

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA**BILL ANALYSIS**

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 752 (as enrolled)
House Bill 5271 (as enrolled)
Sponsor: Senator Joe Young, Jr. (Senate Bill 752)
Representative William Callahan (House Bill 5271)
Senate Committee: Judiciary
House Committee: Judiciary

PUBLIC ACT 415 of 1998
PUBLIC ACT 407 of 1998

Date Completed: 3-11-99

RATIONALE

In Michigan's court system, there are five communities that have a municipal court rather than a district court. The five municipal courts are located in Eastpointe, Grosse Pointe, Grosse Pointe Farms, Grosse Pointe Park, and Grosse Pointe Shores and Woods. In many respects, the municipal courts are comparable to district courts. In the matter of appeals, however, a case appealed from municipal court is a de novo proceeding in the circuit court (i.e., the circuit court hears the case anew, rather than reviewing the record of the original trial). A case appealed from district court to the circuit court is simply reviewed, as are appeals at higher levels in the court system. Apparently, review of a municipal court trial is not necessarily possible because a municipal court is not a court of record. When a case is appealed, then, the circuit court may not have complete information on the original trial and the circuit court must hear the case itself. Some people believe that there should be provision in law for the appeal of a municipal court case to be handled in the same manner as a district court case, if the city in which the municipal court is located agrees to absorb the financial obligations that may arise from appeals for review by the circuit court.

CONTENT

Senate Bill 752 and House Bill 5271 amended the Michigan Uniform Municipal Court Act and the Code of Criminal Procedure, respectively, to revise the process for appeals from municipal courts. Each bill specifies that the changes in the municipal court appeals process apply only to municipal court actions commenced on or after the date a local resolution is submitted to the State Court Administrative Office (SCAO) pursuant to Senate Bill 752.

The bills were tie-barred.

Senate Bill 752

The Michigan Uniform Municipal Court Act specifies that appeals in criminal cases may be taken as a matter of right from a city's municipal court to the circuit court of the county in which the city is located, in the same manner and time as is provided by law for appeals in criminal cases from the former justice courts or as otherwise provided by law. The Code of Criminal Procedure provides that an appeal to the circuit court from a municipal court is a de novo proceeding.

Under the bill, that provision in the Uniform Municipal Court Act applies except that an appeal in a civil action or a criminal case from a municipal court of a city that adopts a resolution under the bill must be taken from the municipal court to the circuit court, and the appeal is not a de novo proceeding in circuit court. The conditions, manner, and time of the appeal are the same as provided by law and by Supreme Court rule for appeals in civil actions or criminal cases from the district court. This provision applies only in a city that maintained a municipal court on the bill's effective date and that, by resolution of the city's legislative body, agrees to assume any local financial obligations that might arise out the appeal. A resolution required under the bill is not valid unless it is adopted and submitted to the SCAO within 180 days after the bill's effective date.

House Bill 5271

Under the Code of Criminal Procedure, in a misdemeanor or ordinance violation case appealable as of right from a court of record to the

circuit court, a motion for a new trial must be made within 20 days after entry of the judgment. Under the bill, this provision also applies to cases appealable from a municipal court in a city that adopts a resolution under Senate Bill 752.

The Code specifies that, in a misdemeanor or ordinance violation case tried in the district court, there is a right of appeal to the circuit court in the county in which the misdemeanor or ordinance violation was committed. House Bill 5271 includes in this provision a case tried in a municipal court in a city that adopts a resolution of approval under Senate Bill 752.

The Code specifies that a defendant who is convicted of a misdemeanor or ordinance violation in a municipal court may appeal to the circuit court for a trial de novo, even if the sentence has been suspended or the fine or costs, or both, have been paid. If a defendant who appeals a conviction in municipal court is found not guilty on appeal in the circuit court, the circuit court must discharge the defendant. If a defendant takes an appeal from a municipal court and withdraws the appeal, or if the circuit court dismisses the appeal, leaving the municipal court conviction in effect, the circuit court may enter an order revoking a recognizance and also may direct that the municipal court's sentence be carried out. Under House Bill 5271, these provisions apply to a case in a municipal court in a city that does *not* adopt a resolution under Senate Bill 752.

MCL 730.523 et al. (S.B. 752)
770.2 et al. (H.B. 5271)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

An appeal from a municipal court to a circuit court should operate in the same manner as an appeal from a district court to a circuit court. That is, the circuit court should just have to review the record of the case from the lower court, not conduct an entirely new trial. Authorizing this change in the appeals procedure in a city that has a municipal court only if the city adopts a resolution agreeing to assume any new financial responsibility (e.g., for a court reporter) avoids any possible interpretation of a State mandate for local costs under the Headlee Amendment to the State Constitution.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bills will have a minimal fiscal impact and should result in overall administrative savings due to the reduced time of proceedings in appeals in circuit court. Costs will result from recording jury trials in municipal courts.

Fiscal Analyst: B. Bowerman

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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.