

Legislative Analysis



MODIFY STORAGE REQUIREMENTS FOR RECORDING OF HEARING INVOLVING MINOR

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 705 without amendment

Sponsor: Sen. Rick Jones

House Committee: Judiciary

Senate Committee: Judiciary

Complete to 9-19-14

A SUMMARY OF SENATE BILL 705 AS REPORTED BY COMMITTEE 9-11-14

Under Senate Bill 705, in a case involving a minor in which a record of the hearing is kept by a recording device, the recording of the hearing would be maintained as prescribed by rules of the Michigan Supreme Court.

Currently, Section 17a of Chapter XIIA of the Probate Code (Jurisdiction, Procedure, and Disposition Involving Minors) requires the tape of the hearing to be stored "as a permanent record of the court." However, Public Act 199 of 2013 amended the Revised Judicature Act to require the State Court Administrative Office to establish and maintain records management policies and procedures for the courts, including a records retention and disposal schedule, in accordance with Michigan Supreme Court rules.

The bill also makes a technical clarifying amendment. Section 17a specifies that in a case in which a record of the hearing is kept by a recording device, "no transcription need be made" of the hearing in the absence of a request by an interested party. This provision would be rewritten to say that "a transcription of the hearing need not be made" in the absence of a request by an interested party.

MCL 712A.17a

FISCAL IMPACT:

The bill would not appear to have a fiscal impact on state or local government.

A BRIEF DISCUSSION OF THE ISSUES:

According to committee testimony, the bill is a follow-up to legislation that has already become law regarding digital court records. On January 1, 2013, amendments to Rule 1.109 of the Michigan Court Rules adopted by the state Supreme Court took effect. Among numerous provisions, the rule changes allow court records and documents to be filed, stored, and managed in electronic, rather than paper, formats. However, several statutory provisions regarding court documents and the authority of the Supreme Court and the State Court Administrative Office to establish policies to manage those

documents needed to be amended in order for a statewide, standardized electronic content management system for courts to be implemented.

Instead of requiring a court to permanently keep a record of a hearing involving a minor, even after any useful purpose has expired (i.e., for use in an appeal), the bill would allow the state Supreme Court to establish an appropriate time period for retention, after which time a recording (in whatever form in which it had been stored) could be destroyed. This is in line with a national trend to create efficiencies in courts, lower costs, stretch funding dollars, and increase public access to court documents by digitizing them.

Some people have noted that though paper documents, VCR tapes, audio tapes, and the like are subject to deterioration if not properly stored (and equipment to access the recordings becoming obsolete), electronic filings are not without their own issues. For example, electronic filings may be more vulnerable to tampering by hackers, can be accidentally deleted, or corrupted by software viruses. It is hoped that the court rules will carefully consider the manner in which documents and recordings should be electronically stored, as well as the retention period, necessary to ensure that the needs of the justice system be preserved.

POSITIONS:

A representative of the Supreme Court Administrative Office (SCAO) testified in support of the bill. (6-5-14)

Legislative Analyst: Susan Stutzky

■ 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.