

Act No. 40
Public Acts of 2003
Approved by the Governor
July 9, 2003
Filed with the Secretary of State
July 9, 2003
EFFECTIVE DATE: July 9, 2003

**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2003**

Introduced by Senators Cropsey and Stamas

ENROLLED SENATE BILL No. 461

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; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," 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:

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

- (a) The first district consists of any of the following:
 - (i) Baraga, Houghton, and Keweenaw counties.
 - (ii) Houghton and Baraga counties.
 - (iii) Houghton and Keweenaw counties.
- (b) The second district consists of the counties of Ontonagon and Gogebic.
- (c) The third district consists of the counties of Iron and Dickinson.
- (d) The fifth district consists of the counties of Schoolcraft and Alger.
- (e) The sixth district consists of the counties of Mackinac and Luce.
- (f) The seventh district consists of the counties of Emmet and Charlevoix.
- (g) The eighth district consists of the counties of Cheboygan and Presque Isle.
- (h) The ninth district consists of the counties of Alpena and Montmorency.
- (i) The twelfth district consists of the counties of Manistee and Benzie.
- (j) The thirteenth district consists of the counties of Wexford and Missaukee.
- (k) The fifteenth district consists of the counties of Alcona and Oscoda.
- (l) The seventeenth district consists of the counties of Clare and Gladwin.
- (m) The eighteenth district consists of the counties of Mecosta and Osceola.

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

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

“Shall this county join in a probate court district, which will consist of the counties of _____ and _____ if the majority of the electors voting on the question in each affected county approve?”

Yes ()

No ()”

(3) The votes on the question shall be counted, canvassed, and returned in the manner provided by law. The results shall be canvassed and certified by the board of state canvassers in the same manner as provided for state propositions under chapter 31 of the Michigan election law, 1954 PA 116, MCL 168.841 to 168.847.

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

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

(6) The state shall reimburse the affected counties for 1/2 of the additional cost of submitting the question of the district to the electors of the affected counties if the question is submitted to the electors at a primary, general, or special election held after the effective date of the 2003 amendatory act that amended this subsection but before November 3, 2004.

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 (6), an annual salary provided in this section:

(a) A probate judge of a county that is not described in section 807.

(b) The probate judge in each probate court district described in section 807 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.

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

(2) 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.

(3) Six thousand dollars of the minimum annual salary provided in subsection (2) 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.

(4) 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.

(5) 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.

(6) 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) Except as provided in subsection (6), a probate judge not included in section 821 shall receive a minimum 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 minimum 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 minimum 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 \$45,724.00, 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) Except as provided in subsection (8), 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 \$65,724.00.

(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.

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

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

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

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

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

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

(iv) An agreement that the amount of reimbursement for the additional minimum annual salary will not be decreased during the term of office of the probate judge.

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

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

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

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

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

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

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

(8) The total annual salary paid to a probate judge who receives an additional minimum annual salary under subsection (6), including the minimum annual salary provided in subsection (1), the additional county salary provided in subsection (3), and the additional minimum annual salary provided in subsection (6), shall not exceed 85% of the salary of a justice of the supreme court.

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

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

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Sam E. Randall

Clerk of the House of Representatives

Approved _____

Governor