



**House  
Legislative  
Analysis  
Section**

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**NEW JUDGESHIPS**

**Senate Bill 520 (Substitute H-1)  
First Analysis (3-4-92)**

**Sponsor: Senator Jack Welborn  
Senate Committee: Judiciary  
House 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 administrative changes and 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 biennial deadline for action, the State Court Administrative Office (SCAO) analyzed current judicial resources, caseloads (in the sense of caseload trends, and the sense of comparison between courts), consideration of community interest in the establishment of additional judgeships, and projections on future need. The result was the 1992 version of the Supreme Court Judicial Resources Report, issued January 27, 1992, which recommended the establishment of various new judgeships and, for the first time, the elimination of others. Legislation based on those recommendations has been proposed.

***THE CONTENT OF THE BILL:***

The bill would amend the Revised Judicature Act to authorize the creation of new circuit and district judgeships as explained below. The creation of each new judgeship would require local approval by the appropriate boards of county commissioners (for circuit judgeships) or the governing bodies of the district control units (for district judgeships); provisions establishing the procedures for local approval would be unchanged. For a new judgeship to be filled, a resolution adopted by the appropriate

local body must be filed with the state court administrator. The deadline for filing a resolution is the sixteenth Tuesday preceding the August primary for the election to fill the additional judgeship; this year, that deadline is April 14.

The bill also would eliminate an existing district judgeship in Muskegon, revise provisions for consolidation of the 52nd District Court (Oakland County), extend various existing authorizations for additional district judges, and postpone an authorization for an additional district judgeship for Ionia County.

New authorizations. The bill would newly authorize additional judgeships as follows:

- 6th Circuit (Oakland County); two judgeships (staggered terms of 6 and 8 years), effective 1-1-93.
- 33rd Circuit (Charlevoix/Emmet counties); one judgeship, effective 1-1-93.
- 49th Circuit (Mecosta/Osceola counties); one judgeship, effective 1-1-93.
- 14th-b District (Ypsilanti Twp.); one judgeship, effective 1-1-94.
- 52nd District, 2nd division (Clarkston); one judgeship, effective 1-1-93.
- 80th District (Clare/Gladwin counties); one judgeship, effective 1-1-93.
- 84th District (Missaukee/Wexford counties); one judgeship, effective 1-1-93.

Extensions of existing authorizations. The bill would extend existing authorizations for additional judgeships, as follows:

- 35th District (Northville/Plymouth); postpone effective date for one additional judgeship from 1-1-91 to 1-1-93.
- 47th District (Farmington/Farmington Hills); postpone effective date for one additional judgeship from 1-1-91 to 1-1-93.

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--52nd District, 1st division (Novi, S. Lyon, Wixom, Walled Lake); postpone effective date for one additional judgeship from 1-1-91 to 1-1-93.

Postponement of authorizations. The bill would postpone authorizations that have not yet taken effect, as follows:

--15th District (Ann Arbor); postpone effective date for one additional judgeship from 1-1-93 to 1-1-95.

--64th-a District Court (Ionia County); postpone effective date for one additional judgeship from 1-1-93 to 1-1-95.

Consolidation of 52nd District Court. Existing provisions for consolidation of several districts into new divisions of the 52nd District (Oakland County) would be replaced with language authorizing any district of the third class described in the applicable section to be consolidated with the 52nd District and become the next successively numbered division of the 52nd District. Consolidations would be subject to existing provisions for local approval. The following districts would be eligible for consolidation: 43rd (Madison Heights, Ferndale, Hazel Park), 44th (Royal Oak), 45th-a (Berkley), 45th-b (Huntington Woods, Oak Park, Pleasant Ridge), 46th (Southfield, Lathrup Village), 47th (Farmington, Farmington Hills), 48th (Birmingham, Bloomfield Hills, et al.), 50th (Pontiac), and 51st (Waterford Township).

Elimination of judgeship. The bill would reduce the number of judges for the 60th District Court (Muskegon County) from five to four, effective 1-1-93.

MCL 600.507 et al.

### **HOUSE COMMITTEE ACTION:**

The House Judiciary Committee adopted a substitute that is identical to House Bill 5437 as passed by the House. As passed by the Senate, the bill would only have delayed the effective date for the additional judgeship for the 64th-a district (Ionia county).

### **BACKGROUND INFORMATION:**

The 1992 Judicial Resources Report made the following recommendations for additional judgeships:

--court of appeals: nine judgeships for 1993, six judgeships for 1995.

--circuit court: three judgeships for 1993. One each for 6th Circuit (Oakland County), 33rd circuit (Charlevoix/Emmet counties), and 49th Circuit (Mecosta/Osceola counties).

--district court: six judgeships for 1993. One each for 14th-b District (Ypsilanti Township); 35th (Plymouth); 47th (Farmington/Farmington Hills); 52nd, 2nd division (Clarkston); 80th (Clare/Gladwin Counties); and 84th (Missaukee/Wexford Counties).

The judicial resources report also recommended elimination of one judgeship in each of the following districts, upon the next resignation or retirement in that district:

--50th (Pontiac)  
--54th-a (Lansing)  
--60th (Muskegon)  
--68th (Flint)

According to the State Court Administrative Office, as of 2-18-92, the necessary local approval has already been obtained for the following additional judgeships: 6th Circuit (Oakland County; both proposed judgeships); 14th-b District (Ypsilanti Township, for 1994); 35th District (Plymouth); 47th District (Farmington); and 52nd District, 2nd division (Clarkston).

### **FISCAL IMPLICATIONS:**

According to the 1992 Judicial Resources Report, the average annual state cost for each circuit court judgeship (including state pay and travel costs) is \$99,900. For each district judgeship, the amount is \$94,900, plus a one-time cost of about \$6,000 to purchase court recording equipment. Local costs vary widely, but the average operating cost per new judge is estimated to be \$170,000. (1-27-92)

### **ARGUMENTS:**

#### **For:**

Consistent with existing and projected needs, the bill would provide for new circuit and district court judgeships, thus helping to ease clogged dockets and improving the administration of justice. With new statutory duties imposed on the judiciary by recent reforms in the drunk driving laws and other laws, the need for such help is greater than ever. Unwanted judgeships would not be forced on any

local units of government, for the bill would preserve requirements for local approval before a judgeship could be created and filled.

***For:***

The statistical model used by the SCAO has been roundly criticized for failing to distinguish between the different types of case filings, particularly with regard to district courts; a time-consuming criminal case was counted the same as a simple traffic ticket. The result, say many, was faulty recommendations to reduce the number of judges in courts widely held to be hard-working and over-burdened--notably the Flint and Pontiac district courts. The bill wisely forbears from implementing recommendations for reducing the number of judgeships, with one exception: Muskegon County District Court, where a pilot project on county-wide unification of the courts is being developed, and one judge faces mandatory retirement this year.

***Response:***

The SCAO did not rely wholly on the statistical model to develop recommendations. Where the statistical model suggested the need for more or fewer judges, additional analysis was employed that considered, among other things, the mix of cases within the court and county, and the overall availability of judicial resources within a county.

***Against:***

The proposal to eliminate a district judgeship for Muskegon county is not without controversy. While the proposal may have the support of the local bench, it reportedly does not enjoy the support of the local bar. Concerns over whether the SCAO has adequately evaluated the local caseload have echoed those voiced with regard to the other judgeships that the SCAO proposed to eliminate.

***Against:***

The bill fails to authorize any additional judgeship for Kent County Circuit Court, a court that is laboring under a caseload heavier than some that prompted recommendations for new judgeships in other courts. For example, each Kent County circuit judge must handle about 1,700 new cases a year, compared to about 1,100 in the Mecosta-Osceola circuit, yet a new judge was recommended for the latter but not the former.

***Response:***

Recommendations were based on a number of factors, not just caseloads. Kent County, when taken as a whole, appears to have adequate judicial resources. As noted by the Judicial Resources

Report, "the imbalance of judicial resources in the county should be addressed through the assignment of judges within the county."

***Against:***

The bill fails to meet an urgent need for additional judges in the court of appeals. The court of appeals has been struggling with a caseload that has grown 88 percent between 1984 and 1990. Its caseload-per-judge figure is the highest in the nation. The court now has 24 judges; the Judicial Resources Report pointed out that "Michigan would need 80 court of appeals judges in 1991 in order to match the national median," but recommendations were for a much more modest nine this year and six more in another two years. The court, with the approval of the supreme court, is experimenting with some procedural and administrative changes and contemplating others in an effort to ease the backlog. However, improved efficiencies cannot overcome the real need for more appellate judges.

***Response:***

Various improvements in caseload management may yet adequately ease docket problems for the court of appeals. Such avenues should be pursued vigorously, especially in times of budget difficulties, as each new court of appeals judgeship costs the state about \$380,000 per year, plus one-time costs of about \$82,200 per judgeship. In any event, it makes more sense to delay a consideration of the need for additional appellate judges for a short while so that the matter may be addressed in conjunction with proposals for appeals court redistricting.

***POSITIONS:***

The Michigan District Judges Association supports the bill. (3-3-92)

The Michigan Judges Association supports the supreme court recommendations for additional judgeships. (2-18-92)

The Michigan Association of Counties supports the creation of additional judgeships upon local funding unit approval. (3-3-92)