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BILL



ANALYSIS

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House Bill 5124 (Substitute H-4 as passed by the House)
Sponsor: Representative Kevin Cotter
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 6-12-12

CONTENT

The bill would amend the Revised Judicature Act (RJA) to do the following:

- **Require plans of concurrent jurisdiction in judicial circuits to be adopted by majority vote of all the judges, rather than allowing such plans to be adopted by a majority vote of each group of judges.**
- **Allow a plan of concurrent jurisdiction to include agreements involving the operation of the participating trial courts, as approved by the Supreme Court.**
- **Specify that a concurrent jurisdiction plan that was adopted, approved by the Supreme Court, and in effect on December 31, 2012, would be valid and in compliance with the bill's requirements.**
- **Specify that a plan of concurrent jurisdiction would be effective upon the Supreme Court's approval of the plan.**
- **Delete exceptions to concurrent jurisdiction, which give exclusive jurisdiction over certain matters to the probate or district court.**

The bill also would repeal a section of the RJA dealing with plans of concurrent jurisdiction in counties in which the probate judges have the jurisdiction, powers, duties, and titles of a district judge.

Trial Court Concurrent Jurisdiction

Most Counties. Under Chapter 4 (Trial Court Concurrent Jurisdiction) of the RJA, within a county or judicial circuit, subject to the approval of the Supreme Court and limitations specified in the RJA, a plan of concurrent jurisdiction may be adopted by a majority vote of each of the following groups of judges of the participating trial courts in that circuit:

- The circuit judges, the probate judges, and the district judges.
- The circuit judges and the probate judges.
- The circuit judges and the district judges.
- The probate judges and the district judges.

(This provision does not apply to Genesee, Ingham, Kent, Macomb, Oakland, Washtenaw, or Wayne County.)

Under the bill, within each judicial circuit (other than the excluded counties) and subject to the Supreme Court's approval and limitations specified in the Act, the judges of the trial

courts would have to adopt a plan of concurrent jurisdiction by a majority vote of all of the judges of the trial courts in the plan, unless a majority of the judges in that circuit voted not to have a plan of concurrent jurisdiction. If a majority of all of the judges voted not to have a plan of concurrent jurisdiction, the chief judge of the circuit court of that judicial circuit would have to report the results of the vote to the State Court Administrator.

Chapter 4 allows a plan of concurrent jurisdiction to provide for the exercise of shared jurisdiction between the courts in the plan in various combinations. Under the bill, if there were multiple district court districts within the judicial circuit, one or more district judges could exercise the power and jurisdiction of a judge of another district within the judicial circuit.

Select Counties. Under Chapter 4, within Genesee, Ingham, Kent, Macomb, Oakland, Washtenaw, and Wayne Counties, the circuit judges and the probate judges, subject to approval by the Supreme Court and limitations contained in the RJA, may adopt one or more plans of concurrent jurisdiction for the circuit court and probate court by majority vote of each group of judges.

Under the bill, with the approval of the Supreme Court and subject to the RJA's limitations, the judges would have to adopt one or more plans of concurrent jurisdiction by majority vote of all the circuit and probate judges, unless a plan had been adopted under other provisions of the RJA or a majority of all the circuit and probate judges in the county voted not to have a plan of concurrent jurisdiction. If a majority voted not to have a plan of concurrent jurisdiction, the chief judge of the circuit court would have to report the results of that vote to the State Court Administrator.

Currently, within Genesee, Ingham, Kent, Macomb, Oakland, and Washtenaw Counties, the circuit judges, the probate judges, and the district judges in the county-funded district court districts, subject to the approval of the Supreme Court and limitations contained in the RJA, may adopt one or more plans of concurrent jurisdiction for the participating trial courts in the county by a majority vote of each group of judges.

Under the bill, with the approval of the Supreme Court and subject to the RJA's limitations, the judges would have to adopt one or more plans of concurrent jurisdiction by majority vote of all of the district judges in the county-funded district court districts and the circuit judges and probate judges in the county, unless a plan of concurrent jurisdiction had been adopted under other provisions of the RJA or a majority of all of the judges voted not to have a plan of concurrent jurisdiction. If a majority voted not to have a plan of concurrent jurisdiction, the chief judge of the circuit court would have to report the results of that vote to the State Court Administrator.

Currently, within the specified counties, the circuit judges, the probate judges, and the district judges in one or more district court districts may adopt one or more plans of concurrent jurisdiction for the participating trial courts in the county, by majority vote of each group of judges and subject to approval by the Supreme Court and limitations in the RJA.

Under the bill, the judges could adopt a plan of concurrent jurisdiction by a majority vote of all of the judges of the trial courts in the plan. If there were multiple district court districts within the county, one or more district judges could exercise the power and jurisdiction of the judge of another district court district within the county.

Currently, a plan of concurrent jurisdiction involving districts of the third class may include an agreement as to the allocation of court revenue, other than revenue payable by statute to libraries or State funds, and court expenses. This agreement is subject to approval by the county board of commissioners and by each local funding unit of each participating

district. Under the bill, if the plan of concurrent jurisdiction involved only districts of the third class, the agreement would be subject to approval by each local funding unit of each participating district of the third class.

(A district of the third class is a district consisting of one or more political subdivisions within a county and in which each political subdivision comprising the district is responsible for maintaining, financing, and operating the district court within its respective political subdivision except as otherwise provided in the RJA.)

All Counties. The RJA allows a plan of concurrent jurisdiction to provide for the transfer or assignment of cases between the trial courts affected by the plan and to individual judges of those courts as necessary to implement the plan and to distribute the workload fairly among the judges. Under the bill, a plan of concurrent jurisdiction also could include agreements as to other matters involving the operation of the trial courts participating in the plan, as approved by the Supreme Court.

The bill specifies that a concurrent jurisdiction plan that was adopted, approved by the Supreme Court, and in effect on December 31, 2012, would be considered valid and in compliance with the requirements of Chapter 4.

Currently, a plan of concurrent jurisdiction adopted under Chapter 4 becomes effective on the first day of the month at least 90 days after the approval of the Supreme Court. Under the bill, a plan of concurrent jurisdiction would become effective upon the Supreme Court's approval of the plan.

Jurisdictional Exceptions

Currently, in a judicial circuit in which the circuit court is affected by a plan of concurrent jurisdiction adopted under Chapter 4, the circuit court has concurrent jurisdiction with the probate court or the district court, or both, as provided in the plan, except that the probate court has exclusive jurisdiction over trust and estate matters, and, except as provided in Section 411 (which the bill would repeal), the district court has exclusive jurisdiction over small claims and civil infraction actions. The bill would delete those exceptions.

In a judicial circuit in which the probate court is affected by a plan of concurrent jurisdiction adopted under Chapter 4, the probate court has concurrent jurisdiction with the circuit court or the district court, or both, as provided in the plan, except as to certain matters. One of those exceptions is that, except as provided in Section 411, the district court has exclusive jurisdiction over small claims and civil infraction actions. The bill would delete that exception.

In a district court affected by a plan of concurrent jurisdiction adopted under Chapter 4, the district court has concurrent jurisdiction with the circuit court or the probate court, or both, as provided in the plan, with exceptions for certain matters. The bill would delete from those exceptions that the probate court has exclusive jurisdiction over trusts and estates.

Repeal

Section 411 of the RJA allows a plan of concurrent jurisdiction to provide that a probate judge in certain counties has the jurisdiction, powers, and duties of a district judge within that county, including jurisdiction over small claims and civil infraction actions and the power of appointment to a public office delegated by constitution or statute to the district judge. The bill would repeal this section.

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on local courts. Some courts, by majority vote of all seated judges in that jurisdiction, would choose not to adopt a concurrent plan and there would be no fiscal impact. For courts that chose to adopt a concurrent jurisdiction plan, there could be long-term savings due to more efficient operations, although there also could be some minor initial costs to linking operations, such as software or personnel training.

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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.