



**House
Legislative
Analysis
Section**

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DISTRICT COURT CHANGES

House Bill 4788 as introduced First Analysis (6-5-01)

Sponsor: Rep. Bruce Patterson
Committee: Civil Law and the Judiciary

THE APPARENT PROBLEM:

As communities grow or decline due to shifts in population, a community's need for district judgeships also may change. Growing communities may need more judges to handle the increased needs of the community, while communities that lose population may need fewer judges to handle the resulting reduced caseloads. The analysis of "judicial resources" (that is, whether or not communities need more or fewer judges) is the responsibility of the State Court Administrative Office (SCAO), the judicial branch office that, among other things, collects and analyzes information on judicial workloads. The SCAO uses the information it collects to allocate judicial resources through the temporary reassignment of judges and caseload as necessary, and periodically recommends to the state supreme court and the legislature changes in the number of judgeships. As the SCAO points out, estimating judicial workload and a community's corresponding need for judges is a complex process that involves both quantitative and qualitative factors.

The SCAO analyzes judicial resources by means of a two-step process: a preliminary statistical analysis and a secondary extended analysis. The SCAO first does a statistical review of the comparative workload of the courts, using three workload indicators: a "weighted caseload analysis," which indicates how many judges would be needed if the standards and case weights developed by the Trial Court Assessment Commission were applied; the average caseload per judge, which indicates the number of judges needed if each judge were to handle an average non-weighted caseload; and a "regression analysis" of caseload, which indicates how many judges would be needed based on a court's caseload if the court were treated similarly to other courts based on the existing relationship between judgeships and caseloads statewide. (The February 2000 *Judicial Resource Recommendations* notes that circuit and probate courts were excluded from review "in light of the uncertainty of the impact of implementation of the family division of the circuit court in January of 1998," so the year 2000 review of judicial resources in fact was done only for district courts.) If the SCAO

determines that there is a consistent difference of at least one judgeship between the current number of judges in a district court and the estimated need for judges, based on two of the three workload indicators, it then does an "extended analysis" of the district courts so identified. It is on this "extended analysis" that the SCAO bases its recommendations about whether to add or eliminate judgeships. (See BACKGROUND INFORMATION.)

In the State Court Administrative Office's *Judicial Resource Recommendations* issued in February 2000 (reportedly, the 2001 recommendations will not be available until August 2001), the SCAO identified four courts for extended analysis and was asked to do extended analyses on two other courts. Of the four courts identified for extended analysis (districts 18, 27, 52, and 63), the SCAO recommended the immediate addition of one judgeship in the first division of the 52nd District Court in Oakland County, the elimination of one judgeship in the 27th District Court (Wyandotte and Riverview), and no change in the 18th (Westland) and 63rd (Kent County) District Courts at that time. Legislation enacted last session did, among other things, allow for the addition of one judgeship in the first division of the 52nd District Court and the elimination of one judgeship in the 27th District Court (by January 1, 2003, or when a vacancy occurs, whichever comes first). (See BACKGROUND INFORMATION.)

The SCAO also did extended analyses of two additional district courts at the request of, or on behalf of, the 35th District Court (Plymouth/Northville/Canton) and the 47th District Court (Farmington/Farmington Hills). In both cases, the SCAO said that both courts could make efficient use of an additional judge. However, because the need for an additional judgeship was not as acute in these two courts as it was in the other courts reviewed, the SCAO did not recommend the creation of new judgeships for these courts effective January 1, 2001. Although the SCAO did not recommend the creation of an additional judgeship in the 47th District Court for 2001, Public Act 448 of 2000 did allow one

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additional judge, subject to review and recommendation by the state court administrator to the legislature and subsequent legislation, if and when a district court judge was eliminated from the state.

Finally, the SCAO also uses its statistical analysis to identify courts for which an immediate extended analysis should be conducted whenever a judicial vacancy arises. The February 2000 Judicial Resources Recommendation found that, under 1998 caseload data (the last full year for which caseload data was available at the time), two courts should receive an extended analysis, if and when a vacancy occurred in either court, to determine whether judgeships should be eliminated in either court. The two courts meeting this criterion were the 31st District Court (the city of Hamtramck) and the 36th District Court (the city of Detroit).

Legislation has been introduced that would eliminate four district court judgeships, add two new judgeships, and reorganize certain district courts.

THE CONTENT OF THE BILL:

The bill would amend the Revised Judicature Act to allow the addition of two new district judges, eliminate four existing district judgeships, and merge four existing third class districts into two districts. All of the proposed changes would be effective beginning on January 1, 2003, except for the reorganization of the 18th District, which would be effective on January 1, 2002. The abolition of two districts and the reorganization of the two districts that would absorb the abolished districts would have to be approved by the governing bodies of the municipalities involved by September 1, 2001. Because of the Headlee amendment to the state constitution (which requires the state to pay for any new services it requires local units of government to provide), the local units of government in districts scheduled to gain additional judges would have to approve the addition by resolution submitted to the state court administrator. Conversely, districts scheduled to lose a judgeship have no say in the process.

More specifically, the bill would do the following:

- Abolish the 29th District Court (the city of Wayne), a third class district with one judge, and add the city and its one district judge to the 18th District Court (the city of Westland), a third class district with two judges (for the 2006 election only, the term of the candidate receiving the greatest number of votes

would be eight years and the term of the candidate receiving the next greatest number of votes would be six years);

- Reduce the number of judges from two to one in the 30th District (Highland Park) and the 31st District (Hamtramck);
- Allow the addition of one judge in the 35th District (the cities of Northville and Plymouth and the townships of Northville, Plymouth, and Canton in Wayne County), a third class district with two judges (if a new judgeship were added, the judge elected to that office in 2002 would serve a two-year term for that election only);
- Abolish the 45thB District (the cities of Huntington Woods, Oak Park, and Pleasant Ridge and the township of Royal Oak in Oakland County), a third class district with two judges, and reorganize the 45thA District (the city of Berkley) to add the cities and township currently in the 45thB District and one of its two judges;
- Reduce the number of judges in the 50th District (city of Pontiac), a third class district, from four to three; and
- Allow one additional judge for the first division of the 63rd District (Kent County except for the cities of Grand Rapids, Walker, Grandville, Wyoming, and Kentwood), which consists of the cities of Cedar Springs and Rockford and the townships of Tyrone, Solon, Nelson, Spencer, Sparta, Algoma, Courtland, Oakfield, Alpine, Plainfield, Cannon, and Gratton, and which currently has one judge. If a new judgeship were added, the judge elected to that office in 2002 would serve a four-year term for that election only.

MCL 600.8121, 600.8123, and 600.8130

BACKGROUND INFORMATION:

District courts. District courts were created by statute in 1968 (by Public Act 158 of 1968, which amended the Revised Judicature Act). The act created one district court; for administrative purposes, the state is divided into 104 judicial districts. The state has a total of 259 district judges, a number that reportedly has not changed since 1991 when the current governor was elected.

The supreme court's *2000 Annual Report (Michigan Courts: Striving for Excellence)* describes the district court as follows:

“Citizens have more contact with district court than any other court in the state. District court has exclusive jurisdiction of all civil litigation up to \$25,000 and handles garnishments, eviction proceedings, land contract and mortgage foreclosures, and other proceedings. In the criminal field, the district court handles all misdemeanors where punishment does not exceed one year, relevant proceedings including arraignment, setting and acceptance of bail, trial, and sentencing. It also conducts preliminary examinations in felony cases.

The district court includes a small claims division for civil cases up to \$3,000, as of January 1, 2000. In these cases, litigants agree to waive their right to a jury, rules of evidence, representation by a lawyer, and the right to appeal from the district judge’s decision. If either party objects, the case will be heard by the general civil division of the district court.

By statute, district judges have the authority to appoint magistrates. Magistrates may set bail and accept bond in criminal matters, accept guilty pleas, and sentence for traffic, motor carrier, and snowmobile violations and dog, game, and marine law violations. The magistrate may also issue arrest and search warrants authorized by the prosecutor or municipal attorney. Attorney magistrates may hear small claims cases. Magistrates may, at the direction of the chief judge, perform other duties allowed by the state.

District judges are elected for six-year terms on nonpartisan ballots, under the same requirements as circuit judges. The Legislature sets the salary for district judges.” That salary in the year 2000 was \$118,285 plus benefits; in 2001 it is \$134,366 plus benefits (which comes to a total of \$157,400).

Districts are divided into first, second and third-class districts serving “subcounty” (that is, political subdivisions smaller than counties) areas. Only seven of the state’s 83 counties have second or third class districts (Genesee, Ingham, Kent, Macomb, Oakland, Washtenaw, and Wayne Counties).

SCAO determination of judicial workload. The State Court Administrative Office uses three statistical procedures, or “workload measures,” in coming up with an initial indicator of the need to add or eliminate judges. After the initial statistical review, an extended analysis of case-related factors, support resources, and environmental factors then is done before the SCAO makes a determination regarding judicial workload and resource requirements.

The preliminary statistical review includes three statistical procedures that are used most widely across the 50 states: weighted caseload, average caseload per judge, and regression. Use of each of these procedures results in a number that can be used to compare the number of actual judges in a court with the number of judges the statistical procedure suggests. These three statistical procedures are described in the supreme court’s *2000 Annual Review*:

“*Weighted caseload* measures of judicial workload were developed based on empirical data concerning case processing in Michigan. To develop weighted workload measures, the time that judges and judicial officers spent on case-related work was recorded. The data was then analyzed to determine the total case-related time spent on each type of case, the time spent on a case by a judge, and the time spent on a case by a judicial officer. The empirical data supported the development of estimates of judge time available for case-related matters, the development of case weights, and the division of workload between judges and judicial officers

Average caseload is a measure that describes how many judges would be needed to process a particular number of cases if each judge handled an exact average number of cases. For example, if the average judge statewide handled 1,000 cases and a court had 1,500 filings one would estimate that the court needed about 1.5 judges to process the 1,500 new filings. Average caseload provides a useful estimate of need when case types are fairly uniformly distributed across courts. When the complexity of cases varies across courts, the average caseload per judge method loses some ability to make fine distinctions concerning relative need.

Finally, *regression* is a useful tool for selecting courts for examination that have a disproportionate number of judges for the court’s caseload relative to other Michigan courts. The procedure is based on the relationship between filings and the number of judges available to process those filings. Since judges are individuals and not subject to fractionalization, it is not possible to match the number of available judges exactly with caseload. Therefore, some variation in the number of available judges relative to the caseload is to be expected. Regression allows the determination of whether or not a court’s resources are significantly out of line with statewide policies. An advantage of regression is that it provides confidence intervals to be placed around the estimated need for judges. For example, it is possible to determine that one is 95 percent confident that a

particular court needs between 1 and 1.50 judges to process the caseload of the court based on the experience of courts statewide.”

The following chart gives the number of actual judges for each of the judicial districts that would be

affected by the bill, along with the numbers from the supreme court’s annual report in 2000 for each court with regard to the weighted caseload, average caseload, and regression.

JUDICIAL DISTRICT	ACTUAL JUDGES	WEIGHTED CASELOAD	AVERAGE CASELOAD	REGRESSION
18 th District (Westland)	2	3.26	3.40	3.30
29 th District (city of Wayne)	1	.83	.84	.97
30 th District (Highland Park)	2	1.10	1.18	1.29
31 st District (Hamtramck)	2	.84	.92	1.05
35 th District (Plymouth)	2	2.93	2.95	2.90
45 th A District (Berkley)	1	.35	.39	.57
45 th B District (Oak Park)	2	1.99	1.99	2.02
50 th District (Pontiac)	4	3.43	3.09	3.02
63 rd District (Kent County)	2	3.37	3.53	3.42

The secondary, or extended, analysis is tailored to the particular court. Case-related factors include caseload mix, types of cases (traffic, asbestos, complex civil, domestic, complex criminal, court of claims), case counting methodology, docket backlog, and prosecutor and law enforcement practices (including charging practices affecting case count, pleas, and trials). Support resources include consideration of staffing levels (including availability of judicial officers, case processing staff, and law clerks), assignments into or out of the court, facilities, and technological resources (including computer systems, networking, and video arraignments). Finally, environmental factors include demographics (housing and labor market patterns, prisons, *pro per* cases, or businesses), local legal culture (contested hearings versus stipulations, number of waivers of preliminary exams, stipulations to the evidence versus testimony), and judicial philosophy (the time a judge give litigants and attorneys, jury versus bench trials, pleas versus trials, justice system involvement, and community leadership).

District court legislation enacted last session. Last session, Public Acts 447, 448, and 449 of 2000

amended the Revised Judicature Act to authorize two new district court judgeships, one each in the 52nd District and the 47th District, and to eliminate one judgeship in the 27th District. Under direction from the executive branch, no new district judges have been added since 1991 unless the same number of district judgeships is eliminated somewhere in the state. Thus the additional judgeship in the 47th District was tied to the elimination of a district court judgeship elsewhere in the state. The acts also authorized the restructuring of the two divisions of the 52nd District, and the elimination of the two divisions in the 27th District.

52nd District. Public Act 447 (enrolled House Bill 4207) allows the addition of one new judgeship to the first division of the 52nd District in Oakland County (which has three judges and consists of the cities of Novi, South Lyon, Wixom, and Walled Lake and the townships of Milford, Highland, Rose, White Lake, Commerce, Lyon, and Novi) effective January 1, 2003. Among other things, Public Act 448 (enrolled Senate Bill 257) transfers both one of the three current first division judges, along with Rose and White Lake townships, from the first division of the

52nd District to the second division (which has one judge and consists of the townships of Springfield, Independence, Holly, Groveland, and Brandon) as of January 1, 2003.

47th District. Public Act 448 also allows one additional judge in the 47th District (a third class district consisting of the cities of Farmington and Farmington Hills with two judges), subject to the following conditions:

- Section 8175 of the Revised Judicature Act, which prohibits the authorization of additional judgeships (to be filled by election) without approval (by resolution) by each district control unit in the judicial district (and which requires that the clerk of each district control unit to file a copy of the resolution approving the creation of the new judgeship with the state court administrator by 4 p.m. of the 16th Tuesday preceding the August primary);
- Review and recommendation by the State Court Administrator to the legislature, and subsequent legislation; and
- If and when a district court judgeship is eliminated in the state.

27th District. Currently, the 27th District in Wayne County is divided into two divisions, with one judge each. The first division consists of the city of Wyandotte, and the second division consists of the city of Riverview. Public Act 449 eliminates one judgeship and the two divisions in the 27th District on January 1, 2003, or until a vacancy occurs in one of the district's judgeships, whichever happens first.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the amount for each new or eliminated judgeship for fiscal year 2001-02 is \$157,400. Assuming a three percent State Officers Compensation Commission increase in calendar years 2003 and 2004, the amount for each new or eliminated judgeship is projected to be \$163,000 for fiscal year 2003-04 and \$167,000 for fiscal year 2004-05. The state provides 100 percent of all judges' salaries, and the figures quoted include Medicare, FICA, and retirement (all new judges must enroll in defined contribution plans). (5-30-01)

ARGUMENTS:

For:

The extended analysis requested of the State Court Administrative Office (SCAO) for the 35th and 63rd District Courts "suggested that the 35th District Court could make efficient use of an additional judge" and that "an additional district judge [was] statistically indicated in the 63rd District Court."

Analysis of caseload data for the 35th District Court (Plymouth), using weighted caseload data, suggested that the caseload of the court required the equivalent of 2.66 judges, while the court currently has two judges. The district's population grew over 20 percent between 1990 and 1999, and the SCAO estimated that the population would increase by another 14 percent in the next decade. The 40,934 total new cases filed in the 35th District Court in 1998 (the last year for which information was available for the February 2000 report) represented an increase of 18.7 percent from the 1990 filings, while new filings statewide increased by less than half of that (8.3 percent) for the same period. Filings per judge in the 35th District Court also were considerably higher than filings per judge statewide. There were 20,467 total new filings per judge in the 35th District Court, which was 59.5 percent higher than the statewide average of 12,832. Yet the court's "clearance rate" (which measures a court's ability to close cases at a rate similar to the filing rate in order to avoid backlogs) was 98.4 percent, compared to the state's 97.1 percent rate. Moreover, the court's "backlog index" (which measures the rate at which a court turns over its pending caseload) for 1998 was 0.21, compared to the statewide ratio of 0.40, which indicates that the 35th District Court was almost twice as efficient as the statewide average. Finally, the 35th District has a new district court facility with four judicial courtrooms, one of which is used by the court's magistrates. The freestanding facility was built to accommodate anticipated future growth. The 35th District covers 73.7 square miles across Wayne and Oakland Counties, and its total population increased by 21.5 percent between 1990 and 1998. Anticipated population growth is estimated to be 14.3 percent district-wide over the next ten years.

Similarly, while the 63rd District Court also currently has two judges, on all three workload factors (weighted caseload, average caseload, and

regression) the estimated judicial workload calls for 3.80, 3.82, and 3.64 judges for each of the factors. The 47,649 total new cases filed in the 63rd District Court in 1998 represented an increase of 18.0 percent from 1990, compared to the 8.3 percent increase in new filings statewide for the same period. The 23,825 new filings per judge in the district, moreover, was 85.7 percent greater than the statewide average filings per judge of 12,832. The 63rd District Court's clearance rate was 84.9 percent, which was lower than the statewide 97.1 percent rate, though the court's backlog index for 1998 was 0.17, compared to the statewide ratio of 0.40. The population in Kent County increased by 11 percent between 1990 and 2000 (to approximately 550,000 people), and the SCAO estimates that the county population will increase by an additional 20 percent in the next twenty years.

Although the remaining district courts that would be affected by the bill do not appear in the SCAO's February 2000 *Judicial Resources Recommendations*, the state supreme court's 2000 Annual Report does have figures on the number of judges each judicial district should have (according to weighted caseload, average caseload, and regression analysis), compared to the actual number of judges in each district. (See BACKGROUND INFORMATION.) The bill would abolish the 29th District (the city of Wayne), which has one judge, and add the city and its judge to the 18th District (the city of Westland), which has two judges. By merging the two districts, the new 18th District would have a total of three judges, which, while less than the total of the workload factors for each district added together, still would result in a number closer to the sum of each district's respective factors. The 30th District (Highland Park) currently has two judges, but according to the workload factors, this number should be closer to one. By reducing the number of judges in the 30th District by one, the bill would more nearly approximate the workload factor numbers for the district. Similarly, the 31st District (Hamtramck), which currently has two judges, also would lose one judge under the bill to more closely approximate the workload factors for the district. The 50th District (Pontiac) also would lose one of its four judges under the bill to more nearly approximate its workload factor numbers. Finally, by abolishing the 45th B District, merging it with the 45th A District, and reducing the total number of judges to two, the bill would more nearly approximate the sums of the workload factors for the two districts. Thus, the bill would adjust judicial resources to more closely match the changing judicial needs of a number of judicial districts as indicated by

the workload factors calculated by the State Court Administrative Office.

Response:

While it is true that the bill would more nearly approximate the actual number of district judges with workload factor figures as listed in the supreme court's 2000 Annual Report, the SCAO has not (or at least not yet) done the second step in the process of reviewing districts and recommending changes in judgeship figures (namely, the extended analysis). Shouldn't legislation proposing to add or eliminate district judgeships wait until the SCAO has completed its two-step process?

Secondly, however, if the legislature chooses to change the number of judgeships in judicial districts based only on the SCAO's preliminary statistical analysis and not on its extended analyses of the particular courts, why choose just these specific districts? According to the supreme court's 2000 Annual Report, some other second and third class district courts in the state appear to have more, or fewer, judges than their workload factors would seem to indicate they need. If the bill's proposal to increase and decrease the number of judges in certain districts is based on the workload factors and not on SCAO recommendations, why not also include these other district courts?

For:

According to a May 9 *Detroit News* article, the governor ordered that the legislature take away a judgeship for each new judgeship it added. The bill would adhere to the governor's order by eliminating four judgeships, and adding only two new judgeships. Presumably, the bill also then could clear the way to implement the addition of a new judgeship to the 47th District (Farmington and Farmington Hills) allowed by Public Act 448 of 2000 (which allows for this only if the SCAO reviews and recommends the addition to the legislature, the legislature enacts "subsequent" legislation to that effect, and a district court judgeship is eliminated in the state).

Response:

The three branches of state government – executive, legislative, and judicial – are separate and equal branches of government. While the legislature may decide to consider the governor's wishes about the statutory addition and deletion of judges, in the end it is up to the legislature to decide this issue, not the governor.

Against:

Since the State Court Administrative Office's report and recommendations won't be available until August, later this year, no information is available on the other district courts that would be affected by the bill. And although there is information on the 35th and 63rd District Courts, that information is over a year old. Until updated, current information is available on all of the courts that would be affected by the bill, the bill should not pass.

Against:

Shouldn't the courts that would lose judgeships under the bill be given the opportunity to provide input before those judgeships are eliminated? According to a May 30, 2001 *Oakland Press* article, when the one judge in the 45th A District in Berkley called the state supreme court and the State Court Administrative Office, upon learning of the bill's proposal to abolish the 45th A District and merge it with the 45th B District minus one judge, he is quoted as saying that neither the supreme court nor the SCAO knew of the changes proposed in the bill. The article, moreover, reports that the two judges in the 45th B District handled more than 27,000 cases in 1999 and added a weekly session of night court to help manage the docket. Reportedly, one of the two judges in the district said that he didn't think that the two districts combined could manage the caseload with just two judges.

Response:

The bill would eliminate one of the three judgeships if and when the 45th A and 45th B Districts were combined only if all of the local units of government in the judicial district agreed to the proposed merger, so there would be local input into the proposed change.

Reply:

Even if the local units of government involved in the 45th A and 45th B judicial districts would have the final say in whether or not the districts were merged and one of the three current judgeships were eliminated, what about the proposed elimination of the three other judgeships in the 30th (Highland Park), 31st (Hamtramck), and 50th (Pontiac) judicial districts? The bill would give neither the courts nor the local units of government involved any say in the elimination of one judge from each of these judicial districts. Is this fair? And is it fair to eliminate these judgeships just so two (and potentially three, if the 47th District were included under last session's Public Act 448) judgeships can be added elsewhere in the state? If the legislature decides not to add any new judgeships without eliminating the same number of judgeships somewhere else in the state, surely it

would be reasonable to consult with the districts and local units of government involved and to wait for the extended analyses and recommendations of the State Court Administrative Office.

POSITIONS:

District judges from the 35th District Court testified in support of the bill. (5-22-01)

The president of the Michigan District Judges Association (and chief judge of the 50th District Court) expressed concern about the bill. (5-22-01)

The Office of the Chief Justice of the Michigan Supreme Court has no position on the bill at this time. (6-4-01)

Analyst: S. Ekstrom

■ 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.