



**House
Legislative
Analysis
Section**

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

NEW JUDGESHIPS

RECEIVED

House Bill 5539 (Substitute H-7)
Sponsor: Rep. Perry Bullard
Second Analysis (5-23-88)

JUL 08 1988

Mich. State Law Library

House Committee: Judiciary
Senate Committee: Judiciary

THE APPARENT PROBLEM:

Many trial courts are having difficulty managing with existing resources, as case filings increase and backlogs develop. While clogged dockets can be eased by the use of judges temporarily assigned from other jurisdictions, it sometimes becomes necessary to create new judgeships in order to meet needs. The constitution requires that new judgeships be filled by election, which means that there is a biennial deadline for the necessary statutory changes and local resolutions to be enacted in time for candidates to file for election. (The Revised Judicature Act establishes deadlines for statutory creation and local approval of new judgeships, while the Michigan Election Law places a deadline on filing for the primary election.) With the approach of the deadline for action, the State Court Administrative Office conducted a statistical analysis of various objective factors that might serve as indicators for the number of judges needed. The office settled on the number of new cases filed as the most useful single factor in assessing the need for new judgeships. Using that figure in conjunction with indications of local support and consideration of special circumstances, the State Court Administrative Office developed recommendations for additional judgeships for various courts. House Bill 5539 incorporates those recommendations, and accomodates various other matters of local concern.

THE CONTENT OF THE BILL:

The bill would amend the Revised Judicature Act to: provide for additional circuit and district court judgeships and additional 36th district court magistrates; authorize the consolidation of the 43rd, 45th-a, 45th-b, and 48th district courts into the 52nd district court as separate divisions of that court; ease restrictions on where a district court must sit; and base the deadlines for local resolutions of support (required for new judgeships) on the year in which the election was held rather than the year in which the authorizing legislation was enacted.

New Judgeships. The bill would authorize new circuit and district court judgeships as shown below. Each new judgeship would be subject to existing provisions for local approval. Most of the new judgeships would be effective January 1, 1989; the exceptions would be the Fifth (Barry-Eaton) and Sixth (Oakland) circuits and the 15th (Ann Arbor) district court, all of which would be effective January 1, 1991, and the 54-b (East Lansing) district court, which would be effective January 1, 1990.

Circuit	# Judgeships
5th (Barry & Eaton Counties)	1
6th (Oakland County)	2
9th (Kalamazoo County)	1
17th (Kent County)	1
27th (Newaygo & Oceana Counties)	1
36th (Van Buren County)	1

District	
15th (Ann Arbor)	1
36th (Detroit)	2
39th (Roseville and Fraser)	1
41-b (Mt. Clemens, Clinton Twp.)	1
52nd (portions of Oakland Co.)	1
54-b (East Lansing)	1
61st (Grand Rapids)	1
64-a (Ionia County)	1

H.B. 5539 (5-23-88)

Additional Magistrates. The bill would authorize two new magistrates for the 36th district court.

52nd District Consolidation. The bill would authorize the consolidation of the 43rd (Madison Heights, Ferndale, and Hazel Park), 45th-a (Berkley), 45th-b (Huntington Woods, Oak Park, et al.), and 48th (Birmingham, Bloomfield Hills, et al.) district courts into the 52nd district court as separate divisions. Each consolidation would be subject to the bill's provisions for local approval; if a proposed consolidation failed to win the approval of the affected district control units, the proposal could be submitted to the electorate.

Location of Court. The bill would modify provisions that now require a district court of the second class to sit at a county seat within the district, and at each city and incorporated village having a population of 3,250 or more (except that when two or more of those cities or villages are contiguous, the court need only sit in the city having the greater population). Under the bill, the court would not be required to sit in any political subdivision if the governing body of that subdivision and the court agree that the court not sit there.

Local Approval Deadlines. New judgeships are contingent on local resolutions of approval being filed with the state court administrator's office prior to certain deadlines. At present, those deadlines are based on the year in which the authorizing legislation was enacted; the bill would base the deadlines for circuit, probate, and district courts on the year in which the election was held. In addition, the deadline for circuit judgeships, which is now the thirteenth Tuesday preceding the August primary (immediately following enactment of the authorizing legislation) would be changed to the tenth Tuesday preceding the August primary (in the year the election was held). This three-week change would make calculation of the circuit court deadline identical to the others.

MCL 600.506 et al.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, each new circuit judgeship would cost the state about \$100,000 annually. Each new district judgeship (other than those in the 36th district) would cost the state about \$90,000 annually, with

an additional one-time cost for recording equipment of about \$5,000 per judge. It is estimated that the two judgeships for the 36th district court would entail gross state costs of about \$440,000; this figure includes the cost of support staff and furniture for the two judges. Should the state fund the two magistrate positions, the state costs for the two positions would be about \$330,000. Local costs for the district judgeships would vary, but in some jurisdictions additional revenues would be more than enough to offset local costs; state costs for the 36th district court would be similarly offset. The proposed Oakland County district court consolidation would, if approved locally, increase county costs while reducing some municipal costs. (5-23-88)

ARGUMENTS:

For:

In accordance with recommendations from the State Court Administrative Office, the bill would provide for sorely needed new judgeships and magistrates, thus helping to ease clogged dockets and improving the administration of justice. In addition, the bill would offer greater flexibility in deadlines for adoption of local resolutions of approval, in siting district courts, and in the structure of and associated funding mechanisms for various district courts in Oakland County.

Against:

Several of the judgeships authorized by the bill—Barry/Eaton, Kalamazoo, and Ann Arbor—were not among the new judgeships recommended by the State Court Administrative Office in its January 1988 report. Although the office is not opposing the creation of those judgeships, it may not be necessary or prudent to authorize them at this time. The Barry/Eaton circuit, for example, does not have an extraordinary caseload, and the funding of an additional judgeship there would put a severe strain on county budgets (particularly Barry County's) already in dire straits.

Response: The law puts the responsibility for approving new judgeships with the local units that must share in the costs of those offices. The bill does not change this structure.

POSITIONS:

The State Court Administrative Office supports the bill. (5-20-88)

The Michigan Judges Association supports the creation of new judgeships where needed and locally approved, but believes that legislation should stand on its own merits and not be tied to other issues. (5-23-88)

The 36th District Court supports the addition of two judges and two magistrates to the court to help meet its recent increases in docket filings. (4-14-88)