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## CREATE AN INTERNET BASED “CYBER” COURT

House Bill 4140

Sponsor: Rep. Marc Shulman

Committee: Civil Law and Judiciary

Complete to 2-13-01

### A SUMMARY OF HOUSE BILL 4140 AS INTRODUCED 2-6-01

The bill would add a new chapter (Chapter 80) to the Revised Judicature Act to create and regulate a “cyber court” to conduct electronic hearings and proceedings in order to accommodate parties located outside Michigan in commercial litigation involving more than \$25,000. The stated purpose of the cyber court would be “to allow disputes between business and commercial entities to be resolved with the speed and efficiency required by the information age economy.” The bill also would amend the Revised Judicature Act to make an exception to the act’s requirement that anyone practicing law in the state be licensed to practice law in Michigan; the exception would apply to a person who was duly licensed and authorized to practice law in another state and representing a client in a matter that was before the cyber court in Michigan.

Location, facilities, staff. The cyber court would be located in one or more counties as determined by the state supreme court, and would sit in facilities designed to allow all hearings and proceedings to be conducted by means of electronic communications, including, but not limited to, video and audio conferencing and Internet conferencing. Whenever it were technologically feasible, all of the cyber court’s proceedings would be broadcast on the Internet. The cyber court’s staff and support services would be maintained at the seat of government, and would hold session and schedule hearings or other proceedings to accommodate parties or witnesses who were located outside of Michigan. A cyber court facility would be open to the public to the same extent as a circuit court facility.

Judges. The state supreme court would assign circuit court judges to serve as judges of the cyber court for terms lasting at least three years. The total number of judges assigned to the cyber court would have to reasonably reflect the caseload of the cyber court. In selecting judges for assignment to the cyber court, the supreme court would have to consider a judge’s experience in presiding over commercial litigation and his or her experience and interest in the application of technology to the administration of justice. The Michigan Judicial Institute would provide appropriate training for judges who were assigned to the cyber court.

Jurisdiction. The cyber court would have concurrent jurisdiction over commercial litigation actions in which the amount in controversy exceeded \$25,000. Any county in which the cyber court had been located by the supreme court would be a proper county in which to commence an action in the cyber court.

Proceedings. An action could be filed in the cyber court by filing a complaint with the clerk of the cyber court, but a defendant could remove the action to circuit court at any time before filing an answer to a complaint filed with the clerk of the cyber court. The supreme court would

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adopt special rules for the cyber court regarding practice and procedures, the form and manner of pleadings, and the manner of service of process in the cyber court.

All matters heard in the cyber court would be heard by means of electronic communications, including, but not limited to, video and audio conferencing and Internet conferencing among the judge and court personnel, parties, witnesses, and other persons necessary to the proceedings.

An action in the cyber court would be heard by the judge without a jury, and unless a party removed an action filed in the cyber court to the circuit court, all parties to an action in the cyber court would be considered to have waived the right to trial by jury and to have waived the right to move for a change of venue. The court could grant a new trial upon the same terms and under the same conditions and for the same reasons as prevail in the case of the Michigan circuit court in a case heard by a judge without a jury.

Court powers. The cyber court would have the same power as the circuit court to subpoena witnesses and require the production of books, papers, records, documents, electronic documents, and any other evidence, and to punish for contempt. The judge and clerk of the cyber court could administer oaths and affirmations and take acknowledgements of instruments by electronic means. An oath or affirmation taken from a person located outside of Michigan would be considered to be an oath or affirmation authorized by Michigan law.

Appeals. An appeal from the cyber court would be to a special panel of the court of appeals, as prescribed by the state supreme court, and the time within which an appeal as of right could be taken would be governed by supreme court rules. The clerk of the cyber court would have to immediately furnish the parties to every action with an electronic notice of entry of any final order or judgment.

Effective date. If enacted, the bill would take effect on January 1, 2002.

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■ 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.