

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 808 (as enrolled)
Sponsor: Senator William Van Regenmorter
Senate Committee: Judiciary
House Committee: Judiciary

PUBLIC ACT 298 of 1998

Date Completed: 3-23-99

CONTENT

The bill amended the Revised Judicature Act (RJA) to do all of the following:

- **Revise the requirements for the assignment of judges to the family division of circuit court (family court).**
- **Tie the part-time probate judge provisions to a county's population according to the 1990 Federal decennial census.**
- **Repeal the section of the RJA that provided for the Trial Court Assessment Commission.**

Family Court Judicial Assignment

According to 1996 amendments to the RJA, in each judicial circuit, the chief circuit judge and the chief probate judge were required, by July 1, 1997, to establish a plan for the family court's operation in that circuit. The plan had to provide that judges assigned to the family division would serve in that division for the duration of their current term unless the chief circuit and probate judges determined that a change in the caseload justified a change in the number of judges assigned to the family division, or the number of judges assigned to the family division had been decreased upon recommendation of the Trial Court Assessment Commission.

The bill deleted those judicial assignment provisions. The bill specifies, instead, that the plan developed by the chief circuit and chief probate judges must provide that the duration of a judge's assignment to the family court be consistent with the goal of developing sufficient judicial expertise in the area of family law in order to serve properly the interests of the families and children whose cases are assigned to that judge. The chief judge of the circuit court has the authority and flexibility to determine the duration of a judge's assignment to

the family division in furtherance of that goal.

The bill also requires that a judge assigned to the family court receive appropriate training, as required by the Supreme Court.

In addition, the RJA provides that a plan for the assignment of judges to the family court, or a plan for the operation of the family court in counties that are in different judicial circuits, must be reviewed and revised periodically, as necessary, by the chief circuit and chief probate court judges. Under the bill, a plan also must be submitted for approval by the Supreme Court.

The bill also repealed a provision of the RJA specifying that, if a probate court judge who was assigned to the family court were not licensed to practice law in Michigan, the judge could only be assigned matters that he or she could have heard while sitting as a probate judge before January 1, 1998, and that originated in the county in which he or she was elected (MCL 600.1017).

Part-Time Probate Judges

The RJA prohibits a probate judge in a county having a population of 15,000 or more from engaging in the practice of law other than as a judge if the county is not part of a probate court district created by law. Those judges receive the salary provided by law for full-time judges.

Conversely, a probate judge of a county having a population of less than 15,000 that is part of a probate court district, in which the electors of one or more counties did not approve the district, receives a part-time salary and may practice law other than as a judge.

The bill specifies that the 15,000 population standards are according to the 1990 Federal

decennial census.

The FY 1998-99 appropriation for the Trial Court Assessment Commission was \$279,900.

Michigan Trial Court Assessment Commission

Fiscal Analyst: B. Bowerman

The Trial Court Assessment Commission was created by Public Act 374 of 1996 and placed within the Legislative Council. It was required to “study and classify the civil and criminal cases filed in the district, circuit, and probate courts and recorder’s court of the city of Detroit and...develop a set of criteria for determining the relative complexity of the various types of cases filed”. Public Act 374 required the Commission to make recommendations to the Legislature, by July 15, 1997, regarding a funding formula for annual State appropriations for the funding of courts, taking into account total caseloads of the various courts and the relative complexity of cases. The Commission also was required to make biennial reports to the Legislature, by October 1 of each odd-numbered year.

The bill repealed the section of the RJA that created the Trial Court Assessment Commission and specified its responsibilities.

MCL 600.821 et al.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would result in administrative efficiencies by giving the chief judge the flexibility to determine the duration of a judge’s assignment to the family division of the circuit court.

There are currently 14.0 part-time probate judges in Michigan. Making these judges full-time would result in a net annual cost to the State of approximately \$1,285,300. Fixing the determination for meeting the population threshold for full-time status to the 1990 Federal Census prevents conversion to a full-time judgeship when the county population reaches 15,000 or more.

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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.