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Senate Bill 408 (as introduced 5-4-21)
Sponsor: Senator Roger Victory
Committee: Judiciary and Public Safety

Date Completed: 5-12-21

CONTENT

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

- **Allow a party to seek relief from a circuit court judgment entered in a civil action based on a jury verdict on certain grounds, including newly discovered evidence, or fraud or misconduct of an adverse party.**
- **Allow an opposing party to file an appeal of right to the Michigan Court of Appeals if a circuit court order granted relief.**
- **Require an opposing party to file an appeal of right within 42 days before the date the circuit court had ordered a new trial to start.**
- **Require the Court of Appeals to take appropriate steps towards ensuring a timely processing of an appeal of right.**
- **Specify that the bill would not apply to review of verdicts in actions alleging personal injury or medical malpractice.**

Appeal of Right

The bill would apply only if a party sought relief from a circuit court judgment entered in a civil action based on a jury verdict on any of the following grounds:

- Mistake, inadvertence, surprise, or excusable neglect.
- Newly discovered evidence.
- Fraud, misrepresentation, or other misconduct of an adverse party.
- That the judgment was void.
- Another reason that the party believed justified relief from the operation of the judgment.

(Generally, circuit courts handle all civil cases with claims of more than \$25,000 and all felony criminal cases.)

If a circuit court order granted relief to a party as described above, an opposing party could file an appeal of right from that order to the Michigan Court of Appeals. Action in the circuit court would have to be stayed while the matter was on appeal. An opposing party could file an appeal of right within 42 days before the date the circuit court had ordered a new trial to start.

In an appeal of right to the Court of Appeals, the Court would have to take appropriate steps toward ensuring, consistent with the appellate court rules, a timely processing of the appeal.

The bill would not apply to an action to which Section 6098 applied. (That section requires a judge presiding over an action alleging medical malpractice to review each verdict to determine if the limitation on noneconomic damages applies. If the limitation applies, the court must set aside any amount of noneconomic damages in excess of the amount allowed. Section 6098 also requires a judge presiding over a personal injury action to review each verdict returned by a jury and do one of the following: a) concur with the award; b) order a new trial within 21 days of the judgment, upon motion by any party; c) order a new trial within 21 days on its own initiative; or order a new trial within 14 days if it finds that the only error in the trial is the inadequacy or effectiveness of the verdict.)

Legislative Findings

The bill states that the Legislature finds all of the following:

- The right to trial by jury, as preserved by the Michigan Constitution, is sacrosanct and the decisions of juries should not be discarded lightly.
- It is the public policy of the State that litigants be afforded the highest possible degree of certainty that jury verdicts will be respected and enforced.
- The bill is intended to be remedial.

Proposed MCL 600.309a

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill could have a negative fiscal impact on the State and local circuit courts.

The bill would add an additional appellate procedure to circuit court civil litigation in which a jury trial renders a verdict. According to the 2019 Court Caseload Report issued by the State Court Administrative Office, there were 215 civil jury verdicts in circuit courts statewide for that calendar year (39 of these were medical malpractice jury verdicts, which would be exempted in the bill's language). As such, the bill could allow for roughly 200 additional post-judgment requests for relief from jury verdicts annually. It is unknown what type of process would be used to grant or deny a request for relief from a civil judgment in circuit court but, assuming it would be through post-judgment motion, this could add additional court costs to circuit courts statewide.

It also should be noted that for circuit court civil matters, the Michigan Court Rules (MCR) allow for motions for new trials and provide an existing framework and set of procedures to accommodate those motions. For civil trials, MCR 2.611 permits any party to move for a new trial, or to amend a judgment, within 21 days after the entry of a judgment under a variety of circumstances, including new evidence, jury misconduct, error of law or fact, and other reasons. A sitting judge also may order a new trial on his or her own initiative if he or she feels it is warranted.

Fiscal Analyst: Michael Siracuse

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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.