

CIRCUIT COURT REORGANIZATION: SPLIT THE 34TH CIRCUIT

House Bill 5635 (Substitute H-1) First Analysis (10-3-00)

**Sponsor: Rep. Rick Johnson
Committee: Family and Civil Law**

THE APPARENT PROBLEM:

As part of its report on the status of Michigan's trial courts, the Michigan Trial Court Assessment Commission recommended that probate, district, and multi-county district boundaries should be coterminous within circuit boundaries. Michigan has 83 counties; currently 36 of these counties have single county circuit courts and 37 are members of multiple county circuits. Many of the multiple county circuits do not match the existing probate, district, and multi-county districts for those counties. This situation can lead to confusion because a county can be associated with one county for district court services and to a different county for circuit court services. The commission recommended that counties that share district judges and/or probate judges should be members of the same judicial circuit and that the geographic boundaries should correspond with the court service area. The commission offered a plan to establish coterminous multi-county circuit boundaries. That plan includes splitting the 34th judicial circuit. The 34th judicial circuit consists of the counties of Arenac, Ogemaw, and Roscommon and has two judges. The plan would establish a new judicial circuit (the 58th circuit) that would encompass the whole of Roscommon county, while the remaining counties would make up the 34th circuit. Legislation has been introduced to allow the respective counties to make this change, thereby helping to unify the circuit boundaries with the boundaries of other courts.

THE CONTENT OF THE BILL:

The Revised Judicature Act proposes the establishment of judicial circuits consisting of various counties in the state, and authorizes the number of judgeships assigned to each circuit. However, new judicial circuits are only created after the board of commissioners of each affected county approves the creation of a new circuit or approves filling additional judgeships by election.

House Bill 5635 would amend the act to propose a new judicial circuit, the 58th, to consist of Roscommon County, which would have one judgeship effective

January 1, 2001. The bill specifies that if the new judicial circuit is created (by approval of the Roscommon County board of commissioners), the incumbent judge of the 34th circuit who resides in Roscommon County would become the judge of the 58th circuit on January 1, 2001, and would serve for the remainder of the term to which he or she was elected in the 34th circuit. Further, the bill proposes the reorganization of the 34th judicial circuit, so that it would consist of Arenac and Ogemaw Counties and have one judge, effective January 1, 2001 (again, if approved by the two affected counties).

The clerk of each county would be required file a copy of the resolutions approving these changes no later than 4 p.m., December 1, 2000. If the changes were approved, the State Court Administrator would be required to immediately notify the elections division of the Department of State about each new judicial circuit and circuit judgeship authorized under these terms. A resolution of approval that was filed before the bill's effective date but within the current legislative session would be valid.

The bill would specify that the proposed new judicial circuit and judgeship would not be treated as a creation of a new circuit or judgeship by the legislature. The approval of the counties involved would be considered an exercise of the county's option to provide a new activity or service or to increase the level of an existing activity or service beyond what is required by existing law. Such a decision would also include the county's voluntary acceptance of all expenses and capital improvements that might result from the creation of the new circuit or judgeship. However, this would not effect the state's obligations with regard to the judge's salary, or the provision of funds to the county for necessary costs under state law.

The bill would also update language in the act to reflect the 1990 authorization and local approval of an additional judgeship in the 34th judicial circuit; under Public Act 54 of 1990, the additional judgeship was

proposed by the legislature, to be effective January 1, 1991. It was subsequently approved by the affected counties.

MCL 600.535

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have limited fiscal impact for the state as the bill would not require the addition of a new judgeship. However, there could be an indeterminate fiscal impact on local government units with regard to the costs associated with providing staff and building facilities in the new judicial circuit. (9-28-00)

ARGUMENTS:

For:

The bill would enact part of the Trial Court Assessment Commission's (TCAC) recommendations. In particular, the commission recommended that probate, district, and the multi-county district boundaries should be coterminous within circuit boundaries. Reconfiguring the circuit boundaries is intended to help to reduce complex multi-county funding relationships, maximize common geographic and jurisdictional boundaries, correlate the judicial workload need with available resources, minimize the disruption of the judiciary and decrease judicial travel time. As part of its explanation of why the current configuration can be a problem the commission offered the following example: The county of Presque Isle shares a district judge with Cheboygan but shares circuit court services with Alpena county. Alpena also provides circuit court services for Montmerency and Alcona, but not Oscoda. Oscoda is associated with Iosco for circuit court services, but is connected with Ogemaw and Alcona for district court services. Obviously, this makes it difficult for the average citizen or, for that matter, anyone else to determine which court is which.

Furthermore, now is the time to attempt to effect this change -- since, as is noted in the bill, creating a new 58th district at this time will not require an incumbent judge to change his or her residence.

POSITIONS:

The chairman of the Roscommon County Board of Commissioners indicated support for the bill. (9-28-00)

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.