

HOUSE BILL No. 6260

August 13, 2002, Introduced by Rep. Howell and referred to the Committee on Civil Law and the Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 601 and 841 (MCL 600.601 and 600.841), section 601 as amended by 1996 PA 388 and section 841 as amended by 2000 PA 56, and by adding chapter 4 and section 8304.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER 4

2 TRIAL COURT CONCURRENT JURISDICTION

3 SEC. 401. (1) WITHIN A COUNTY OR JUDICIAL CIRCUIT, SUBJECT
4 TO APPROVAL BY THE STATE SUPREME COURT AND SUBJECT TO THE LIMITA-
5 TIONS CONTAINED IN SECTIONS 410, 601, 841, AND 8304, A PLAN OF
6 CONCURRENT JURISDICTION MAY BE ADOPTED BY THE FOLLOWING JUDGES
7 FOR THE PARTICIPATING TRIAL COURTS IN THAT COUNTY OR JUDICIAL
8 CIRCUIT:

1 (A) THE CHIEF CIRCUIT JUDGE, THE CHIEF PROBATE JUDGE, AND
2 THE CHIEF DISTRICT JUDGE.

3 (B) THE CHIEF CIRCUIT JUDGE AND THE CHIEF PROBATE JUDGE.

4 (C) THE CHIEF CIRCUIT JUDGE AND THE CHIEF DISTRICT JUDGE.

5 (2) A PLAN OF CONCURRENT JURISDICTION MAY PROVIDE FOR 1 OR
6 MORE OF THE FOLLOWING:

7 (A) THE CIRCUIT COURT AND 1 OR MORE CIRCUIT JUDGES MAY EXER-
8 CISE THE POWER AND JURISDICTION OF THE PROBATE COURT.

9 (B) THE CIRCUIT COURT AND 1 OR MORE CIRCUIT JUDGES MAY EXER-
10 CISE THE POWER AND JURISDICTION OF THE DISTRICT COURT.

11 (C) THE PROBATE COURT AND 1 OR MORE PROBATE JUDGES MAY EXER-
12 CISE THE POWER AND JURISDICTION OF THE CIRCUIT COURT.

13 (D) THE PROBATE COURT AND 1 OR MORE PROBATE JUDGES MAY EXER-
14 CISE THE POWER AND JURISDICTION OF THE DISTRICT COURT.

15 (E) THE DISTRICT COURT AND 1 OR MORE DISTRICT JUDGES MAY
16 EXERCISE THE POWER AND JURISDICTION OF THE CIRCUIT COURT.

17 (F) THE DISTRICT COURT AND 1 OR MORE DISTRICT JUDGES MAY
18 EXERCISE THE POWER AND JURISDICTION OF THE PROBATE COURT.

19 (3) A PLAN OF CONCURRENT JURISDICTION SHALL PROVIDE FOR THE
20 TRANSFER OR ASSIGNMENT OF CASES BETWEEN THE TRIAL COURTS AFFECTED
21 BY THE PLAN AND TO INDIVIDUAL JUDGES OF THOSE COURTS AS NECESSARY
22 TO IMPLEMENT THE PLAN AND TO FAIRLY DISTRIBUTE THE WORKLOAD AMONG
23 THOSE JUDGES.

24 (4) A PLAN OF CONCURRENT JURISDICTION SHALL BECOME EFFECTIVE
25 ON THE FIRST DAY OF THE MONTH AT LEAST 90 DAYS AFTER THE APPROVAL
26 OF THE PLAN BY THE SUPREME COURT.

(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. 405. SECTIONS 406, 407, AND 408 PROVIDE OPTIONS FOR ADOPTION OF A PLAN OF CONCURRENT JURISDICTION IN 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 CHIEF CIRCUIT JUDGE AND THE CHIEF PROBATE JUDGE, SUBJECT TO APPROVAL BY THE STATE SUPREME COURT AND SUBJECT TO THE LIMITATIONS CONTAINED IN SECTIONS 410, 601, 841, AND 8304, MAY ADOPT A PLAN OF CONCURRENT JURISDICTION FOR THE CIRCUIT COURT AND PROBATE COURT IN THAT COUNTY.

(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 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.

1 (4) A PLAN OF CONCURRENT JURISDICTION SHALL BECOME EFFECTIVE
2 ON THE FIRST DAY OF THE MONTH AT LEAST 90 DAYS AFTER THE APPROVAL
3 OF THE PLAN BY THE SUPREME COURT.

4 SEC. 407. (1) WITHIN THE COUNTIES OF GENESEE, INGHAM, KENT,
5 MACOMB, OAKLAND, AND WASHTENAW, THE CHIEF CIRCUIT JUDGE, THE
6 CHIEF PROBATE JUDGE, AND THE CHIEF DISTRICT JUDGE IN THE
7 COUNTY-FUNDED DISTRICT COURT DISTRICT, SUBJECT TO APPROVAL BY THE
8 STATE SUPREME COURT AND SUBJECT TO THE LIMITATIONS CONTAINED IN
9 SECTIONS 410, 601, 841, AND 8304, MAY ADOPT A PLAN OF CONCURRENT
10 JURISDICTION FOR THE PARTICIPATING TRIAL COURTS IN THAT COUNTY.

11 (2) A PLAN OF CONCURRENT JURISDICTION UNDER THIS SECTION MAY
12 PROVIDE FOR 1 OR MORE OF THE FOLLOWING:

13 (A) THE CIRCUIT COURT AND 1 OR MORE CIRCUIT JUDGES MAY EXER-
14 CISE THE POWER AND JURISDICTION OF THE PROBATE COURT.

15 (B) THE CIRCUIT COURT AND 1 OR MORE CIRCUIT JUDGES MAY EXER-
16 CISE THE POWER AND JURISDICTION OF THE DISTRICT COURT WITHIN THE
17 COUNTY-FUNDED DISTRICT COURT DISTRICT.

18 (C) THE PROBATE COURT AND 1 OR MORE PROBATE JUDGES MAY EXER-
19 CISE THE POWER AND JURISDICTION OF THE CIRCUIT COURT.

20 (D) THE PROBATE COURT AND 1 OR MORE PROBATE JUDGES MAY EXER-
21 CISE THE POWER AND JURISDICTION OF THE DISTRICT COURT WITHIN THE
22 COUNTY-FUNDED DISTRICT COURT DISTRICT.

23 (E) THE DISTRICT COURT AND 1 OR MORE DISTRICT JUDGES IN THE
24 COUNTY-FUNDED DISTRICT COURT DISTRICT WITHIN THE COUNTY MAY EXER-
25 CISE THE POWER AND JURISDICTION OF THE CIRCUIT COURT.

(F) THE DISTRICT COURT AND 1 OR MORE DISTRICT JUDGES IN THE COUNTY-FUNDED DISTRICT COURT DISTRICT WITHIN THE COUNTY MAY EXERCISE THE POWER AND JURISDICTION OF THE PROBATE COURT.

(3) A PLAN OF CONCURRENT JURISDICTION 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 SHALL BECOME EFFECTIVE ON THE FIRST DAY OF THE MONTH AT LEAST 90 DAYS AFTER THE APPROVAL OF THE PLAN BY THE SUPREME COURT.

SEC. 408. (1) WITHIN THE COUNTIES OF GENESEE, INGHAM, KENT, MACOMB, OAKLAND, WASHTENAW, AND WAYNE, THE CHIEF CIRCUIT JUDGE, THE CHIEF PROBATE JUDGE, AND THE CHIEF DISTRICT JUDGE IN 1 OR MORE DISTRICT COURT DISTRICTS WITHIN THE COUNTY, SUBJECT TO APPROVAL BY THE STATE SUPREME COURT AND SUBJECT TO THE LIMITATIONS CONTAINED IN SECTIONS 410, 601, 841, AND 8304, MAY ADOPT A PLAN OF CONCURRENT JURISDICTION FOR THE PARTICIPATING TRIAL COURTS IN THAT COUNTY.

(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 WITHIN THE PARTICIPATING DISTRICT COURT DISTRICTS WITHIN THE COUNTY.

1 (C) THE PROBATE COURT AND 1 OR MORE PROBATE JUDGES MAY
2 EXERCISE THE POWER AND JURISDICTION OF THE CIRCUIT COURT.

3 (D) THE PROBATE COURT AND 1 OR MORE PROBATE JUDGES MAY EXER-
4 CISE THE POWER AND JURISDICTION OF THE DISTRICT COURT WITHIN THE
5 PARTICIPATING DISTRICT COURT DISTRICTS WITHIN THE COUNTY.

6 (E) THE DISTRICT COURT AND 1 OR MORE DISTRICT JUDGES IN THE
7 PARTICIPATING DISTRICT COURT DISTRICTS WITHIN THE COUNTY MAY
8 EXERCISE THE POWER AND JURISDICTION OF THE CIRCUIT COURT.

9 (F) THE DISTRICT COURT AND 1 OR MORE DISTRICT JUDGES IN THE
10 PARTICIPATING DISTRICT COURT DISTRICTS WITHIN THE COUNTY MAY
11 EXERCISE THE POWER AND JURISDICTION OF THE PROBATE COURT.

12 (3) A PLAN OF CONCURRENT JURISDICTION SHALL PROVIDE FOR THE
13 TRANSFER OR ASSIGNMENT OF CASES BETWEEN THE TRIAL COURTS AFFECTED
14 BY THE PLAN AND TO INDIVIDUAL JUDGES OF THOSE COURTS AS NECESSARY
15 TO IMPLEMENT THE PLAN AND TO FAIRLY DISTRIBUTE THE WORKLOAD AMONG
16 THOSE JUDGES.

17 (4) A PLAN OF CONCURRENT JURISDICTION INVOLVING DISTRICT
18 COURT DISTRICTS OF THE THIRD CLASS MAY INCLUDE AN AGREEMENT AS TO
19 THE ALLOCATION OF COURT REVENUE, OTHER THAN REVENUE PAYABLE BY
20 STATUTE TO LIBRARIES OR STATE FUNDS, AND COURT EXPENSES. THIS
21 AGREEMENT IS SUBJECT TO APPROVAL BY THE COUNTY BOARD OF COMMIS-
22 SIONERS AND BY THE FUNDING UNITS OF EACH PARTICIPATING DISTRICT
23 OF THE THIRD CLASS.

24 (5) A PLAN OF CONCURRENT JURISDICTION SHALL BECOME EFFECTIVE
25 ON THE FIRST DAY OF THE MONTH AT LEAST 90 DAYS AFTER THE APPROVAL
26 OF THE PLAN BY THE SUPREME COURT.

1 SEC. 410. A PLAN OF CONCURRENT JURISDICTION ADOPTED UNDER
2 THIS CHAPTER OR CHAPTER 10 SHALL NOT INCLUDE A DELEGATION OF ANY
3 OF THE FOLLOWING:

4 (A) A POWER OF APPOINTMENT TO A PUBLIC OFFICE DELEGATED BY
5 CONSTITUTION OR STATUTE TO THE CIRCUIT COURT OR A CIRCUIT JUDGE.

6 (B) A POWER OF APPOINTMENT TO A PUBLIC OFFICE DELEGATED BY
7 CONSTITUTION OR STATUTE TO THE PROBATE COURT OR A PROBATE JUDGE.

8 (C) A POWER OF APPOINTMENT TO A PUBLIC OFFICE DELEGATED BY
9 CONSTITUTION OR STATUTE TO THE DISTRICT COURT OR A DISTRICT
10 JUDGE.

11 SEC. 415. A PLAN OF CONCURRENT JURISDICTION SHALL INCLUDE
12 AN AGREEMENT BETWEEN THE CHIEF CIRCUIT JUDGE AND THE CHIEF PRO-
13 BATE JUDGE OR JUDGES IN A JUDICIAL CIRCUIT AS PROVIDED IN
14 CHAPTER 10 REGARDING THE CASES DESCRIBED IN SECTION 1021.

15 SEC. 420. A PLAN OF CONCURRENT JURISDICTION MAY INCLUDE AN
16 AGREEMENT AS TO HOW RECORDS OF THE CIRCUIT COURT, PROBATE COURT,
17 AND DISTRICT COURT IN THE COUNTY SHALL BE MAINTAINED AND HOW
18 RECORDS SHALL BE TRANSFERRED TO A JUDGE OF A DIFFERENT COURT
19 HEARING THE MATTER AS A RESULT OF CONCURRENT JURISDICTION AND THE
20 ASSIGNMENT OF THE CASE TO THAT JUDGE. AN AGREEMENT UNDER THIS
21 SECTION IS NOT EFFECTIVE UNLESS APPROVED BY THE COUNTY CLERK.

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

24 (a) Possessed by courts of record at the common law, as
25 altered by the state constitution of 1963, the laws of this
26 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, ~~Act No. 40 of the Public Acts of 1956, being sections 280.1 to 280.630 of the Michigan Compiled Laws~~ 1956 PA 40, MCL 280.1 TO 280.630.

(3) IN A JUDICIAL CIRCUIT IN WHICH THE CIRCUIT COURT IS AFFECTED BY A PLAN OF CONCURRENT JURISDICTION ADOPTED UNDER CHAPTER 4, THE CIRCUIT COURT HAS CONCURRENT JURISDICTION WITH THE PROBATE COURT OR THE DISTRICT COURT, OR BOTH, AS PROVIDED IN THE PLAN OF CONCURRENT JURISDICTION, EXCEPT AS TO THE FOLLOWING MATTERS:

(A) THE PROBATE COURT SHALL HAVE EXCLUSIVE JURISDICTION OVER TRUST AND ESTATE MATTERS.

(B) THE DISTRICT COURT SHALL HAVE EXCLUSIVE JURISDICTION OVER SMALL CLAIMS AND CIVIL INFRACTION ACTIONS.

(4) ~~-(3)-~~ The family division of circuit court has jurisdiction as provided in chapter 10.

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

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

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

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

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

3 (2) IN A JUDICIAL CIRCUIT IN WHICH THE PROBATE COURT IS
4 AFFECTED BY A PLAN OF CONCURRENT JURISDICTION ADOPTED UNDER CHAP-
5 TER 4, THE PROBATE COURT HAS CONCURRENT JURISDICTION WITH THE
6 CIRCUIT COURT OR THE DISTRICT COURT, OR BOTH, AS PROVIDED IN THE
7 PLAN OF CONCURRENT JURISDICTION, EXCEPT AS TO THE FOLLOWING
8 MATTERS:

9 (A) THE CIRCUIT COURT SHALL HAVE EXCLUSIVE JURISDICTION OVER
10 APPEALS FROM THE DISTRICT COURT AND FROM ADMINISTRATIVE AGENCIES
11 AS AUTHORIZED BY LAW.

12 (B) THE CIRCUIT COURT SHALL HAVE EXCLUSIVE JURISDICTION AND
13 POWER TO ISSUE, HEAR, AND DETERMINE PREROGATIVE AND REMEDIAL
14 WRITS CONSISTENT WITH SECTION 13 OF ARTICLE VI OF THE STATE CON-
15 STITUTION OF 1963.

16 (C) THE CIRCUIT COURT SHALL HAVE EXCLUSIVE JURISDICTION TO
17 HEAR AND DECIDE MATTERS WITHIN THE JURISDICTION OF THE COURT OF
18 CLAIMS UNDER CHAPTER 64.

19 (D) THE DISTRICT COURT SHALL HAVE EXCLUSIVE JURISDICTION
20 OVER SMALL CLAIMS AND CIVIL INFRACTION ACTIONS.

21 SEC. 8304. IN A DISTRICT COURT DISTRICT IN WHICH THE DIS-
22 TRICT COURT IS AFFECTED BY A PLAN OF CONCURRENT JURISDICTION
23 ADOPTED UNDER CHAPTER 4, THE DISTRICT COURT HAS CONCURRENT JURIS-
24 DICTION WITH THE CIRCUIT COURT OR THE PROBATE COURT, OR BOTH, AS
25 PROVIDED IN THE PLAN OF CONCURRENT JURISDICTION, EXCEPT AS TO THE
26 FOLLOWING MATTERS:

1 (A) THE CIRCUIT COURT SHALL HAVE EXCLUSIVE JURISDICTION OVER
 2 APPEALS FROM THE DISTRICT COURT AND FROM ADMINISTRATIVE AGENCIES
 3 AS AUTHORIZED BY STATUTE.

4 (B) THE CIRCUIT COURT SHALL HAVE EXCLUSIVE JURISDICTION AND
 5 POWER TO ISSUE, HEAR, AND DETERMINE PREROGATIVE AND REMEDIAL
 6 WRITS CONSISTENT WITH SECTION 13 OF ARTICLE VI OF THE STATE CON-
 7 STITUTION OF 1963.

8 (C) THE CIRCUIT COURT SHALL HAVE EXCLUSIVE JURISDICTION TO
 9 HEAR AND DECIDE MATTERS WITHIN THE JURISDICTION OF THE COURT OF
 10 CLAIMS UNDER CHAPTER 64.

11 (D) THE PROBATE COURT SHALL HAVE EXCLUSIVE JURISDICTION OVER
 12 TRUSTS AND ESTATES.

13 Enacting section 1. This amendatory act takes effect April
 14 1, 2003.