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MUNICIPAL COURT APPEALS

House Bill 5268

Sponsor: Rep. Andrew Richner

House Bill 5271

Sponsor: Rep. William Callahan

Committee: Judiciary

Complete to 3-6-98

A SUMMARY OF HOUSE BILLS 5268 AND 5271 AS INTRODUCED 10-14-97

The bills would amend the Michigan Uniform Municipal Court Act and the Code of Criminal Procedure to revise the process for appeals from municipal courts. Each bill specifies that the changes in the municipal court appeals process would apply to actions pending in municipal courts on the bill's effective date and to actions commenced in those courts on or after that date.

House Bill 5268 would amend the Michigan Uniform Municipal Court Act (MCL 730.523 et al.) to give cities the opportunity to adopt a new process to allow for appeals from *civil* and criminal cases before municipal courts. Currently, the act specifies that criminal cases before a city's municipal court may be appealed as a matter of right to the circuit court of the county where the city is located. These appeals are *de novo* (that is, the cases are heard anew) and in the same manner and time frame as is provided by law for appeals in criminal cases from the former justice courts or as otherwise provided by law.

The new process would allow for a civil or criminal case before a municipal court to be appealed to the circuit court for the county where the city is located. The conditions, manner, and time of the appeal would be the same as is required by law and by supreme court rule for appeals in civil actions or criminal cases from the district court. However, these appeals would not be *de novo*. The appeals allowed under the bill would only be available in cities that maintained a municipal court on the bill's effective date and that had adopted a resolution whereby the city's legislative body had agreed to assume any local financial obligations that could arise by allowing these appeals. A resolution to assume costs would not be valid unless it were adopted and submitted to the State Court Administrative Office within 180 days after the bill's effective date.

House Bill 5271 would amend the Code of Criminal Procedure (MCL 770.2 et al.) to provide for cases that were appealable from municipal courts in a city that adopted a resolution under the provisions of House Bill 5268. In such cases, there would be a right of appeal to the circuit court in the county in which the misdemeanor or ordinance violation was committed. Furthermore, a motion for a new trial in a misdemeanor or ordinance violation case would have to be made within 20 days after entry of the judgment.

The bill would also specify how appeals from a municipal court in a city that did *not* adopt a resolution under House Bill 5268 would be treated. More specifically, a defendant who was

convicted of a misdemeanor or ordinance violation in such cases could appeal to the circuit court for a trial de novo, even if the sentence had been suspended or the fine or costs, or both, had been paid. Further, a circuit court would be required to discharge a defendant who had successfully appealed a conviction from a municipal court in a city that did *not* adopt a resolution. Finally, if a defendant appealed a municipal court decision in a city that did *not* adopt a resolution and the appeal was withdrawn or was dismissed by the circuit court, the circuit court could enter an order revoking the defendant's recognizance and requiring that the municipal court's sentence be carried out.

The bills are tie-barred to each other.

Analyst: W. Flory

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.