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SFA**BILL ANALYSIS**

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Senate Bill 808 (as passed by the Senate)
Sponsor: Senator William Van Regenmorter
Committee: Judiciary

Date Completed: 1-30-98

RATIONALE

Public Act 388 of 1996 amended the Revised Judicature Act (RJA) to create in each judicial circuit the family division of circuit court (family court). The RJA, as amended by Public Act 388, required that, by July 1, 1997, in each judicial circuit, the chief circuit judge and the chief probate judge enter into an agreement establishing a plan for how the family court would operate in that circuit. The plan must provide that the judges assigned to the family court serve in that capacity for the duration of their current terms unless the chief probate or chief circuit judge determines that a change in the family court caseload justifies a change in the number of judges assigned to the family court or the number of judges assigned has been decreased upon recommendation of the Trial Court Assessment Commission. Reportedly, some judges and others feel that the family court judicial assignment provision needs more flexibility in order for individual courts to operate more efficiently.

CONTENT

The bill would amend the Revised Judicature Act to revise the requirements for the assignment of judges to the family division of circuit court.

The bill would delete the RJA's judicial assignment provision for family court and specifies, instead, that the plan developed by the chief circuit and chief probate judges would have to provide that the duration of a judge's assignment to the family court be consistent with the goal of developing sufficient judicial expertise in the area of family law in order to serve properly the interests of the families and children whose cases were assigned to that judge. The chief judge of the circuit court would have the authority and flexibility to determine the duration of a judge's assignment to the family division in furtherance of that goal.

The bill also would require that a judge assigned to the family court receive appropriate training, as required by the Supreme Court.

In addition, the RJA provides that a plan for the assignment of judges to the family court, or a plan for the operation of the family court in counties that are in different judicial circuits, must be reviewed and revised periodically, as necessary, by the chief circuit and chief probate court judges. Under the bill, a plan also would have to be submitted for approval by the Supreme Court.

The bill also would repeal a provision of the RJA specifying that, if a probate court judge who is assigned to the family court is not licensed to practice law in Michigan, the judge may only be assigned matters that he or she could have heard while sitting as a probate judge before January 1, 1998, and that originated in the county in which he or she was elected (MCL 600.1017).

MCL 600.1011

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The RJA's current provision for assignment of judges to the family court may be too rigid. While handling exclusively family court cases can promote expertise in that area of law and serve the needs of families with multiple concerns in family court, a requirement that a judge assigned to family court serve in that capacity for the duration of his or her current term may be too strict. The bill would allow a circuit's chief judge to have some flexibility in assigning family court judges to other cases, while continuing to recognize the desirability of developing expertise in family law matters.

Response: The bill does not go far enough. Each circuit court's chief judge should have the unfettered ability to assign judges to preside over cases as best served the management of that court's docket.

Opposing Argument

Two of the aims of the family court legislation were to develop family law expertise among a circuit's judiciary and to enable related family court cases to be heard by the same judge. While the bill reiterates the goal of developing that expertise, allowing more flexibility in each circuit court's judicial assignment could defeat the purpose of keeping related cases before the same judge.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would result in administrative efficiencies by giving the chief judge the flexibility to determine the duration of a judge's assignment to the family division of the circuit court.

Fiscal Analyst: B. Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.