



## Legislative Fiscal Bureau

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February 12, 2020

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 470/Senate Bill 458: Creating 12 New Circuit Court Branches, Allocated by the Director of State Courts

Senate Bill 458 would provide 12 new circuit court branches (four in 2020, 2021, and 2022, respectively), allocated by the Director of State Courts. Senate Bill 458 was introduced and referred to the Joint Committee on Finance on September 27, 2019. A public hearing was subsequently held on October 2, 2019. An amendment to SB 458 was introduced on January 10, 2020. The amendment delays the effective years by one year (instead of four judges each in 2020, 2021, and 2022, the amendment calls for four judges each in 2021, 2022, and 2023).

A companion bill, Assembly Bill 470 (AB 470), was introduced and referred to the Joint Committee on Finance on September 24, 2019. A public hearing was held, along with SB 458, on October 2, 2019. Assembly Bill 470 was subsequently withdrawn from the Joint Committee on Finance and referred to the Committee on Rules on November 7, 2019. An amendment to AB 470 was introduced on November 11, 2019 with the same provisions as the amendment currently attached to SB 458. The bill passed in the Assembly (94-1) with the amendment on November 12, 2019.

### **BACKGROUND**

The circuit court is the trial court of general jurisdiction in Wisconsin, having original jurisdiction in civil and criminal cases, unless that jurisdiction is assigned to a higher court. The Wisconsin Constitution specifies that there will be judicial circuits with judges elected within those circuits. There are currently a total of 69 circuits and 249 branches and judges. In general, each county is its own circuit, except for three, two-county circuits including Buffalo and Pepin, Menominee and Shawano, and Florence and Forest.

The number of court branches (judges) is statutorily determined. Judges are elected on a nonpartisan basis to six-year terms at the spring election and take office the following August 1st. Any vacancies that occur mid-term are filled by the Governor until a successor is elected. Wisconsin

statute 751.02 authorizes each judge to appoint a court reporter to record and transcribe testimony in court proceedings.

The Director of State Courts Office periodically requests the creation of additional circuit court branches primarily based on: (a) a weighted caseload study; (b) district judicial need (the ability for neighboring circuits to cover additional workloads); (c) discussions with chief judges regarding problems handling current caseloads; and (d) the passage of a county board resolution in support of the creation of a new court branch. A summary of the most recent available judicial caseload study (2017), by county, is attached.

## **CURRENT LAW**

Wisconsin currently has 249 circuit court branches, the most recent of which was created in 2007. The last time additional judgeships were created was under 2007 Act 20, when two new judgeships were created in Juneau County and Kenosha County, and 2007 Act 28, when six additional judgeships were created in Barron County, Chippewa County, Dodge County, Green County, Monroe County, and St. Croix County.

Circuit court costs are a shared responsibility between the state and counties. The state assumes the total cost of salaries and fringe benefits for circuit court judges and court reporters, and travel expenses. The state also supports the circuit court automation program (CCAP). Counties are responsible for other circuit court operational costs, including salaries of clerks of court, court commissioners, courtroom security, clerical staff, office supplies, law libraries, jury costs, and other operational costs. The state provides payments to counties to offset some of these costs. In addition, counties are responsible for providing workspace for judges and their staff.

## **SUMMARY OF BILL**

Senate Bill 458 would create 12 additional circuit court branches: four circuit court branches in 2020, four in 2021, and four in 2022. Under the bill, the Director of State Courts would be authorized to add the first four additional circuit court branches, set to begin operation on August 1, 2020, by November 14, 2019. Under the bill, these judgeships would be allocated at the discretion of the Director of State Courts, based on the counties determined to be in need of an additional circuit court branch, if: (a) the county has passed a resolution requesting an additional circuit court branch; and (b) the county has established, or will have established by May 31, 2020, the appropriate infrastructure to support an additional circuit court branch. The Director could also require any county receiving a circuit court branch allocation to have established a drug court, or to apply for a drug court grant [s. 165.955] or a treatment alternatives and diversion (TAD) grant [s. 165.95]. Drug court and TAD grants are currently provided to 50 counties, not including the funding provided to the Lac du Flambeau Tribe in Vilas County and the Menominee Tribe in Menominee County.

Between November 14, 2019, and November 14, 2020, the Director may add four new branches to begin operation on August 1, 2021 and between November 14, 2020, and November 14, 2021, the Director may add four new branches to begin operation on August 1, 2022. These branches would be subject to the same requirements identified above, except that counties without appropriate infrastructure to support an additional circuit court branch must establish such space by May 31, 2021 or May 31, 2022, respectively.

Each new circuit court judgeship would be filled during the spring election preceding the August term. The bill details that funding for the eight circuit court judge positions and eight circuit court reporter positions allocated in 2021 and 2022 must be requested by the Director of State Courts Office in the 2021-23 biennial budget. Further, the bill specifies that the request must include any proposed statutory changes necessary to conform the statutes to account for circuit court branches added under the provisions of the bill.

## AMENDMENT

On January 10, 2020, an amendment to SB 458 was introduced. Instead of four judges each in 2020, 2021, and 2022, the amendment delays the effective years by one year (requiring four judges each in 2021, 2022, and 2023). In addition, funding for the four circuit court judge positions and four circuit court reporter positions allocated in 2023 must be requested by the Director of State Courts Office in the 2023-25 budget. This amendment is identical to the one attached to AB 470 and passed by the Assembly on November 12, 2019.

## FISCAL EFFECT

On September 30, 2019, the Director of State Courts Office submitted a fiscal estimate for AB 470 and SB 458. According to the fiscal estimates, the annual cost for one circuit court branch is \$268,800 GPR and \$6,700 PR. In addition, one-time costs of \$2,500 GPR for judicial materials and \$28,700 PR for computer and CCAP equipment were identified.

In the fiscal estimates, the 2020-21 annual funding identified for one circuit court branch includes: (a) \$268,300 GPR for salaries and fringe benefits for the judge and court reporter positions, and travel expenses [from the circuit court operations sum sufficient appropriation]; (b) \$6,700 PR for computer costs associated with CCAP [from the Supreme Court's court information systems continuing appropriation]; and (c) \$500 GPR for judicial materials [from the Director of State Courts and law library operations biennial appropriation]. It should be noted that the salary and fringe benefit amounts identified are based on fringe benefit rates for the 2019-21 biennium.

The following table details the costs of creating one new branch in 2020-21, and the costs of one branch on an annualized basis.

	<u>2020-21*</u>	<u>Annualized</u>
Judicial Salaries and Fringe Benefits**	\$185,600 GPR	\$202,600 GPR
Court Reporter Salaries and Fringe Benefits**	60,200 GPR	65,700 GPR
Judicial Materials	500 GPR	500 GPR
CCAP Expenses	6,100 PR	6,700 PR
One-Time - Judicial Materials	2,500 GPR	
One-Time - CCAP Equipment	<u>28,700 PR</u>	
TOTAL	\$248,800 GPR \$34,800 PR	<u>\$268,800 GPR</u> \$6,700 PR

\*Identifies funding for 11 months for salaries and fringe benefits (since the new branches will begin on August 1<sup>st</sup>, rather than at the beginning of the fiscal year on July 1<sup>st</sup>).

\*\*Includes \$1,900 per branch for judicial travel expenses.

The bill would create four new judgeships in 2020. Utilizing the figures above, four judgeships, beginning on August 1, 2020, are estimated to cost \$995,200 GPR and \$139,200 PR in 2020-21. In addition, the bill requires four new judgeships in 2021 and four more judgeships in 2022. On an annualized basis, the 12 judgeships would cost approximately \$3,225,600 GPR and \$80,400 PR.

It should be noted that the bill does not appropriate funding for the new circuit court branches. Since the circuit court operations GPR appropriation is a sum-sufficient appropriation, the courts may expend the amounts necessary to cover the additional salary and fringe benefit costs associated with the new circuit court branches. Further, since the Supreme Court's court information systems PR appropriation is a continuing appropriation, the courts may expend the amounts necessary for computer costs from the appropriation, limited only by available revenues from which the appropriation is made. Finally, the appropriation from which the Supreme Court's law library operations are funded is a biennial appropriation, limited to funding within the biennium. If adopted, the amendment would delay the effective years by one year, which would move the costs to the 2021-23 biennium and to the first year of the 2023-25 biennium.

Prepared by: Shannon E. Huberty  
Attachment

## ATTACHMENT

### 2017 Circuit Court Caseload Study By County

<u>County</u>	<u>Caseload Study of Judicial Officer Need</u>	<u>Current Number of Judges</u>	<u>Current Number of Court Commissioners (Estimated)</u>	<u>Judicial Officer Need*</u>
Adams	1.55	1	0.18	0.36
Ashland	1.60	1	0.21	0.39
Barron	3.58	3	0.12	0.46
Bayfield	0.99	1	0.10	-0.11
Brown	14.23	8	4.00	2.23
Buffalo/Pepin	1.30	1	0.11	0.19
Burnett	1.55	1	0.30	0.25
Calumet	1.84	1	0.50	0.34
Chippewa	4.17	3	0.44	0.73
Clark	1.47	1	0.13	0.34
Columbia	3.88	3	0.38	0.50
Crawford	0.69	1	0.05	-0.36
Dane	22.96	17	10.50	-4.54
Dodge	4.11	4	0.40	-0.29
Door	1.36	2	0.20	-0.84
Douglas	3.32	2	1.00	0.32
Dunn	3.23	2	0.12	1.12
Eau Claire	8.22	5	1.10	2.12
Florence/Forest	1.22	1	0.22	0.00
Fond du Lac	5.74	5	1.01	-0.27
Grant	2.12	2	0.33	-0.20
Green	1.70	2	0.27	-0.57
Green Lake	1.21	1	0.08	0.13
Iowa	1.59	1	0.12	0.48
Iron	0.41	1	0.06	-0.65
Jackson	1.69	1	0.18	0.51
Jefferson	4.18	4	2.25	-2.07
Juneau	1.97	2	0.50	-0.53
Kenosha	11.28	8	3.00	0.28
Kewaunee	0.75	1	0.15	-0.40
La Crosse	6.69	5	1.04	0.65
Lafayette	0.79	1	0.10	-0.31
Langlade	1.61	1	0.28	0.33
Lincoln	1.92	2	0.17	-0.25
Manitowoc	5.17	3	1.25	0.92
Marathon	8.50	5	1.10	2.40
Marinette	1.93	2	1.00	-1.07
Marquette	0.82	1	0.00	-0.18
Milwaukee	61.38	47	22.00	-7.62
Monroe	3.56	3	0.25	0.30

County	Caseload Study of Judicial Officer Need	Current Number of Judges	Current Number of Court Commissioners (Estimated)	Judicial Officer Need*
Oconto	1.63	2	0.88	-1.25
Oneida	2.48	2	0.36	0.12
Outagamie	9.66	7	3.50	-0.84
Ozaukee	3.27	3	1.00	-0.73
Pierce	1.97	1	1.02	-0.05
Polk	2.95	2	0.75	0.20
Portage	3.70	3	0.90	-0.20
Price	0.80	1	0.01	-0.21
Racine	14.45	10	3.89	0.56
Richland	1.06	1	0.16	-0.10
Rock	9.75	7	2.90	-0.15
Rusk	1.03	1	0.03	0.00
Sauk	4.02	3	1.00	0.02
Sawyer	1.67	1	0.08	0.59
Shawano/Menominee	2.40	2	0.33	0.07
Sheboygan	6.05	5	1.90	-0.85
St. Croix	4.43	4	0.80	-0.37
Taylor	0.96	1	0.27	-0.31
Trempealeau	1.48	1	0.24	0.24
Vernon	1.23	1	0.01	0.22
Vilas	1.42	1	0.08	0.34
Walworth	5.01	4	1.90	-0.89
Washburn	1.26	1	0.07	0.19
Washington	5.08	4	1.28	-0.20
Waukesha	15.15	12	4.00	-0.85
Waupaca	2.83	3	0.02	-0.19
Waushara	1.74	1	0.26	0.49
Winnebago	9.19	6	3.00	0.19
Wood	<u>4.35</u>	<u>3</u>	<u>0.30</u>	<u>1.05</u>
Total	327.32	249	86.15	-7.83

\*Sum may not equal total due to rounding.