

Reform on the Way . . .

Legislators Tackle Court Bills, Face Jan. 1 Deadline

Suburban areas will be swept into any new court structure devised by the Michigan Legislature under the command of the 1963 constitution to upgrade the judicial system.

The Legislature has left the problem on the back burner while tackling fiscal reform and state budget problems.

Legislative leaders plan a six-length special session in October to iron out the court issue. Two plans have been developed.

Following are analyses of the two plans as prepared by the Legislative Service Bureau research section:

TOTAL REORGANIZATION
The Joint Committee for

Minor Court Reorganization was created in 1963 for the purpose of drafting legislation which meets the requirements of the Michigan Constitution.

The Governor, Legislature, Michigan Supreme Court and the Michigan State Bar all participated in selection of committee members.

The committee said a sound and effective minor court system could be attained only by unification through elimination of as many separate tiers of courts as possible.

Guided by this objective, the committee sought to abolish a number of lower courts in its proposed legislation. They include justices of the peace, circuit court commis-

sioners, municipal courts, police courts, common pleas courts and traffic court.

Their functions and duties will be transferred to the new district courts. In addition, the Recorder's Court of Detroit will be abolished and its judges and duties transferred to the circuit court.

The circuit courts and probate courts shall continue as separate systems.

Under the proposed legislation, the district courts will be divided into 53 districts for purposes of election and administration. These districts are basically similar to the circuit court districts.

Each district will encompass an entire county except in the less populated areas where two or more

counties will form a district.

For example, the counties of Alcona, Montmorency and Presque Isle will be combined to form the 43rd district.

The number of judges per district will range from a minimum of one to a maximum of 12 (Wayne County).

The 45th district will have two judges. Wayne County would be divided into 19 divisions — one of these would consist of the City of Livonia and would have two judges. To hold office as a district court judge, a person will have to be under 70 years of age and a member of the Michigan State Bar.

He will have to devote full time to his judicial duties, for which he will receive a salary of \$20,000 a year from the state. The county, through action of its board of supervisors, will be able to pay a supplemental salary not exceeding two-thirds of any supplemental compensation paid by the county to its circuit judges. Individuals will not be able to practice law while serving as district judges nor receive any fees other than their salary.

Present municipal judges and justices of the peace will be entitled to seek office as a district judge only if they are admitted to the bar. They would be entitled to an incumbency designation on the ballot showing the existing office in which they now serve.

Classified civil service employees in present minor courts will be given a similar position in the district courts. Provision will be made for preferential treatment in securing employment in the new courts for all other current employees.

Under the proposed plan, administration of the district courts is left to the Michigan Supreme Court through its court administrator working in conjunction with the judges of the district courts. This includes preparation of programs for the proper administration of justice and control of employees.

With respect to jurisdiction, in civil matters, the district courts will have exclusive jurisdiction in suits up to \$1,000 and concurrent jurisdiction with the circuit courts in claims of \$1,000 to \$5,000.

Summary proceedings in rent cases and land contract foreclosures which presently are tried before circuit court commissioners will be tried in the district courts. Provision is also made for trying in the same suit claims for money owing arising out of possession of the property.

In criminal cases, the district court will have jurisdiction in misdemeanors involving fines of not over \$500 or jail sentences of not to exceed 90 days. All traffic offenses other than those constituting felonies or high misdemeanors will be handled in the district courts.

The district courts will also hear all matters involving ordinance violations. In addition, arraignments and preliminary examinations in all criminal cases will be handled in the district court.

Under the proposed legislation, all appeals from the district court will be taken to the Court of Appeals on the record made in the district court.

Since the qualifications of the judges will be raised, the committee felt there was no need of continuing the present practice of having a new trial in circuit court.

One area which does not resolve in the proposed plan does not resolve in the present plan is the more apportionment between the

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state and local governments of the considerable revenue which will be collected by the district courts from traffic fines and fines for ordinance violations.

The state has a basic claim to these collected sums since it will be paying the entire cost of the system, including salaries, under the proposed plan.

However, many municipalities are dependent for considerable revenue from present collections even after all expenses have been paid. A tentative proposal calls for division of the monies between the municipalities and the state where the offense is a violation of local laws.

Fines imposed for violation of state penal laws shall be paid to the county and applied for library purposes. All costs in criminal cases will be paid to the state treasurer.

PARTIAL MODIFICATION

This proposal supported by the Michigan Justices of the Peace Association seeks to establish a county court system which will include one or more district courts in each county. District boundary lines will be fixed by the circuit court of each county. No court district may exceed an area of 144 square miles. Cities not having a municipal justice court, a municipal court, a court of common pleas or recorder's court may establish a district court. Since Livonia has a municipal justice court, it would not be affected.

The number of judges in each district will be prescribed by the county board of supervisors subject to minimum based on population.

Where new judges have to be added or a vacancy occurs prior to an election, such appointments shall be made by the board of supervisors.

A candidate for district judge will have to be an elector and resident of the district in which he seeks election on a nonpartisan basis. He will have to pass a qualifying examination similar to that required of present justices of the peace. The proposed legislation contains a requirement of periodic in-service training for all district judges.

District judges will be paid a salary of \$20,000 a year by the county. The district judge will also keep all fees for the performance of major ceremonies. Any individual will be barred from practicing law while serving as a district judge.

Jurisdiction of the district courts under this plan would be in accordance with existing law providing for existing local minor courts. One major change increases the jurisdictional amount from the current \$300 to \$1,000.

Unlike the plan submitted by the Joint Committee for Minor Court Reorganization, the plan's proposal makes no change in the present appellate process. Hence, the additional step of appeal to the circuit court as required by existing law, will continue.

All fees received by the district court in civil and criminal cases will be paid to the county general fund except for the fees noted above, i.e., marriage fees, which will be retained by the district judge. Supposedly, court expenses and salaries will be paid from these fees by the county. However, it is questionable if the fees will be adequate to meet expenses, particularly the judge's salary, in the more sparsely populated counties.

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