

Act No. 298
Public Acts of 1998
Approved by the Governor
July 28, 1998
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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Senators Van Regenmorter and Dingell

ENROLLED SENATE BILL No. 808

AN ACT to amend 1961 PA 236, entitled "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," by amending sections 821, 822, and 1011 (MCL 600.821, 600.822, and 600.1011), section 821 as amended and section 1011 as added by 1996 PA 388 and section 822 as amended by 1996 PA 374; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 821. (1) The following probate judges shall not engage in the practice of law other than as a judge and shall receive, subject to subsection (7), an annual salary provided in this section:

- (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 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 according to the 1990 federal decennial census, if the county is not part of a probate court district created pursuant to law.

(2) Until the salary of a justice of the supreme court exceeds \$128,538.00, each probate judge shall receive an annual salary of \$109,257.00 determined as follows:

- (a) A minimum annual salary of \$63,533.00.
- (b) An additional salary of \$45,724.00 paid by the county or by the counties comprising a probate court district. If a probate judge receives a total additional salary of \$45,724.00 from the county, or from the counties comprising a probate court district, and does not receive less than or more than \$45,724.00, including any cost-of-living allowance, the state shall reimburse the county or counties the amount that the county or counties have paid to the judge.

(3) If the salary of a justice of the supreme court exceeds \$128,538.00, each probate judge shall receive an annual salary determined as follows:

- (a) A minimum annual salary of the difference between 85% of the salary of a justice of the supreme court and \$45,724.00.
- (b) An additional salary of \$45,724.00 paid by the county or by the counties comprising a probate court district. If a probate judge receives a total additional salary of \$45,724.00 from the county, or from the counties comprising a probate court district, and does not receive less than or more than \$45,724.00, including any cost-of-living allowance, the state shall reimburse the county or counties the amount that the county or counties have paid to the judge.

(4) Six thousand dollars of the minimum annual salary provided in subsection (2), (3), or (4) 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. Beginning January 1, 1997, the state shall annually reimburse the county or counties \$6,000.00 for each probate judge to offset the cost of the county or counties required by this section.

(5) The salary provided in this section is 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.

(6) An additional salary determined by the county board of commissioners 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.

(7) An increase in the amount of salary payable to a judge under subsection (1) caused by an increase in the salary payable to a justice of the supreme court resulting from the operation of 1968 PA 357, MCL 15.211 to 15.218, is not 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 is retroactive to January 1 of that year.

Sec. 822. (1) The probate judge of a county having a population of less than 15,000 according to the 1990 federal decennial census and comprising part of a proposed probate court district in which the electors of 1 or more counties of the probate court district did not approve the probate court district shall receive an annual salary of \$20,000.00. Six thousand dollars of the minimum annual salary provided by this subsection shall be paid by the county and the balance of the minimum annual salary shall be paid by the state as a grant to the county. The county shall, in turn, pay that amount to the probate judge.

(2) The annual salary provided in subsection (1) may be increased but shall not be decreased during the term for which the probate judge has been elected or appointed. This salary is in full compensation for all services performed by the person as probate judge, 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 the 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.

(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 \$63,000.00.

(5) From funds appropriated to the judiciary, the state shall pay to a county described in subsection (1) a state salary standardization payment of \$5,750.00 for each probate judge and an additional payment of \$6,000.00 for each probate judge to offset the portion of minimum annual salary paid by the county.

Sec. 1011. (1) Not later than July 1, 1997, in each judicial circuit, the chief circuit judge and the chief probate judge or judges shall enter into an agreement that establishes a plan for how the family division will be operated in that circuit and how the services of the agencies listed in section 1043 will be coordinated in order to promote more efficient and effective services to families and individuals. In Wayne county such agreement shall be made by the chief circuit judge, chief probate judge, and the chief judge for Detroit's recorder's court.

(2) If, in any judicial circuit, the agreement required under subsection (1) is not entered into on or before July 1, 1997, the supreme court shall develop and implement the plan for that judicial circuit.

(3) A plan required under subsection (1) shall provide that the duration of a judge's assignment to the family division be consistent with the goal of developing sufficient judicial expertise in family law to properly serve the interests of the families and children whose cases are assigned to that judge. The chief judge of the circuit court shall have the authority and flexibility to determine the duration of a judge's assignment to the family division in furtherance of this goal.

(4) A judge assigned to the family division shall receive appropriate training as required by the supreme court.

(5) A plan required under subsection (1) may provide that when a judge's assignment to the family division ends, the pending cases of that judge are to be reassigned to the other judge or judges of the family division, or are to be resolved by that judge by temporarily assigning that judge to the family division for that purpose.

(6) In addition to the assignment of judges of probate to the family division of circuit court, a plan required under subsection (1) in a multicounty circuit may provide that a judge of probate in 1 county in the circuit may be assigned temporarily to assist a judge of probate of another county in the circuit, as needed.

(7) If a probate court district includes counties that are in different judicial circuits, the chief judge of each judicial circuit that includes a county in the probate court district and the chief probate judge or judges in the circuit may enter into an agreement that establishes a plan for how the family division will be operated in the affected circuits and how the services of agencies listed in section 1043 will be coordinated under subsection (1).

(8) A plan required under subsection (1) or entered into under subsection (7) shall be reviewed and revised periodically, as necessary, by the chief circuit judge or judges and the chief probate judge or judges, and shall be submitted for approval by the supreme court.

Enacting section 1. Section 1017 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1017, is repealed.

Enacting section 2. Section 222 of the revised judicature act of 1961, 1961 PA 236, MCL 600.222, is repealed effective January 1, 1999.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Harry R. ...

Clerk of the House of Representatives.

Approved _____

Governor.