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MUNICIPAL COURTS: APPEALS, JURISDICTION

House Bill 5268 (Substitute H-1)
Sponsor: Rep. Andrew Richner

House Bill 5271 as introduced
Sponsor: Rep. William Callahan

Senate Bill 752 as passed by the Senate
Sponsor: Sen. Joe Young, Jr.

First Analysis (3-12-98)

Committee: Judiciary

THE APPARENT PROBLEM:

When the District Court Act took effect in 1969, the district court became the court of limited jurisdiction, replacing justices of the peace, police courts, the common pleas court of Detroit, the Traffic and Ordinance Division of Detroit Recorder's Court, and most municipal courts. However, the act had a provision that allowed cities to keep their municipal courts if they adopted a resolution to that effect, and currently there are five municipal courts: Grosse Pointe, Grosse Pointe Woods, Grosse Pointe Farms, Grosse Pointe Park, and Eastpointe. (In addition, the village of Grosse Pointe Shores, which has no court of its own, may be serviced by surrounding municipal courts.)

Municipal courts generally have the same jurisdiction as district courts. They handle certain civil cases and have "conciliation divisions" comparable to district courts' small claims court. Both district and municipal courts also handle certain criminal cases: specifically, one-year misdemeanors and preliminary examinations for felonies and higher misdemeanors. A 1973 amendment (Public Act 22) to the Revised Judicature Act made all district courts "courts of record," which means that district court proceedings are officially recorded by a court recorder, and appeals from district court to circuit court are made on the record of the district court proceedings, not as a new trial ("trial *de novo*"). However, since municipal courts are not courts of record (apparently officially recording only preliminary examination proceedings), all municipal court appeals to the circuit court are conducted as completely new trials.

Some people believe that the civil jurisdictional limits of the municipal courts should be increased and that appealable municipal court cases should be made on a record if the city paying for the court agrees to pay any additional costs incurred as the result of such a change.

THE CONTENT OF THE BILLS:

The bills would increase the jurisdictional amounts for municipal courts and would make all appeals, both civil and criminal, from municipal courts to the circuit court on a record (that is, official transcript of the municipal court proceeding), if approved by a city resolution, rather than as a new trial ("trial *de novo*") as is currently the case.

House Bill 5268 would amend the Michigan Uniform Municipal Court Act (MCL 730.522 and 730.530) to increase the civil jurisdiction of municipal courts from \$1,500 to \$3,000 and the jurisdiction of the conciliation division of municipal courts from \$100 to \$600. If enacted, the bill would take effect on July 1, 1998, and is tie-barred to Senate Bill 752 and House Bill 5271.

Senate Bill 752. Currently, under the Michigan Uniform Municipal Court Act (MCL 730.523 and 730.523a) municipal court criminal cases (which are either one-year misdemeanors or preliminary examinations for felonies and higher misdemeanors) may be appealed as a matter of right (except for guilty

or no contest pleas) to the circuit court, where the appeal is conducted in the circuit court as a new trial.

The bill would amend the act to require that both civil and criminal appeals from municipal courts be taken to the circuit court and would prohibit municipal court appeals from being *de novo* trials in circuit court if the city council that maintained the municipal court agreed, by resolution, to assume any financial obligations that might arise out of this change (which basically would be those arising from the transcription of the municipal court proceeding). The city council resolution would not be valid unless it was adopted and submitted to the State Court Administrative Office (SCAO) not later than 180 days after the bill took effect. These changes would apply both to actions pending in municipal courts when the bill took effect or actions commenced on or after that date. The bill is tie-barred to Senate Bill 753 (which was not reported from the House Judiciary Committee, but which, as introduced, was identical to House Bill 5271, below).

House Bill 5271 would amend the Code of Criminal Procedure (MCL 770.2 et al.) to incorporate the changes in the municipal courts appeals process proposed in Senate Bill 752 (above), to which the bill is tie-barred.

That is, the bill would amend the code to provide that there be a right of appeal to the circuit court in municipal court misdemeanor or ordinance violation cases, and that appeals to the circuit court in such cases be made within 20 days after entry of the judgment, if the city in which the municipal court was located had adopted a resolution (described in Senate Bill 752) to assume any local costs of financial obligation that might arise from the change. Otherwise, in cities that didn't adopt such a resolution, the right to appeal municipal court judgements in misdemeanor or ordinance violation cases would continue under provisions that applied to the former "justice" courts. That is, in cities that did not adopt resolutions under Senate Bill 752, defendants convicted in a municipal court of a misdemeanor or ordinance violation would continue to be able to appeal to the circuit court for a new trial.

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

House Bill 5268, as substituted in committee, would raise the jurisdictional limits for municipal courts from their current ceiling of \$1,500 for civil cases and \$100 in their conciliation divisions to \$3,000 and \$600 respectively. In comparison, the civil jurisdiction of district courts, which originally was \$3,000, was recently increased from \$10,000 to \$25,000, while the jurisdiction of the district courts' small claims division, which originally was \$300, currently is \$1,750 (and under current legislation would be raised either to \$2,000 by House Bill 5345 or \$3,000 by Senate Bill 226). Increasing the civil jurisdiction of municipal courts would allow them to continue to resolve relatively modest civil controversies in a local -- and cheaper -- forum than would be the case in circuit court. Given the effects of inflation over time, it is reasonable to increase the civil jurisdictional limits -- and "conciliation" limits -- of the municipal courts.

For:

Municipal courts do not cost the state anything to operate, since they are paid for by their respective cities, and, not being courts of record, are relatively inexpensive to operate, since a court reporter is not required except for preliminary examinations for felonies or high misdemeanors. Senate Bill 752 and House Bill 5271 would make all municipal court appeals to the circuit court "on record" (where the circuit court reviews the record of the case from the lower court rather than conducting a new trial), if the city agreed to pay any additional costs of transcribing their appealable proceedings. This certainly would save the state money, and would save both time and court resources, while avoiding any possible Headlee implications for the state.

Against:

The bills would move in diametrical opposition to a 30-year effort to unify the courts and to eliminate courts, including probate courts, where part-time judges can practice law. Rather than enhance the status of municipal courts, they should be encouraged to integrate into the district court system that the rest of the state has adopted over the past three decades. With the extensive court reorganization undertaken by the legislature last session, Detroit Recorder's Court was

eliminated, with people arguing that it was an anomalous court that should be standardized into the circuit court system. Surely if a prestigious court going back over 100 years and with such a distinguished record was abolished to "standardize" Michigan's court system, then the remaining five anomalous municipal courts, too, should be abolished and replaced with standard district courts.

Response:

The five municipalities in question have obviously been reluctant to convert to the district court system (although Eastpointe apparently supported legislation, House Bill 5711 of 1993, vetoed by the governor), and because municipal courts don't cost the state any money (unlike Detroit Recorder's Court, which was funded by the state in the same way as the circuit court), there seems little pressing need to abolish them at this time.

POSITIONS:

The City of Grosse Pointe Park supports the bills. (3-11-98)

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.