



House
Legislative
Analysis
Section

Washington Square Building, Suite 1025
Lansing, Michigan 48909
Phone 517/373-6466

COMMUNITY DISPUTE RESOLUTION

House Bill 4823 (Substitute H-2)
House Bill 4824 with committee amendments
First Analysis (10-8-87)

RECEIVED

Sponsor: Rep. Richard Bandstra
Committee: Judiciary

OCT 22 1987

Mich. State Law Library

THE APPARENT PROBLEM:

A well-regarded, but still fairly new method of resolving relatively minor disputes outside of the courtroom is through mediation offered at local community centers and commonly using trained volunteers. While several programs have made successful beginnings, among them programs in Grand Rapids and Ann Arbor, for long-term stability and success these programs need a steady and reliable source of funds. It has been suggested that the state establish a program that will provide matching funds to local programs that meet standards of capability, organization, and community support.

THE CONTENT OF THE BILLS:

House Bill 4823 would establish a program to provide various forms of voluntary dispute resolution (conciliation, mediation, and the like) as an alternative to the judicial process. House Bill 4824 would amend the Revised Judicature Act to provide funding for the program. Neither bill could take effect unless both were enacted. A more detailed explanation follows.

House Bill 4823

The bill would create the Community Dispute Resolution Act. Under the bill, community dispute resolution centers could be established that would provide conciliation, mediation, and other forms of dispute resolution as an alternative to using the courts. Participation in the program would be voluntary and the form of dispute resolution used would be by mutual agreement of the parties. The work product and case files of a mediator or center would be confidential and not subject to disclosure in a judicial or administrative proceeding. Communications on the subject matter of a resolution made during the resolution process would be confidential communications.

Centers would be partially funded through a grant program administered by the state court administrator using money in a special fund to be created by the bill. The amount awarded to a grant recipient could not exceed 50 percent of a center's approved budget. Money in the special fund would come from a portion of court fees allocated under House Bill 4824, plus any appropriations or federal or private funds obtained.

Grant recipients would have to comply with the bill and court administrator regulations, provide a neutral mediator who had at least 25 hours of training in a course of study approved by the state court administrator, provide dispute resolution services without cost to indigents, and, when appropriate, refer applicants to other agencies or organizations for assistance. A center would have to reject any dispute that involved allegations that could be the subject of criminal prosecution for a violent or drug-related felony.

Grant applications would have to include a proposed budget, including proposed compensation and qualifications of center employees; a description of the

geographical area of service and an estimate of the number of participants to be served; information on any dispute resolution services already available within the area; a narrative on the proposed program, including support from local courts and various groups and agencies willing to accept and make referrals, the present availability of resources, and the applicant's administrative capacity; a description of the fee structure, if any, that is to apply to participants; and any additional information required by the state court administrator.

The state court administrator or other authorized state official would be able to inspect and audit the fiscal affairs of any grant recipient. Each grant recipient would have to provide annually to the court administrator data specified by the bill. The state court administrator would report annually to the governor and the legislature.

House Bill 4824

The bill would amend the Revised Judicature Act to raise various court fees by two dollars and to allocate the increases to the Community Dispute Resolution Fund to be created by House Bill 4823. After January 1, 1992, fees would revert to their current levels and the allocations would no longer be made to the dispute resolution fund.

MCL 600.2528 et al.

FISCAL IMPLICATIONS:

The State Court Administrative Office estimates that revenues under House Bill 4824 would be about \$750,000, based on 1986 figures, and administrative costs for the program would be about \$60,000 per year. (10-6-87)

ARGUMENTS:

For:

Community dispute resolution centers provide an option for disagreeing parties for whom formal litigation is unnecessary or inappropriate. Voluntary participation with an emphasis on finding solutions where nobody "loses" contributes to the success such programs have with landlord-tenant disputes, arguments between neighbors, small claims matters, and personal disputes. Local courts are relieved of additional burdens to their dockets, and disputants benefit from the personal attention and mutually acceptable solutions provided through the community centers, which stress conciliation rather than confrontation. The public benefits of alternative dispute resolution were recognized by the Citizens Commission to Improve Michigan Courts, which recommended that the supreme court direct courts to cooperate with local organizations that provide dispute resolution.

The public interest in encouraging the formation and operation of community dispute resolution centers warrants supporting those centers with the aid of a nominal increase in court fees. Allocation of court fees is particularly

H.B. 4823 & 4824 (10-8-87)

appropriate, given the potential such programs have to reduce burdens on courts.

Against:

The fragmentation of court fees, where different portions of fees are allocated for different purposes, is a matter of long-standing concern within the judiciary. There is at present an ad-hoc committee of the House examining the problems and issues of court funding. It may be inappropriate to raise fees and earmark the increases at this time.

POSITIONS:

The Grand/Kent Community Reconciliation Center, Inc. supports the bills. (10-7-87)

The Michigan Judges Association does not have an official position on the bills at this time. (10-6-87)

The State Court Administrative Office does not have a formal policy position on the substance of the bills, but is prepared to assume responsibility for the program and agrees that if the legislature were to authorize the program that the office would be the proper entity to administer it. (10-7-87)