

Act No. 389
Public Acts of 1994
Approved by the Governor
December 29, 1994
Filed with the Secretary of State
December 29, 1994

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Rep Nye

ENROLLED HOUSE BILL No. 5746

AN ACT to amend sections 821 and 822 of Act No 236 of the Public Acts of 1961 entitled as amended An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state the powers and duties of such courts and of the judges and other officers thereof the forms and attributes of civil claims and actions the time within which civil actions and proceedings may be brought in said courts pleading evidence practice and procedure in civil and criminal actions and proceedings in said courts to provide remedies and penalties for the violation of certain provisions of this act and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act section 821 as amended by Act No 138 of the Public Acts of 1994 being sections 600 821 and 600 822 of the Michigan Compiled Laws and to repeal certain parts of the act on a specific date

The People of the State of Michigan enact

Section 1 Sections 821 and 822 of Act No 236 of the Public Acts of 1961 section 821 as amended by Act No 138 of the Public Acts of 1994 being sections 600 821 and 600 822 of the Michigan Compiled Laws are amended to read as follows

Sec 821 (1) The following probate judges shall not engage in the practice of law other than as a judge and shall receive the minimum annual salary provided in subsection (2)

(a) A probate judge of a county that is not part of a proposed probate court district described in section 807

(b) The probate judge in each probate court district in which a majority of the electors voting on the question in each county of the probate court district has approved or approves creation of the district

(c) A probate judge in a county having a population of 15 000 or more if the county is not part of a probate court district created pursuant to law

(d) Beginning January 1 1997 a probate judge in a county having a population of less than 15 000 if the county is not part of a probate court district created pursuant to law

(2) The minimum annual salary for a probate judge shall equal 90% of the annual salary payable by the state to a circuit judge Six thousand dollars of the minimum annual salary provided in this subsection shall be paid by the county or by the counties comprising a probate court district and the balance of that minimum annual salary shall be paid by the state as a grant to the county or the counties comprising the probate court district The county or the counties comprising the probate court district shall in turn pay that amount to the probate judge

(3) The salary provided in subsection (2) shall be full compensation for all services performed by a probate judge except as otherwise provided by law. In a probate court district, each county of the district shall contribute to the salary in the same proportion as the population of the county bears to the population of the district.

(4) In addition to the salary provided in subsection (2), a probate judge may receive from any county in which the probate judge regularly holds court an additional salary determined by the county board of commissioners. The additional salary may be increased during a term of office but shall not be decreased except to the extent of a general salary reduction in all other branches of government in the county. In a county where an additional salary is granted, it shall be paid at the same rate to all probate judges regularly holding court in the county. The additional salary granted to a probate judge pursuant to this subsection shall not cause the total of the probate judge's total annual salary from state and county funds to exceed 88% of the annual salary of a justice of the supreme court. However, an increase in the amount of salary payable to a judge of the probate court caused by an increase in the salary of a justice of the supreme court resulting from the operation of Act No. 357 of the Public Acts of 1968, as amended, being sections 15211 to 15218 of the Michigan Compiled Laws after September 1, 1981, shall not be effective until February 1 of the year in which the increase in the salary of a justice of the supreme court becomes effective. If an increase in salary becomes effective on February 1 of a year in which an increase in the salary of a justice of the supreme court becomes effective, the increase shall be retroactive to January 1 of that year.

(5) Except as provided in subsection (6), the state shall reimburse to a county paying an additional salary to a probate judge a portion of that additional salary in an amount provided by law, unless the additional salary, including any cost of living allowance payable by that county, causes the total annual salary of a probate judge to exceed 88% of the salary of a justice of the supreme court.

(6) Notwithstanding the limitations of subsection (5), the state shall reimburse a county pursuant to subsection (5) even if the additional salary, including any cost of living allowance payable by that county on September 1, 1981, causes the total annual salary of a probate judge to exceed 88% of the salary of a justice of the supreme court payable on September 1, 1981. However, if the additional salary of a probate judge increases beyond the amount payable to the judge on September 1, 1981, and if the total annual salary of the judge exceeds 88% of the salary of a justice of the supreme court, the county shall return to the state any amount paid under subsection (5) during that state fiscal year and shall be ineligible to receive reimbursement under subsection (5) until the total annual salary of the probate judge does not exceed 88% of the salary of a justice of the supreme court.

Sec. 822 (1) Except as provided in section 821, probate judges of a county comprising part of a proposed probate court district in which the electors of 1 or more counties thereof did not approve the same shall receive an annual salary which shall be based upon the population of the county and payable as follows:

(a) For counties having a population of less than 10,000, \$9,000.00, 1/2 to be paid by the state and 1/2 by the county.

(b) For counties having a population of 10,000 or more but less than 15,000, \$10,000.00, 1/2 to be paid by the state and 1/2 by the county.

(c) For counties having a population of 15,000 or more but less than 23,000, \$15,000.00, 60% to be paid by the state and 40% by the county through December 31, 1978, and beginning January 1, 1979, through December 31, 1980, \$18,000.00, 2/3 to be paid by the state and 1/3 by the county.

(d) For counties having a population of 23,000 or more but less than 25,000, \$15,000.00, 60% to be paid by the state and 40% by the county through December 31, 1978.

(2) The annual salary provided in subsection (1) may be increased but shall not be decreased during the term for which those probate judges have been elected or appointed as a result of a new census. This salary shall be in full compensation for all services performed by them as probate judges, except as otherwise provided by law. A probate judge whose annual salary is provided in subsection (1) shall not represent a party in a contested proceeding in the probate court of this state.

(3) In addition to the salary provided in subsection (1), a probate judge may receive from any county in which he or she regularly holds court an additional salary of not more than \$43,000.00, as determined by the county board of commissioners. The additional salary may be increased during a term of office but shall not be decreased except to the extent of a general salary reduction in all other branches of government in the county. In any county where an additional salary is granted, that salary shall be paid at the same rate to all probate judges regularly holding court therein.

(4) The total annual salary of a probate judge, including the salary provided in subsection (1) and any additional salary granted by the county under subsection (3), shall not exceed the following:

(a) For a probate judge of a county described in subsection (1)(a), \$52,000.00.

(b) For a probate judge of a county described in subsection (1)(b), \$53,000.00.

Section 2. Section 822 of Act No. 236 of the Public Acts of 1961, being section 600.822 of the Michigan Compiled Laws, is repealed effective January 1, 1997.

This act is ordered to take immediate effect

Co Clerk of the House of Representatives

Secretary of the Senate

Approved

Governor