

Rep. Howell offered the following resolution:

House Resolution No. 12.

A resolution to request the opinion of the Michigan Supreme Court on the constitutionality of certain questions of law pertaining to provisions of 2002 PA 678.

Whereas, Article III, Section 8 of the *Michigan Constitution of 1963* provides that either house of the legislature may request the opinion of the Supreme Court on important questions of law upon solemn occasions as to the constitutionality of legislation after it has been enacted but before its effective date; and

Whereas, On December 25, 2002, Enrolled House Bill No. 6260, having been duly enacted by the Michigan Legislature, was signed by the Governor and became 2002 PA 678. This act, which amends the Revised Judicature Act of 1961, 1961 PA 236, being MCL §§ 600.101 to 600.9948, becomes effective April 1, 2003; and

Whereas, 2002 PA 678 provides for the adoption of plans for concurrent jurisdiction in trial courts under certain conditions, which include the approval of the Michigan Supreme Court. The act also specifies areas of exclusive jurisdiction within the circuit court, probate court, and district court; and

Whereas, The Michigan House of Representatives finds that it is essential to judges, court personnel, funding authorities, and the public at large that efforts to adopt a plan of concurrent jurisdiction in counties and judicial circuits across the state not be encumbered by doubts as to the constitutionality of 2002 PA 678; and

Whereas, The Michigan House of Representatives finds that it would facilitate the development of local plans of concurrent jurisdiction and protect against the use and loss of valuable resources, time, and money if issues of constitutionality were to be resolved by an advisory opinion of the Michigan Supreme Court; and

Whereas, The Michigan House of Representatives has determined that important questions of law exist with respect to the constitutionality of 2002 PA 678, being MCL §§ 600.401 to 600.425 and MCL §§ 600.601, 600.841 and 600.8304; now, therefore, be it

Resolved by the House of Representatives, That, pursuant to Article III, Section 8 of the *Michigan Constitution of 1963*, we respectfully request the Michigan Supreme Court to issue an advisory opinion on the following questions of law:

1. Does 2002 PA 678 violate the provisions of Article VI, Section 1 of the *Michigan Constitution of 1963*?

The judicial power of the state is vested exclusively in one court of justice which shall be divided into one supreme court, one court of appeals, one trial court of general jurisdiction known as the circuit court, one probate court, and courts of limited jurisdiction that the legislature may establish by a two-thirds vote of the members elected to and serving in each house.

2. Does 2002 PA 678 violate the provisions of Article VI, Section 13 of the *Michigan Constitution of 1963*?

The circuit court shall have original jurisdiction in all matters not prohibited by law; appellate jurisdiction from all inferior courts and tribunals except as otherwise provided by law; power to issue, hear and determine prerogative and remedial writs; supervisory and general control over inferior courts and tribunals within their respective jurisdictions in accordance with rules of the supreme court; and jurisdiction of other cases and matters as provided by rules of the supreme court.

3. Does 2002 PA 678 violate the provisions of Article VI, Section 15 of the *Michigan Constitution of 1963*?

In each county organized for judicial purposes there shall be a probate court. The legislature may create or alter probate court districts of more than one county if approved in each affected county by a majority of the electors voting on the question. The legislature may provide for the combination of the office of probate judge with any judicial office of limited jurisdiction within a county with supplemental salary as provided by law. The jurisdiction, powers and duties of the probate court and of the judges thereof shall be provided by law. They shall have original jurisdiction in all cases of juvenile delinquents and dependents, except as otherwise provided by law.

4. Does the grant of concurrent jurisdiction to the probate, circuit, and district courts as set forth in 2002 PA 678 violate any of the provisions of Article VI, Sections 1, 13, or 15 of the *Michigan Constitution of 1963* as cited above?

The questions involved are of great importance and solemn concern to the people of the state of Michigan; and be it further

Resolved, That copies of this resolution be transmitted to the Michigan Supreme Court.