

Legislative Analysis



APPOINTMENT OF ASSISTANT PROSECUTOR

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Senate Bills 727 and 728

Sponsor: Sen. Darwin L. Booher

House Committee: Judiciary

Senate Committee: Judiciary

Complete to 3-14-12

A SUMMARY OF SENATE BILLS 727 AND 728 AS PASSED BY THE SENATE 11-9-11

The bills would amend different statutes to delete a requirement that the appointment of an assistant prosecutor be made under the direction of a circuit court judge. The bills are tie-barred to each other, meaning that neither can take effect unless both are enacted.

Senate Bill 727 would amend the Code of Criminal Procedure (MCL 776.18). The code allows a prosecuting attorney, under the direction of the court, to obtain assistance in the trial of a person charged with a felony. In addition, under the direction of the court, the prosecuting attorney may appoint an assistant to perform his or her duties during a period of disability.

Under the bill, the prosecuting attorney would not need the direction of the court to take those actions. The bill also would authorize a prosecuting attorney to appoint an assistant to perform the prosecuting attorney's duties when he or she was unable to do so, rather than only during a period of disability.

Senate Bill 728 would amend Public Act 41 of 1911, which authorizes prosecuting attorneys to appoint assistant prosecutors, to delete a requirement that the circuit court judge consent to the appointment of an assistant prosecuting attorney.

The act allows the prosecuting attorney of any county to appoint an assistant prosecuting attorney, by and with the consent of the circuit judge of the judicial circuit in which the county is located. The bill would delete the requirement that the prosecuting attorney obtain the consent of the circuit judge to appoint an assistant prosecuting attorney.

FISCAL IMPACT:

These bills would have no fiscal impact on state or local government.

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