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SFA**BILL ANALYSIS**

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House Bill 5271 (as passed by the House)
Sponsor: Representative William Callahan
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 9-14-98

CONTENT

The bill would amend the Code of Criminal Procedure to incorporate changes in the municipal court appeals process proposed by Senate Bill 752, to which would allow appeals on the record. House Bill 5271 is tie-barred to Senate Bill 752.

Currently, appeals in criminal cases may be taken as a matter of right from a city's municipal court to the circuit court, and such an appeal is a de novo proceeding (that is, a new trial is required). Senate Bill 752 would amend the Michigan Uniform Municipal Court Act to provide that a city maintaining a municipal court could adopt a resolution that a civil or criminal appeal from the municipal court to the circuit court would not be a de novo proceeding (that is, the circuit court would base its decision on the record of the original trial). The city would have to agree to assume any local financial obligations that could arise out of the appeal.

The Code of Criminal Procedure specifies that, in a misdemeanor or ordinance violation case tried in the district court, there is a right of appeal to the circuit court in the county in which the misdemeanor or ordinance violation was committed. The House bill would include in this provision a case tried in a municipal court in a city that adopted a resolution of approval under Senate Bill 752. Under the Code, in a misdemeanor or ordinance violation case appealable as of right from a court of record to the circuit court, a motion for a new trial must be made within 20 days after entry of the judgment. Under House Bill 5271, this provision also would apply to cases appealable from a municipal court in a city that adopted a resolution under Senate Bill 752.

The Code provides that a defendant who is convicted of a misdemeanor or ordinance violation in a municipal court may appeal to the circuit court for a trial de novo, even if the sentence has been suspended or the fine or costs, or both, have been paid. If a defendant who appeals a conviction in municipal court is found not guilty on appeal in the circuit court, the circuit court must discharge the defendant. If a defendant takes an appeal from a municipal court and withdraws the appeal, or if the circuit court dismisses the appeal, leaving the municipal court conviction in effect, the circuit court may enter an order revoking a recognizance and also may direct that the municipal court's sentence be carried out. Under the House bill, these provisions would apply to a case in a municipal court in a city that did *not* adopt a resolution under Senate Bill 752.

House Bill 5271 states that the changes made to appellate procedures for a municipal court in a city that adopted a resolution of approval under Senate Bill 752, would apply to cases commenced on or after the date on which the resolution was submitted to the State Court Administrative Office.

MCL 770.2 et al.

Legislative Analyst: S. Lowe

FISCAL IMPACT

The bill would have no fiscal impact on State government. The bill would increase costs to municipal courts but result in overall administrative savings due to the reduced time of proceedings in circuit court. There are five municipal courts in Michigan (Eastpointe, Grosse Pointe, Grosse Pointe Farms, Grosse Pointe Park, and Grosse Pointe Shores and Woods).

Fiscal Analyst: B. Bowerman

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