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BILL ANALYSIS

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Senate Fiscal Agency

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Senate Bill 393 (as reported without amendment)

Sponsor: Senator Gilbert J. DiNello

Committee: Judiciary

Date Completed: 10-26-87

Mich. State Law Library

RATIONALE

Current law prohibits any judge from being appointed a fiduciary in an estate. The law was a result of a situation in which a full-time circuit court judge was appointed to a position of part-time executor of an estate and refused to relinquish it. Thus, Public Act 642 of 1978 was enacted, banning all judges from serving as a fiduciary. Some feel that the law's provision is unfair to municipal judges, who are part-time appointees, serving as judges only one day per week, and as practicing attorneys for the balance of the week. Some say that municipal judges should be granted an exemption to this prohibition, and be given permission under the law to serve as a fiduciary to the estate of a client.

CONTENT

The bill would amend the Revised Penal Code to remove municipal court judges from those judges who are prohibited from being appointed as a fiduciary in an estate.

MCL 700.582

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

ARGUMENTS**Supporting Argument**

Often, when a municipal judge in his or her private practice is drafting a will for a long-standing client, the client will want the judge to serve as fiduciary to the client's estate. Such a client may have no relatives and no one else to rely upon in these matters. All attorneys other than judges have the right to be appointed as a fiduciary, and attorneys who serve only one day a week as municipal judges should also have that right. In addition, no case could come before a municipal judge who did serve as fiduciary if the case would create a conflict of interest due to the judge's serving as a fiduciary.

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S.B. 393 (10-26-87)