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Senate Bill 816 (Substitute S-1 as reported)
House Bill 4823 (Substitute S-2 as reported)

Sponsor: Senator Rudy J. Nichols

Representative Richard Bandstra

House Committee: Judiciary

Senate Committee: Judiciary

Date Completed: 5-11-88

RATIONALE

A well-regarded, but still fairly new method of resolving relatively minor disputes outside of the courtroom is through mediation that is offered at local community centers and commonly uses trained volunteers. While several programs in the State, such as those in Grand Rapids and Ann Arbor, already have made successful beginnings, some believe that these programs need a steady and reliable source of funds for their long-term stability and success. Thus, it has been suggested that the State establish a program that would provide matching funds to local programs that met standards of capability, organization, and community support.

CONTENT

House Bill 4823 (S-2) would create the "Community Dispute Resolution Act" and establish the Community Dispute Resolution Center Program to provide for voluntary dispute resolution as an alternative to the judicial process. The bill also would:

- Provide for the Program to be funded by circuit court and district court filing fee increases (as proposed in Senate Bill 816).
- Require the program to be administered through community dispute resolution centers operated by grant recipients.
- Establish eligibility criteria for grant recipients, who would be selected by the State Court Administrator.
- Require annual reporting to the Legislature, Governor, and State Court Administrator.

Senate Bill 816 (S-1) would amend the Revised Judicature Act to increase circuit court and district court filing fees by \$2 and allocate the increase to the Community Dispute Resolution Fund that would be created under House Bill 4823.

The bills are tie-barred, and would take effect after 120 days following their enactment. A more detailed description follows.

House Bill 4823 (S-2)

The Community Dispute Resolution Center Program would be created "to provide conciliation, mediation, or other forms and techniques of voluntary dispute resolution to persons as an alternative to the judicial process". The Program would be funded by the Community Dispute Resolution Fund, which would be created in the State

Treasury and administered by the State Court Administrator. The Fund would have to be credited with revenue received from circuit and district court filing fee increases, as well as any funds appropriated by the Legislature and any Federal and private funds received by the State to implement the Act.

The Program would be administered through community dispute resolution centers operated by grant recipients (nonprofit or governmental organizations) pursuant to a grant contract awarded by the State Court Administrator. To be eligible for funding, a grant recipient would have to do all of the following:

- Comply with the provisions of the proposed Act, and any requirements or guidelines established by the State Court Administrator.
- Provide neutral mediators who had received at least 25 hours of training in conflict resolution techniques in a course approved by the State Court Administrator and a program of internship as required by the Administrator.
- Provide dispute resolution services without cost to indigents.
- Reject any dispute that involved alleged acts that were or could be the subject of a violent felony or drug-related felony prosecution.
- Refer participants to other agencies or organizations for assistance, when appropriate. Grant recipients would have to be selected from applications that included the following:
 - The budget for the proposed center, including employee compensation and qualifications.
 - A description of the proposed geographical area of service and an estimate of the number of participants to be served.
 - A description of any current dispute resolution services available within the geographical area.
 - A narrative of the proposed program, including the support of civic groups, social services agencies, local courts, and criminal justice agencies to accept and make referrals; the present availability of resources; and the applicant's administrative capacity.
- A description of any fee structure that would be applied to participants.
- Additional information needed by the State Court Administrator.

If an applicant met the eligibility requirements and guidelines and there were no other eligible applicants from

S.B. 816 & H.B. 4823 (5-11-88)

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the same county, the State Court Administrator would be required to award the applicant a grant at least equal to the pro rata share of available grant funds generated by court filing fees imposed in that county in the year preceding the year for which the application was made. If there were more than one eligible applicant from a county, the Administrator would have to award a grant or grants totaling an amount at least equal to the pro rata share of available grant funds generated by court filing fees imposed in that county in the year before the year for which the applications were made. The bill specifies that nothing in this provision would require a grant award that exceeded the proposed center's approved budget. ("Available grant funds" would mean that portion of the Community Dispute Resolution Fund available for awards to grant recipients, after administrative expenses had been met. "Administrative expenses" would mean those expenses incurred by the State Court Administrator in implementing the proposed Act.) The amount awarded to a grant recipient could not exceed 50% of the proposed center's approved budget, or the amount required above, whichever was higher.

The State Court Administrator or other authorized State official would have the power to inspect, examine, and audit the fiscal affairs of any grant recipient. Annually, each recipient would have to give the Administrator statistical data on its operating budget, number of referrals, categories or types of cases referred, number of parties served, number of disputes resolved, nature of resolution, amount and type of awards, rate of compliance, persons who returned to the center, duration and estimated costs of hearing, and other required information. The Administrator would have to report annually to the Legislature and the Governor regarding the operation and success of the centers funded under the Act.

Participation in the dispute resolution process would be voluntary and the form or technique used would have to 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 relating to the subject matter of the resolution made during the resolution process by a party, mediator, or other person also would be confidential.

Senate Bill 816 (S-1)

The filing fees that would be increased and their current amount are as follows:

<u>Type of Action</u>	<u>Current Fee</u>
Circuit court civil action	\$40
District court complaint for recovery of premises	20
District court (including small claims division)	30
Amount in controversy over \$3,000	
Amount in controversy \$601-\$3,000	20
Amount in controversy up to \$600	10

The \$2 increase would have to be transmitted to the Fund before 45% of the filing fees were remitted to the Judges' Retirement System and the balance to the district control unit. After January 1, 1993, the fees would revert to their current level and \$2 would not be credited to the Fund.

MCL 600.2528 et al.

SENATE COMMITTEE ACTION

The Senate Judiciary Committee adopted a substitute to House Bill 4823 that would require payment of the expenses of the State Court Administrator in implementing the proposed Act. Under the Senate substitute, administrative expenses would have to be subtracted from the Community Dispute Resolution Fund before grants were awarded. The Senate substitute also would require that filing fee increases within a county be allocated to the eligible applicant or applicants in that county.

FISCAL IMPACT

House Bill 4823 (S-2) would result in increased costs to the State. Costs include administrative costs to the State Court Administrator and grants to community dispute resolution centers. The State Court Administrator's office estimates annual costs to its office of \$70,000 and one-time start-up costs of approximately \$10,000. The amount of the grants would depend on the number of community dispute resolution centers and their individual budgets. The program, including the administrative costs of the State Court Administrator, would be funded by increased filing fees in circuit and district courts that would be credited to the Community Dispute Resolution Fund.

Senate Bill 816 (S-1) would increase court-generated revenue to provide for the Community Dispute Resolution Fund within the State Treasury. Revenue that would be generated from the fee increases is estimated at \$700,000 annually.

ARGUMENTS

Supporting Argument

Community dispute resolution centers provide a nonadversarial option for disagreeing parties for whom formal litigation may be unnecessary, inappropriate, or unaffordable. Voluntary participation with an emphasis on finding solutions where nobody "loses" contributes to the success of these programs in such matters as landlord-tenant disputes, arguments between neighbors, small claims, and personal disagreements. Local court dockets are relieved, 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.

Opposing Argument

The fragmentation of court fees, which requires different portions of fees to be allocated to different purposes, is a matter of long-standing concern with the judiciary, and should be considered along with the broader issue of court financing. It may be inappropriate to raise fees and earmark the increases at this time.

Response: The public interest in encouraging the formation and operation of community dispute resolution centers warrants supporting them with the aid of a nominal increase in filing fees. This allocation of court fees would be particularly appropriate given the potential such programs have to reduce burdens on the judicial system.

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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.