

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 461

A bill to amend 1961 PA 236, entitled  
"Revised judicature act of 1961,"  
by amending sections 807, 808, 821, and 822 (MCL 600.807,  
600.808, 600.821, and 600.822), section 807 as amended by 2002 PA  
715 and sections 821 and 822 as amended by 2002 PA 92.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 807. A probate court district is created in each of  
2 the following described districts when a majority of the electors  
3 voting on the question in each affected county approves the  
4 probate court district. The districts shall consist as follows:

5       (a) The first district consists **of any** of the ~~counties of~~  
6 **following:**

7       (i) Baraga, Houghton, and Keweenaw **counties.**

8       (ii) Houghton and Baraga **counties.**

9       (iii) Houghton and Keweenaw **counties.**

1           (b) The second district consists of the counties of Ontonagon  
2 and Gogebic.

3           (c) The third district consists of the counties of Iron and  
4 Dickinson.

5           (d) The fifth district consists of the counties of  
6 Schoolcraft and Alger.

7           (e) The sixth district consists of the counties of Mackinac  
8 and Luce.

9           (f) The seventh district consists of the counties of Emmet  
10 and Charlevoix.

11          (g) The eighth district consists of the counties of Cheboygan  
12 and Presque Isle.

13          (h) The ninth district consists of the counties of Alpena and  
14 Montmorency.

15          (i) The twelfth district consists of the counties of Manistee  
16 and Benzie.

17          (j) The thirteenth district consists of the counties of  
18 Wexford and Missaukee.

19          ~~(k) The fourteenth district consists of the counties of~~  
20 ~~Kalkaska and Crawford.~~

21          **(k)** ~~-(l)-~~ The fifteenth district consists of the counties of  
22 Alcona and Oscoda.

23          ~~(m) The sixteenth district consists of the counties of Iosee~~  
24 ~~and Arenac.~~

25          **(l)** ~~-(n)-~~ The seventeenth district consists of the counties  
26 of Clare and Gladwin.

27          **(m)** ~~-(o)-~~ The eighteenth district consists of the counties of

1 Mecosta and Osceola.

2 ~~(p) The nineteenth district consists of the counties of~~  
 3 ~~Mason and Lake.~~

4 Sec. 808. (1) When each county board of commissioners of a  
 5 district described in section 807 agrees by resolution to form a  
 6 district, ~~then~~ the question of creation of the district shall  
 7 be submitted to the electors of the affected counties at the next  
 8 primary, general, or special election ~~which~~ **that** occurs more  
 9 than 49 days after the resolution is adopted. A special election  
 10 for submission of the question may be called by resolution  
 11 adopted by each county board of commissioners in the proposed  
 12 district.

13 (2) The question relative to creating the district shall be  
 14 in substantially the following form:

15 "Shall this county join in a probate court district, which  
 16 will consist of the counties of \_\_\_\_\_ and  
 17 \_\_\_\_\_ if the majority of the electors voting on the  
 18 question in each affected county approve?

19 Yes ( )

20 No ( )"

21 (3) The votes on the question shall be counted, canvassed,  
 22 and returned in the manner provided by law. The results shall be  
 23 canvassed and certified by the board of state canvassers in the  
 24 same manner as provided for state propositions under chapter 31  
 25 of ~~Act No. 116 of the Public Acts of 1954, as amended, being~~  
 26 ~~sections 168.841 to 168.847 of the Michigan Compiled Laws~~ **the**  
 27 **Michigan election law, 1954 PA 116, MCL 168.841 to 168.847.**

1 (4) If approved by a majority of the electors voting on the  
2 question in each of the counties affected, those counties shall  
3 constitute the probate court district corresponding to the  
4 appropriate district described in section 807, and that district  
5 ~~shall become~~ **becomes** effective as provided in section 809 or  
6 810, ~~of this chapter,~~ whichever section results in an earlier  
7 effective date.

8 (5) The election of the probate judge for a probate court  
9 district created under this section shall be held as provided in  
10 section 811.

11 (6) ~~A probate judge serving on the effective date of this~~  
12 ~~chapter who is not a licensed attorney of this state shall be~~  
13 ~~eligible for election under this section as the probate judge in~~  
14 ~~a probate court district.~~ **The state shall reimburse the affected**  
15 **counties for 1/2 of the additional cost of submitting the**  
16 **question of the district to the electors of the affected counties**  
17 **if the question is submitted to the electors at a primary,**  
18 **general, or special election held after the effective date of the**  
19 **2003 amendatory act that amended this subsection but before**  
20 **November 3, 2004.**

21 Sec. 821. (1) The following probate judges shall not engage  
22 in the practice of law other than as a judge and shall receive,  
23 subject to subsection (6), an annual salary provided in this  
24 section:

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

27 (b) The probate judge in each probate court district

1 **described in section 807** in which a majority of the electors  
2 voting on the question in each county of probate court district  
3 has approved or approves creation of the district.

4 (c) A probate judge in a county having a population of 15,000  
5 or more according to the 1990 federal decennial census, if the  
6 county is not part of a probate court district created pursuant  
7 to law.

8 (d) A probate judge ~~described in~~ **who has the power,**  
9 **authority, and title of a district judge within his or her**  
10 **respective county pursuant to** section 810a.

11 (2) Each probate judge shall receive an annual salary  
12 determined as follows:

13 (a) A minimum annual salary of the difference between 85% of  
14 the salary of a justice of the supreme court and \$45,724.00.

15 (b) An additional salary of \$45,724.00 paid by the county or  
16 by the counties comprising a probate court district. If a  
17 probate judge receives a total additional salary of \$45,724.00  
18 from the county, or from the counties comprising a probate court  
19 district, and does not receive less than or more than \$45,724.00,  
20 including any cost-of-living allowance, the state shall reimburse  
21 the county or counties the amount that the county or counties  
22 have paid to the judge.

23 (3) Six thousand dollars of the minimum annual salary  
24 provided in subsection (2) shall be paid by the county, or by the  
25 counties comprising a probate court district, and the balance of  
26 that minimum annual salary shall be paid by the state as a grant  
27 to the county or the counties comprising the probate court

1 district. The county, or the counties comprising the probate  
2 court district, shall in turn pay that amount to the probate  
3 judge. Beginning January 1, 1997, the state shall annually  
4 reimburse the county or counties \$6,000.00 for each probate judge  
5 to offset the cost of the county or counties required by this  
6 section.

7 (4) The salary provided in this section is full compensation  
8 for all services performed by a probate judge, except as  
9 otherwise provided by law. In a probate court district, each  
10 county of the district shall contribute to the salary in the same  
11 proportion as the population of the county bears to the  
12 population of the district.

13 (5) An additional salary determined by the county board of  
14 commissioners may be increased during a term of office but shall  
15 not be decreased except to the extent of a general salary  
16 reduction in all other branches of government in the county. In  
17 a county where an additional salary is granted, it shall be paid  
18 at the same rate to all probate judges regularly holding court in  
19 the county.

20 (6) An increase in the amount of salary payable to a judge  
21 under subsection (1) caused by an increase in the salary payable  
22 to a justice of the supreme court resulting from the operation of  
23 1968 PA 357, MCL 15.211 to 15.218, is not effective until  
24 February 1 of the year in which the increase in the salary of a  
25 justice of the supreme court becomes effective. If an increase  
26 in salary becomes effective on February 1 of a year in which an  
27 increase in the salary of a justice of the supreme court becomes

1 effective, the increase is retroactive to January 1 of that  
2 year.

3       Sec. 822. (1) ~~A~~ **Except as provided in subsection (6), a**  
4 probate judge not ~~described~~ **included** in section 821 shall  
5 receive ~~an~~ **a minimum** annual salary of \$20,000.00. Six thousand  
6 dollars of the minimum annual salary provided by this subsection  
7 shall be paid by the county and the balance of the minimum annual  
8 salary shall be paid by the state as a grant to the county. The  
9 county shall, in turn, pay that amount to the probate judge.

10       (2) The **minimum** annual salary provided in subsection (1) may  
11 be increased but shall not be decreased during the term for which  
12 the probate judge has been elected or appointed. This salary is  
13 in full compensation for all services performed by the person as  
14 probate judge, except as otherwise provided by law. A probate  
15 judge whose **minimum** annual salary is provided in subsection (1)  
16 shall not represent a party in a contested proceeding in the  
17 probate court of this state.

18       (3) In addition to the salary provided in subsection (1), a  
19 probate judge may receive from the county in which he or she  
20 regularly holds court an additional salary of not more than  
21 ~~\$43,000.00~~ **\$45,724.00**, as determined by the county board of  
22 commissioners. The additional salary may be increased during a  
23 term of office but shall not be decreased except to the extent of  
24 a general salary reduction in all other branches of government in  
25 the county.

26       (4) ~~The~~ **Except as provided in subsection (8), the** total  
27 annual salary of a probate judge, including the salary provided

1 in subsection (1) and any additional salary granted by the county  
2 under subsection (3), shall not exceed ~~-\$63,000.00~~ **\$65,724.00**.

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

8 (6) A probate judge described in subsection (1) may receive  
9 an additional minimum annual salary, in addition to the  
10 \$20,000.00 minimum annual salary described in subsection (1), if  
11 all of the following apply:

12 (a) The county board of commissioners approves payment to the  
13 probate judge of an additional salary from the county in the  
14 amount of \$45,724.00 as provided in subsection (3).

15 (b) The county board of commissioners passes a resolution  
16 that includes all of the following:

17 (i) A determination of an amount that the county is willing  
18 to reimburse the state as an additional minimum annual salary for  
19 the probate judge.

20 (ii) An agreement to immediately reimburse the state for the  
21 additional minimum annual salary authorized under this  
22 subsection.

23 (iii) An agreement that the determination under subparagraph  
24 (i) will not be decreased during the term of office of the  
25 probate judge.

26 (iv) An agreement that the amount of reimbursement for the  
27 additional minimum annual salary will not be decreased during the



1 term of office of the probate judge.

2 (c) The probate judge agrees in writing to the following:

3 (i) To participate in a plan of concurrent jurisdiction as  
4 provided in chapter 4.

5 (ii) To participate in a family court plan as provided in  
6 chapter 10.

7 (iii) To not engage in the practice of law other than as a  
8 judge.

9 (iv) That if he or she becomes included in section 821, any  
10 additional minimum annual salary authorized under this subsection  
11 would thereafter be considered part of the minimum annual salary  
12 described in section 821.

13 (d) The supreme court or the state court administrative  
14 office approves the payment of the additional minimum annual  
15 salary authorized under this subsection.

16 (7) The additional minimum annual salary authorized under  
17 subsection (6) shall be paid by the state as a grant to the  
18 county, and the county shall in turn pay that amount to the  
19 probate judge in the same manner as provided in section 821(3).  
20 The county may increase the determination authorized under  
21 subsection (6)(b)(i) and its obligation to reimburse the state  
22 during the term of office of the probate judge.

23 (8) The total annual salary paid to a probate judge who  
24 receives an additional minimum annual salary under subsection  
25 (6), including the minimum annual salary provided in subsection  
26 (1), the additional county salary provided in subsection (3), and  
27 the additional minimum annual salary provided in subsection (6),

1 shall not exceed 85% of the salary of a justice of the supreme  
2 court.

3 (9) If a probate judge described in subsection (1) becomes  
4 included in section 821, any additional minimum annual salary  
5 authorized under subsection (6) shall thereafter be considered  
6 part of the minimum annual salary described in section 821(2)(a),  
7 and the county's obligation to reimburse the state under  
8 subsection (6) shall cease.

9 (10) A probate judge who receives an additional minimum  
10 annual salary under subsection (6) shall not engage in the  
11 practice of law other than as a judge.