

SUBSTITUTE FOR
HOUSE BILL NO. 5124

(As amended May 30, 2012)

[A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 401, 406, 407, 408, 410, 601, 841, and 8304
(MCL 600.401, 600.406, 600.407, 600.408, 600.410, 600.601, 600.841,
and 600.8304), sections 401, 406, 407, 408, and 8304 as added by
2002 PA 678 and sections 410, 601, and 841 as amended by 2005 PA
326, and by adding section 412; and to repeal acts and parts of acts.]

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 401. (1) Within ~~a county or~~ **EACH** judicial circuit,
2 subject to approval by the ~~state~~ supreme court and ~~subject to the~~
3 limitations contained in sections 410, ~~601,~~ 841, and 8304, a plan
4 of concurrent jurisdiction ~~may be adopted by~~ **SHALL BE ADOPTED BY A**
5 **MAJORITY VOTE OF ALL OF THE JUDGES OF THE TRIAL COURTS IN THE PLAN**
6 **UNLESS** a majority ~~vote of each of the following groups of~~ **ALL OF**

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THE judges ~~for OF~~ the ~~participating~~ trial courts in that ~~county or~~ judicial circuit ÷

~~— (a) The circuit judges, the probate judges, and the district judges.~~

~~— (b) The circuit judges and the probate judges.~~

~~— (c) The circuit judges and the district judges.~~

~~— (d) The probate judges and the district judges.~~ **VOTE NOT TO**

HAVE A PLAN OF CONCURRENT JURISDICTION. IF A MAJORITY OF ALL OF THE

JUDGES OF THE TRIAL COURTS IN A JUDICIAL CIRCUIT VOTE NOT TO HAVE A

PLAN OF CONCURRENT JURISDICTION, THE CHIEF JUDGE OF THE CIRCUIT

COURT OF THAT JUDICIAL CIRCUIT SHALL REPORT THE RESULTS OF <<THAT>> VOTE

TO THE STATE COURT ADMINISTRATOR.

(2) A plan of concurrent jurisdiction **UNDER THIS SECTION** may provide for 1 or more of the following:

(a) The circuit court and 1 or more circuit judges may exercise the power and jurisdiction of the probate court.

(b) The circuit court and 1 or more circuit judges may exercise the power and jurisdiction of the district court.

(c) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the circuit court.

(d) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the district court.

(e) The district court and 1 or more district judges may exercise the power and jurisdiction of the circuit court.

(f) The district court and 1 or more district judges may exercise the power and jurisdiction of the probate court.

(G) IF THERE ARE MULTIPLE DISTRICT COURT DISTRICTS WITHIN THE

JUDICIAL CIRCUIT, 1 OR MORE DISTRICT JUDGES MAY EXERCISE THE POWER AND JURISDICTION OF JUDGE OF ANOTHER DISTRICT COURT DISTRICT WITHIN THE JUDICIAL CIRCUIT.

(3) A plan of concurrent jurisdiction UNDER THIS SECTION shall provide for the transfer or assignment of cases between the trial courts affected by the plan and to individual judges of those courts as necessary to implement the plan and to fairly distribute the workload among those judges.

(4) A PLAN OF CONCURRENT JURISDICTION UNDER THIS SECTION MAY INCLUDE AGREEMENTS AS TO OTHER MATTERS INVOLVING THE OPERATION OF THE TRIAL COURTS PARTICIPATING IN THE PLAN, AS APPROVED BY THE SUPREME COURT.

(5) ~~(4)~~ A plan of concurrent jurisdiction ~~shall become~~ BECOMES effective ~~on the first day of the month at least 90 days after~~ UPON the approval of the plan by the supreme court.

(6) ~~(5)~~ This section does not apply to the counties of Genesee, Ingham, Kent, Macomb, Oakland, Washtenaw, and Wayne, which have district court districts of the third class.

Sec. 406. (1) Within the counties of Genesee, Ingham, Kent, Macomb, Oakland, Washtenaw, and Wayne, ~~the circuit judges and the~~ A MAJORITY OF ALL OF THE CIRCUIT AND probate judges, subject to approval by the ~~state~~ supreme court and ~~subject to~~ the limitations contained in sections 410, ~~601~~, 841, and 8304, ~~by~~ SHALL ADOPT 1 OR MORE PLANS OF CONCURRENT JURISDICTION UNDER THIS SECTION UNLESS A PLAN OF CONCURRENT JURISDICTION HAS BEEN ADOPTED UNDER SECTION 407 OR 408, OR UNLESS a majority ~~vote of each group of judges, may~~ adopt 1 or more plans of concurrent jurisdiction for the circuit

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~~court and probate court~~ **ALL OF THE CIRCUIT AND PROBATE JUDGES** in that county **VOTE NOT TO HAVE A PLAN OF CONCURRENT JURISDICTION. IF A MAJORITY OF ALL OF THE CIRCUIT AND PROBATE JUDGES IN THAT COUNTY VOTE NOT TO HAVE A PLAN OF CONCURRENT JURISDICTION, THE CHIEF JUDGE OF THE CIRCUIT COURT SHALL REPORT THE RESULTS OF THAT VOTE TO THE STATE COURT ADMINISTRATOR.**

(2) A plan of concurrent jurisdiction under this section may provide for 1 or more of the following:

(a) The circuit court and 1 or more circuit judges may exercise the power and jurisdiction of the probate court.

(b) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the circuit court.

(3) A plan of concurrent jurisdiction **[UNDER THIS SECTION]** shall provide for the transfer or assignment of cases between the trial courts affected by the plan and to individual judges of those courts as necessary to implement the plan and to fairly distribute the workload among those judges.

(4) A PLAN OF CONCURRENT JURISDICTION UNDER THIS SECTION MAY INCLUDE AGREEMENTS AS TO OTHER MATTERS INVOLVING THE OPERATION OF THE TRIAL COURTS PARTICIPATING IN THE PLAN, AS APPROVED BY THE SUPREME COURT.

(5) ~~(4)~~ A plan of concurrent jurisdiction ~~shall become~~ **BECOMES** effective ~~on the first day of the month at least 90 days after~~ **UPON** the approval of the plan by the supreme court.

Sec. 407. (1) Within the counties of Genesee, Ingham, Kent, Macomb, Oakland, and Washtenaw, ~~the circuit judges, the probate judges, and~~ **A MAJORITY OF ALL OF** the district judges in the county-

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1 funded district court district **AND THE CIRCUIT JUDGES AND PROBATE**
 2 **JUDGES <<OF THE COURTS IN THE PLAN>>**, subject to approval by the
~~state-supreme~~
 3 court and ~~subject~~ to the limitations contained in sections 410,
 4 ~~601, 841, and 8304, by~~ **SHALL ADOPT 1 OR MORE PLANS OF CONCURRENT**
 5 **JURISDICTION UNDER THIS SECTION UNLESS A PLAN OF CONCURRENT**
 6 **JURISDICTION HAS BEEN ADOPTED UNDER SECTION 406 OR 408, OR UNLESS a**
 7 ~~majority vote of each group of judges, may adopt 1 or more plans of~~
 8 ~~concurrent jurisdiction for the participating trial courts in that~~
 9 ~~county.~~ **OF ALL OF THE DISTRICT JUDGES IN THE COUNTY-FUNDED DISTRICT**
 10 **COURT DISTRICT AND THE CIRCUIT JUDGES AND PROBATE JUDGES IN THAT**
 11 **COUNTY VOTE NOT TO HAVE A PLAN OF CONCURRENT JURISDICTION. IF A**
 12 **MAJORITY OF ALL OF THE DISTRICT JUDGES IN THE COUNTY-FUNDED**
 13 **DISTRICT COURT DISTRICT AND THE CIRCUIT JUDGES AND PROBATE JUDGES**
 14 **IN THAT COUNTY VOTE NOT TO HAVE A PLAN OF CONCURRENT JURISDICTION,**
 15 **THE CHIEF JUDGE OF THE CIRCUIT COURT IN THAT COUNTY SHALL REPORT**
 16 **THE RESULTS OF THAT VOTE TO THE STATE COURT ADMINISTRATOR.**

17 (2) A plan of concurrent jurisdiction under this section may
 18 provide for 1 or more of the following:

19 (a) The circuit court and 1 or more circuit judges may
 20 exercise the power and jurisdiction of the probate court.

21 (b) The circuit court and 1 or more circuit judges may
 22 exercise the power and jurisdiction of the district court within
 23 the county-funded district court district.

24 (c) The probate court and 1 or more probate judges may
 25 exercise the power and jurisdiction of the circuit court.

26 (d) The probate court and 1 or more probate judges may
 27 exercise the power and jurisdiction of the district court within

1 the county-funded district court district.

2 (e) The district court and 1 or more district judges in the
3 county-funded district court district within the county may
4 exercise the power and jurisdiction of the circuit court.

5 (f) The district court and 1 or more district judges in the
6 county-funded district court district within the county may
7 exercise the power and jurisdiction of the probate court.

8 (3) A plan of concurrent jurisdiction **UNDER THIS SECTION** shall
9 provide for the transfer or assignment of cases between the trial
10 courts affected by the plan and to individual judges of those
11 courts as necessary to implement the plan and to fairly distribute
12 the workload among those judges.

13 **(4) A PLAN OF CONCURRENT JURISDICTION UNDER THIS SECTION MAY**
14 **INCLUDE AGREEMENTS AS TO OTHER MATTERS INVOLVING THE OPERATION OF**
15 **THE TRIAL COURTS PARTICIPATING IN THE PLAN, AS APPROVED BY THE**
16 **SUPREME COURT.**

17 (5) ~~(4)~~ A plan of concurrent jurisdiction ~~shall become~~ **BECOMES**
18 ~~effective on the first day of the month at least 90 days after~~ **UPON**
19 the approval of the plan by the supreme court.

20 Sec. 408. (1) Within the counties of Genesee, Ingham, Kent,
21 Macomb, Oakland, Washtenaw, and Wayne, the circuit judges, the
22 probate judges, and the district judges in 1 or more district court
23 districts within the county, subject to approval by the ~~state~~
24 supreme court and ~~subject to~~ the limitations contained in sections
25 410, ~~601~~, 841, and 8304, by a majority vote of ~~each group of~~ **ALL OF**
26 **THE** judges **OF THE TRIAL COURTS IN THE PLAN**, may adopt 1 or more
27 plans of concurrent jurisdiction for the participating trial courts

1 in that county.

2 (2) A plan of concurrent jurisdiction under this section may
3 provide for 1 or more of the following:

4 (a) The circuit court and 1 or more circuit judges may
5 exercise the power and jurisdiction of the probate court.

6 (b) The circuit court and 1 or more circuit judges may
7 exercise the power and jurisdiction of the district court within
8 the participating district court districts within the county.

9 (c) The probate court and 1 or more probate judges may
10 exercise the power and jurisdiction of the circuit court.

11 (d) The probate court and 1 or more probate judges may
12 exercise the power and jurisdiction of the district court within
13 the participating district court districts within the county.

14 (e) The district court and 1 or more district judges in the
15 participating district court districts within the county may
16 exercise the power and jurisdiction of the circuit court.

17 (f) The district court and 1 or more district judges in the
18 participating district court districts within the county may
19 exercise the power and jurisdiction of the probate court.

20 **(G) IF THERE ARE MULTIPLE DISTRICT COURT DISTRICTS WITHIN THE**
21 **COUNTY, 1 OR MORE DISTRICT JUDGES MAY EXERCISE THE POWER AND**
22 **JURISDICTION OF THE JUDGE OF ANOTHER DISTRICT COURT DISTRICT WITHIN**
23 **THE COUNTY.**

24 (3) A plan of concurrent jurisdiction **UNDER THIS SECTION** shall
25 provide for the transfer or assignment of cases between the trial
26 courts affected by the plan and to individual judges of those
27 courts as necessary to implement the plan and to fairly distribute

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the workload among those judges.

(4) A PLAN OF CONCURRENT JURISDICTION UNDER THIS SECTION MAY INCLUDE AGREEMENTS AS TO OTHER MATTERS INVOLVING THE OPERATION OF THE TRIAL COURTS PARTICIPATING IN THE PLAN, AS APPROVED BY THE SUPREME COURT.

(5) ~~(4)~~ A plan of concurrent jurisdiction involving district court districts of the third class may include an agreement as to the allocation of court revenue, other than revenue payable by statute to libraries or state funds, and court expenses. This agreement is subject to approval **AS FOLLOWS:**

(A) EXCEPT AS PROVIDED IN SUBDIVISION (B), by the county board of commissioners and by each local funding unit of each participating district. ~~of the third class.~~

(B) IF THE PLAN OF CONCURRENT JURISDICTION ONLY INVOLVES DISTRICT COURT DISTRICTS OF THE THIRD CLASS, BY EACH LOCAL FUNDING UNIT OF EACH PARTICIPATING DISTRICT OF THE THIRD CLASS.

(6) ~~(5)~~ A plan of concurrent jurisdiction ~~shall become~~ **BECOMES** effective ~~on the first day of the month at least 90 days after~~ **UPON** the approval of the plan by the supreme court.

Sec. 410. A plan of concurrent jurisdiction adopted under this chapter shall not include a delegation of [any] of the following:

(a) A power of appointment to a public office delegated by constitution or statute to the circuit court or a circuit judge.

(b) A power of appointment to a public office delegated by constitution or statute to the probate court or a probate judge.

~~—— (c) Except as provided in section 411, a power of appointment~~

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~~to a public office delegated by constitution or statute to the district court or a district judge.~~

[(C) A POWER OF APPOINTMENT TO A PUBLIC OFFICE DELEGATED BY LAW TO THE DISTRICT COURT OR <<A DISTRICT JUDGE, UNLESS THAT POWER OF APPOINTMENT IS DELEGATED TO A COURT OR JUDGE OTHER THAN THE CIRCUIT COURT OR A CIRCUIT JUDGE.>>

SEC. 412. A CONCURRENT JURISDICTION PLAN THAT WAS ADOPTED, APPROVED BY THE SUPREME COURT, AND IN EFFECT ON DECEMBER 31, 2012, IS CONSIDERED VALID AND IN COMPLIANCE WITH THE REQUIREMENTS OF THIS CHAPTER.

<<SEC. 413. (1) CONCURRENT JURISDICTION PLANS SHALL BE DESIGNED TO BENEFIT THE CITIZENS UTILIZING THE COURTS INVOLVED RATHER THAN THE COURTS THEMSELVES OR ANY JUDGE OR JUDGES.

(2) A JUDGE VOTING NOT TO HAVE A PLAN OF CONCURRENT JURISDICTION UNDER THIS CHAPTER MAY FILE AN OBJECTION WITH THE STATE COURT ADMINISTRATOR. AN OBJECTION MUST SPECIFICALLY STATE THE REASONS FOR THE OBJECTION AND MAY INCLUDE, BUT NOT BE LIMITED TO, OBJECTIONS BASED ON INSUFFICIENT ALLOCATION OF STAFF OR RESOURCES, INADEQUATE TRAINING FOR ANY JUDGE OR STAFF, EXCESSIVE ASSIGNMENTS OUTSIDE OF A JUDGE'S ELECTION DISTRICT, OR RETALIATION FOR ANY ACTION, INCLUDING FAILING TO VOTE FOR A CONCURRENT JURISDICTION PLAN.

(3) SUBJECT TO APPROVAL OF THE SUPREME COURT, BEFORE THE SUPREME COURT APPROVES A CONCURRENT JURISDICTION PLAN UNDER THIS CHAPTER, THE STATE COURT ADMINISTRATOR SHALL REVIEW OBJECTIONS UNDER THIS SECTION AND REPORT THE SUBSTANCE OF THE OBJECTIONS AND THE ADMINISTRATOR'S FINDINGS ABOUT THE OBJECTIONS' VALIDITY TO THE SUPREME COURT. SUBJECT TO APPROVAL OF THE SUPREME COURT, THE STATE COURT ADMINISTRATOR SHALL FORWARD A PROPOSED CONCURRENT JURISDICTION PLAN TO THE SUPREME COURT FOR REVIEW AFTER AFFIRMATIVELY FINDING THAT THE PROPOSED CONCURRENT JURISDICTION PLAN IS IN COMPLIANCE WITH THIS CHAPTER AND THE BEST INTERESTS OF THE PEOPLE OF THE COMMUNITIES BEING SERVED.>>]

Sec. 601. (1) The circuit court has the power and jurisdiction

THAT IS ANY OF THE FOLLOWING:

(a) Possessed by courts of record at the common law, as altered by the state constitution of 1963, the laws of this state, and the rules of the supreme court.

(b) Possessed by courts and judges in chancery in England on March 1, 1847, as altered by the state constitution of 1963, the laws of this state, and the rules of the supreme court.

(c) Prescribed by the rules of the supreme court.

(2) The circuit court has exclusive jurisdiction over condemnation cases commenced under the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630.

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15 (3) In a judicial circuit in which the circuit court is
16 affected by a plan of concurrent jurisdiction adopted under chapter
17 4, the circuit court has concurrent jurisdiction with the probate
18 court or the district court, or both, as provided in the plan of
19 concurrent jurisdiction. ~~, except as to the following matters:~~

20 ~~—— (a) The probate court has exclusive jurisdiction over trust~~
21 ~~and estate matters.~~

22 ~~—— (b) Except as provided in section 411, the district court has~~
23 ~~exclusive jurisdiction over small claims and civil infraction~~
24 ~~actions.~~

25 (4) The family division of circuit court has jurisdiction as
26 provided in chapter 10.

27 Sec. 841. (1) The probate court has jurisdiction and power as

1 follows:

2 (a) As conferred upon it under the estates and protected
3 individuals code, 1998 PA 386, MCL 700.1101 to ~~700.8102~~ **700.8206**.

4 (b) As conferred upon it under the mental health code, 1974 PA
5 258, MCL 330.1001 to 330.2106.

6 (c) As conferred upon it under this act.

7 (d) As conferred upon it under another law or compact.

8 (2) In a judicial circuit in which the probate court is
9 affected by a plan of concurrent jurisdiction adopted under chapter
10 4, the probate court has concurrent jurisdiction with the circuit
11 court or the district court, or both, as provided in the plan of
12 concurrent jurisdiction, except as to the following matters:

13 (a) The circuit court has exclusive jurisdiction over appeals
14 from the district court and from administrative agencies as
15 authorized by law.

16 (b) The circuit court has exclusive jurisdiction and power to
17 issue, hear, and determine prerogative and remedial writs
18 consistent with section 13 of article VI of the state constitution
19 of 1963.

20 (c) The circuit court has exclusive jurisdiction to hear and
21 decide matters within the jurisdiction of the court of claims under
22 chapter 64.

23 ~~— (d) Except as provided in section 411, the district court has~~
24 ~~exclusive jurisdiction over small claims and civil infraction~~
25 ~~actions.~~

26 Sec. 8304. In a district court district in which the district
27 court is affected by a plan of concurrent jurisdiction adopted

1 under chapter 4, the district court has concurrent jurisdiction
2 with the circuit court or the probate court, or both, as provided
3 in the plan of concurrent jurisdiction, except as to the following
4 matters:

5 (a) The circuit court ~~shall have~~ **HAS** exclusive jurisdiction
6 over appeals from the district court and from administrative
7 agencies as authorized by statute.

8 (b) The circuit court ~~shall have~~ **HAS** exclusive jurisdiction
9 and power to issue, hear, and determine prerogative and remedial
10 writs consistent with section 13 of article VI of the state
11 constitution of 1963.

12 (c) The circuit court ~~shall have~~ **HAS** exclusive jurisdiction to
13 hear and decide matters within the jurisdiction of the court of
14 claims under chapter 64.

15 ~~—— (d) The probate court shall have exclusive jurisdiction over~~
16 ~~trusts and estates.~~

17 Enacting section 1. Section 411 of the revised judicature act
18 of 1961, 1961 PA 236, MCL 600.411, is repealed.

19 Enacting section 2. This amendatory act takes effect January
20 1, 2013.