



**House
Legislative
Analysis
Section**

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SMALL CLAIMS VENUE

**House Bill 4065 (Substitute H-1)
First Analysis (5-12-93)**

**Sponsor: Rep. Kirk A. Profit
Committee: Judiciary**

THE APPARENT PROBLEM:

Small claims court offers a way for people to legally settle relatively minor financial disputes (that is, those involving less than \$1,750) without the expense of hiring an attorney or the cumbersomeness of formal procedure. Generally, a small claims action must be filed either where the defendant lives or where the cause of action arose (special venue provisions apply when the defendant is a local unit of government). However, despite these rather broad venue provisions, obstacles can sometimes arise: reports are that some courts have refused to allow a person to file an action if he or she cannot provide the defendant's address. To remedy this situation and improve access to small claims court, it has been proposed that small claims actions also be allowed to be brought in the county in which the defendant works.

THE CONTENT OF THE BILL:

The bill would amend the Revised Judicature Act to allow a small claims action to be brought in the county or district where the defendant is employed.

The bill also would clarify venue for when a small claims action is transferred to district court at the request of one of the parties. In such a situation, the court could not order a change of venue on the basis that the original venue would not have been allowed if the action had been filed originally in district court (as opposed to small claims court). (This provision places in statute the holding of the court of appeals in Kerekes v. Bowlds, 179 Mich App 805, decided September 5, 1989.)

MCL 600.8415

FISCAL IMPLICATIONS:

The House Fiscal Agency says that the bill would have an indeterminate fiscal impact on courts,

depending on current workloads and staffing patterns, how many new filings were made, and how the bill affected choice of venue. (5-11-93)

ARGUMENTS:

For:

Some courts reportedly have refused to accept small claims cases where the plaintiff was unable to provide the defendant's address, even though the plaintiff might have known where the defendant worked. Through allowing an action to be filed where the defendant is employed, the bill would enable a plaintiff to provide a defendant's work address in place of the home address on the court form that the plaintiff must complete and file. While a home address can be hard to come by, a credit check on the defendant can reveal the employer's address. With the additional venue option, the bill would help to ensure the sort of access to the court system that was envisioned when small claims court was developed.

Against:

It is not clear that the bill would solve the problem, as it appears to be using venue provisions in order to address a matter that really deals with the form that a small claims plaintiff must file. The filing form calls for the defendant's address so that the court may serve process on the defendant by certified mail. Without a mailing address, process would have to be served in person, and serving process at a person's place of employment could be problematic; many places of employment are not accessible to outsiders. Establishing another venue would not necessarily eliminate the need for an address for the defendant; rather, the bill could operate to cause district courts to accept filings for which process cannot successfully be served, with the result that the plaintiff has wasted his or her filing fee.

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Against:

The need for the bill is questionable, as small claims actions may already be filed where the cause of action arose, as well as where the defendant resides.

Against:

To the degree that plaintiffs opt to file where a defendant works instead of where a defendant lives, the bill could increase burdens for courts serving areas that have relatively low residential populations but high workforce populations.

POSITIONS:

The Michigan District Judges Association supports the bill. (5-11-93)