuit expires.

51st Judicial Circuit

Currently, the 51st Judicial Circuit consists of Lake and Mason Counties and has one judge.

Under the bill, beginning July 1, 2022, the 51st Judicial Circuit would consist of Mason and Oceana Counties and have one judge. The incumbent judge who resides in Mason County would become the judge of the reformed 51st Judicial Circuit and would serve until the term for which he or she was elected in the 51st Judicial Circuit expires.

In addition, the bill provides that the reformation of the 27th and 51st Judicial Circuits as described above would not require a resolution of approval by the county board of commissioners under section 550 or 550a of the act.

78th Judicial District

Currently, the 78th Judicial District consists of Newaygo and Oceana Counties, is a district of the first class, and has one judge.

Under the bill, beginning July 1, 2022, the 78th Judicial District would consist of Newaygo and Lake Counties, be a district of the first class, and have one judge. The incumbent judge

who resides in Newaygo County would become the judge of the reformed 78th Judicial District and would serve until the term for which he or she was elected in the 78th District expires.

79th Judicial District

Currently, the 79th District consists of Lake and Mason Counties, is a district of the first class, and has one judge.

Under the bill, beginning July 1, 2022, the 79th Judicial District would consist of Mason and Oceana Counties, be a district of the first class, and have one judge. The incumbent judge who resides in Mason County would become the judge of the reformed 79th Judicial District and would serve until the term for which he or she was elected in the 79th District expires.

In addition, the bill provides that the reformation of the 78th and 79th Judicial Districts as described above would not require the approval by the district control unit under section 8175 or 8176 of the act.

MCL 600.528 et seq.

Senate Bill 694 would amend provisions concerning judgeships in the 3rd, 10th, 14th, and 20th Judicial Circuits, reorganize the 89th Judicial District, and change the number of probate judges in Kent County.

3rd Judicial Circuit

Currently, the 3rd Judicial Circuit consists of Wayne County and has 56 judges. The bill would allow the 3rd Judicial Circuit to have one additional judge effective January 1, 2023. The addition of the judgeship would be subject to section 550 of the act, which allows the legislature to authorize an additional circuit judgeship to be filled by election if the county board of commissioners in each county in the circuit adopts a resolution approving the creation of the judgeship and certain filing requirements are met.

10th Judicial Circuit

Currently, the 10th Judicial Circuit consists of Saginaw County and has five judges. However, the act now provides that one of these judgeships will be eliminated if a vacancy occurs in the office of circuit judge or if an incumbent judge no longer seeks election or reelection, whichever occurs first. The bill would remove these provisions and retain the five judgeships in the 10th Judicial Circuit.

14th Judicial Circuit

Currently, the 14th Judicial Circuit consists of Muskegon County and has four judges. The bill would allow the 14th Judicial Circuit to have one additional judge effective January 1, 2023, and would provide that, if this judgeship is added, its initial term of office is eight years. The addition of the judgeship would be subject to section 550 of the act, described above.

20th Judicial Circuit

Currently, the 20th Judicial Circuit consists of Ottawa County and has three judges. The bill would allow the 20th Judicial Circuit to have one additional judge effective January 1, 2023, and would provide that, if this judgeship is added, its initial term of office is eight years. The addition of the judgeship would be subject to section 550 of the act, described above.

89th Judicial District

Currently, the 89th Judicial District consists of Cheboygan and Presque Isle Counties, is a district of the first class, and has one judge.

However, the act now provides that if a vacancy occurs in the office of district judge or if the incumbent judge no longer seeks election or reelection, whichever occurs first, the probate judge for Cheboygan County will serve as judge of the 89th Judicial District within Cheboygan County and the probate judge for Presque Isle County will serve as judge of the 89th Judicial District within Presque Isle County.

The bill would remove the above provisions and retain the judgeship in the 89th Judicial District.

Kent County Probate

Currently, Kent County has four probate judges. The bill would allow Kent County to have one additional judge beginning January 1, 2023.

The bill also would remove apparently obsolete language from provisions that deal with probate and district judgeships in Sanilac, Huron, and Chippewa Counties.

MCL 600.504 et seq.

BACKGROUND:

Judicial Resources Recommendations

To monitor judicial costs and caseloads, the State Court Administrative Office (SCAO) reviews the state's judicial needs every two years and compiles the findings in its Judicial Resources Recommendations (JRR) report, which provides recommendations regarding the addition or removal of judgeships so that judicial resources are equitably distributed across the state. The reports can be found on the SCAO website. Among other things, the 2019 JRR report (the most recent)¹ recommended additional judgeships for Wayne, Muskegon, Ottawa, and Kent Counties and the merger of certain courts in Lake, Mason, Newaygo, and Oceana Counties and in Huron and Sanilac Counties. According to committee testimony, SCAO does not intend to produce a 2021 JRR report due to the effects of the COVID-19 pandemic.

Circuit, district, and probate courts

According to SCAO,² there are 57 circuit courts in Michigan, to which judges are elected for six-year terms. The circuit court is a trial court that handles all civil cases with claims of more than \$25,000 and all felony criminal cases. The family division of circuit court handles all cases regarding divorce, paternity, adoptions, personal protection actions, emancipation of minors, treatment and testing of infectious disease, safe delivery of newborns, name changes, juvenile offenses and delinquency, juvenile guardianship, and child abuse and neglect. In addition, the circuit court hears cases appealed from the other trial courts or from administrative agencies. The friend of the court office is part of the family division of the circuit court and handles domestic relations cases when minor children are involved.

¹ <https://www.courts.michigan.gov/publications/statistics-and-reports/judicial-resources-recommendations-reports/>

² <https://www.courts.michigan.gov/courts/trial-courts/>

There are approximately 100 district courts in Michigan, to which judges are elected for six-year terms. The district court handles most traffic violations, all civil cases with claims up to \$25,000, landlord-tenant matters, most traffic tickets, and all misdemeanor criminal cases. In addition, small claims cases are heard by a division of the district court. A few municipalities have chosen to retain a municipal court rather than create a district court. These municipal courts have limited powers and are located in Grosse Pointe, Grosse Pointe Farms, Grosse Pointe Park, and Grosse Point Shores/Grosse Pointe Woods.

There are 78 probate courts in Michigan, to which judges are elected for six-year terms. The probate court handles wills, administers estates and trusts, appoints guardians and conservators, and orders treatment for mentally ill and developmentally disabled persons.

House bills and House committee action

As heard by the House Judiciary committee, the court reorganization package originally included House Bills 5338, 5428, and 5592.³ These bills were incorporated into the H-1 substitute for Senate Bill 694 as reported from committee. The House committee also reported an H-1 substitute for Senate Bill 654, which revised the implementation dates of its changes.

FISCAL IMPACT:

Senate Bill 654 would have no fiscal impact on the state. Local court funding units experiencing restructuring under provisions of the bill could incur costs depending on any changes they choose to make as a result of court restructuring. The bill would have no impact on the number of circuit or district court judgeships in Newaygo, Oceana, Lake, or Mason Counties.

Senate Bill 694 would have a fiscal impact on the state and on Wayne, Muskegon, and Ottawa Counties. The fiscal impact would result from the addition of one circuit court judge in each county. The state pays for the salaries, employer portion of FICA taxes, and retirement benefits for circuit court judges. Fringe benefits, personnel costs, and costs for supplies, equipment, and office space are paid for by the local court systems. The FY 2021-22 cost to the state for a circuit court judge is \$182,272. This amount includes the circuit court judge's salary of \$159,917 and \$22,355 in estimated payroll taxes and retirement costs. State costs are funded roughly 98% with state GF/GP revenue. Local costs for judgeships vary from circuit to circuit. Affected local units could also incur additional staff related costs if they increase the number of court staff positions.

Also under the bill, the current law provision that eliminates one circuit court judge in Saginaw County would be eliminated. This provision would have no fiscal impact on the state or on Saginaw County because the current circuit court judgeship and associated personnel would continue under the bill.

The bill would have no fiscal impact on the state or on Cheboygan or Presque Isle Counties because the current district court judgeship and associated personnel would continue under the bill. It has been expected, since fiscal year 2011-12, that the 89th district court judgeship was

³ HB 5428: <http://legislature.mi.gov/doc.aspx?2021-HB-5428>
HB 5338: <http://legislature.mi.gov/doc.aspx?2021-HB-5338>
HB 5592: <http://legislature.mi.gov/doc.aspx?2021-HB-5592>

going to be eliminated due to attrition and that the duties of the district court judge would be transferred to the probate court judges of the respective counties. This would have resulted in a savings to the state and to the counties. Those savings would no longer be realized under HB 5338 because the district court judgeship would no longer be eliminated. Therefore, costs for the judgeship and associated personnel would continue for the state and the county. The state pays the salary, the employer portion of FICA taxes, and retirement benefits for district court judges. Fringe benefits, personnel costs, and costs for supplies, equipment, and office space are paid for by local court systems. The FY 2021-22 cost to the state for a district court judge is \$180,226. This amount includes the district court judge's salary of \$158,027 and \$22,199 in estimated payroll taxes and retirement costs. State costs are funded roughly 98% with state GF/GP revenue. Local costs for judgeships vary from district to district.

Finally, the bill would have a fiscal impact on the state and on Kent County. The fiscal impact would result from the addition of one probate court judge in the county. Local court funding units pay the salaries of probate court judges, and the state reimburses local units for those costs. Fringe benefits, personnel costs, and costs for supplies, equipment, and office space are paid for by the local court systems. The FY 2021-22 cost for a probate court judge is \$182,272. This amount includes the probate court judge's salary of \$159,917 and \$22,355 in estimated payroll taxes and retirement costs. State costs are funded roughly 98% with state GF/GP revenue. Local costs for judgeships vary from court to court. Kent County could also incur additional staff related costs if they increase the number of court staff positions.

POSITIONS:

A representative of the State Court Administrative Office testified in support of HBs 5338, 5428, and 5592 and SBs 654 and 694. (1-12-22)

Representatives of the following entities testified in support of HB 5428 and SB 694 (1-12-22):

- 14th Circuit Court (Muskegon County)
- Muskegon County Circuit Court Administrator

A representative of Newaygo County testified in support of SB 654. (1-12-22)

The following entities indicated support for SB 694:

- Ottawa County (1-12-22)
- Wayne County (1-25-22)

The 53rd Circuit Court (Presque Isle and Cheboygan Counties) indicated support for HB 5338 (which was incorporated into SB 694 as reported from House committee). (1-12-22)

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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.