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COURT LOCATIONS

Senate Bill 851 (Substitute H-2)
First Analysis (5-3-94)

Sponsor: Sen. William Van Regenmorter
Senate Committee: Judiciary
House Committee: Judiciary

THE APPARENT PROBLEM:

Public Act 189 of 1991 amended the Revised Judicature Act (RJA) to allow the chief probate judge of a county, subject to the approval of the county board of commissioners and the state court administrator, to designate one or more locations in the county (in addition to the county seat) in which probate sessions may be held. Public Act 189 enabled Ottawa County to hold sessions of the probate court in a new facility that is more centrally located than Grand Haven, Ottawa's county seat. The RJA also requires, however, that a probate judge maintain an office at the county seat. Since the Ottawa County Probate Court is to hold sessions at the county's new criminal justice center and not in Grand Haven, many have urged the elimination of the law's requirement that a probate judge maintain an office at the county seat.

In addition, another problem has arisen regarding the RJA's requirements on court locations. Under the Revised Judicature Act, a district court of the second class consists of a group of political subdivisions within a county, and the county is responsible for maintaining, financing, and operating the court. The act requires a district court of the second class to sit at the county seat and at each city and village with a population of at least 3,250, except that where two or more cities or villages are contiguous, the court need only sit in the municipality having the greater population. Population shifts identified by each decennial census may periodically put courts out of compliance, but apparently this generally has not been much of a problem unless a new courthouse or other relocation is planned. In such situations, strict compliance with the law becomes more of an issue.

In Oakland County, plans for a new courthouse for the 52nd district court recently led to controversy. (The 52nd district court is the second largest district court in the state, and consists of various communities in western Oakland County.) By law,

the court would have to sit in the most populous of the qualifying contiguous cities, which apparently is Novi. However, early in 1993 Novi and Walled Lake (where the court was sitting) were competing for the new court facility, with local officials arguing the benefits of their particular preferences. The Oakland County Board of Commissioners voted in April 1993 to locate the new facility in Novi. The City of Walled Lake challenged that decision in Oakland County Circuit Court, and the suit was ultimately settled out of court, with the Oakland County board approving the ensuing consent judgment in March 1994. Plans reportedly are going forward to build the new facility in Novi.

The situation in Oakland County served to bring fresh attention to the population-based statutory requirements on district court locations. Those requirements date to 1968, and are perceived by many to be outmoded and unnecessarily rigid. A revision has been proposed.

THE CONTENT OF THE BILL:

The bill would amend the Revised Judicature Act to delete language that requires a probate judge to maintain an office in the county seat of each county and allows an office to be maintained in any city where sessions of the circuit court are held. That language would be replaced with language that would require sessions to be held in the county seat unless an alternative primary location was designated as provided by Public Act 189 of 1991, and that would allow sessions to be held in any city where the circuit court held sessions. The bill would retain language that says that the probate court may maintain an office at any place where sessions of the probate court are held. The bill would in addition specify that nothing in these provisions would prohibit a judge from holding a hearing regarding a legally incapacitated person at any site deemed appropriate by the court as

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provided by the applicable section of the Revised Probate Code.

The bill also would amend the RJA to revise the method of determining where a district court of the second class sits. Currently, the law requires the court to sit at the county seat and at each city and incorporated village with a population of at least 3,250, except that where two or more cities or villages are contiguous, the court need only sit in the city having the greater population. The court does not have to sit in any political subdivision if the court and the municipality agree that the court is not to sit there. If the district does not contain a county seat or municipalities of the minimum size, the court is to sit at a place or places determined by the judges of the district.

The bill would retain these requirements for Macomb County only, and specify that in counties other than Macomb, the court would sit at the county seat, and at either the political subdivisions where it was sitting when the bill took effect or at a place or places determined by the district control unit (the county), subject to the approval of the chief district judge and the supreme court. In making the determination, the county would have to consider cost, proximity to the population center of the district or division, and accessibility to litigants, witnesses, jurors, and law enforcement officers.

A provision that also allows a court to sit at a county seat outside the district would be retained, with modification. In such situations, the act requires the court to sit at least once each week within the district, unless the district does not contain any city, in which case the court sits at the county seat only. The bill would delete the exception for districts that do not contain cities.

The bill also would retain a provision that allows the court to sit in places within the district determined by the district's judges, in addition to the other places required by the act.

MCL 600.816 and 600.8251

HOUSE COMMITTEE ACTION:

The Senate-passed version of the bill simply deleted the requirement that a probate judge maintain an office at the county seat of each county.

BACKGROUND INFORMATION:

Counties containing district courts of the second class include Oakland, Macomb, Genesee, Washtenaw, Ingham, Kent, and Kalamazoo.

FISCAL IMPLICATIONS:

With regard to the Senate-passed version of the bill (which was limited to the probate court), the Senate Fiscal Agency said that the bill would have no fiscal impact on the state, and that local impacts would depend on area rents and other costs associated with maintaining an office, which would vary by locality. (10-5-93)

With regard to House Bill 4347, which is virtually identical to the substitute bill's provisions regarding district courts, the House Fiscal Agency said that the bill would have no fiscal impact. (5-5-93)

ARGUMENTS:

For:

Since Public Act 189 of 1991 amended the RJA to allow alternative locations of sessions of a county's probate court, a probate judge should no longer be subject to a strict requirement that he or she maintain an office at the county seat. The bill would instead link office locations to court locations, saying simply that a probate judge may maintain an office at any place where sessions of the probate court are held.

For:

The population requirement for determining where a district court of the second class must be located apparently was intended to accommodate rural areas which had been accustomed to the convenience of the justice of the peace system. Major population growth and shifts in population have occurred since that time, however; townships have become cities, and some villages have grown to exceed the 3,250 population mark. The formula results in requiring some counties to fund additional court locations they cannot afford, or in their being intentionally or unintentionally out of compliance with the law.

The bill would put the decision for a local matter into the hands of local officials. In determining court location, it is the local officials who are in the

best position to know local law enforcement concerns, facility needs, traffic problems, and citizen convenience, not to mention local costs, which are borne by the county. State and judicial interests in meeting court needs and maintaining a single court of justice (as required by the constitution) would not be ignored, however: a county-determined court location would have to meet with the approval of the supreme court and the chief judge of the district.

The bill proposes a process similar to those recently enacted for locating additional probate and circuit courts. Further, it would leave the current provision intact for Macomb County; officials from Macomb reportedly have negotiated a solution regarding a temporary courthouse in that county and fear that changing the statutory requirements at this point would disrupt the agreement that has been reached.

Response:

The bill would affect only district courts of the second class; similar population-based formulas would continue in effect for district courts of the first and third class. Perhaps these should be scrutinized, as well.

Against:

It is with good reason that statute puts the court location in the largest city, for that is where most of a court's business comes from. Putting the court in the largest city typically means greater convenience for more citizens and police than might be afforded by an outlying location. Setting forth this requirement in statute prevents development of needed new facilities from being stalled by local disputes and county difficulties in resolving them. By allowing the county to decide the location of a district court of the second class, the bill would generate delays and make the decision process vulnerable to local political maneuvering.

POSITIONS:

The Michigan District Judges Association has no position on the bill.