

HOUSE BILL No. 5124

October 26, 2011, Introduced by Reps. Cotter and Heise and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 401, 406, 407, 408, 410, 601, 841, and 8304
(MCL 600.401, 600.406, 600.407, 600.408, 600.410, 600.601, 600.841,
and 600.8304), sections 401, 406, 407, 408, and 8304 as added by
2002 PA 678 and sections 410, 601, and 841 as amended by 2005 PA
326; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 401. (1) Within a county or judicial circuit, subject to
2 approval by the state supreme court and ~~subject to the limitations~~
3 contained in sections 410, ~~601,~~ 841, and 8304, a plan of concurrent
4 jurisdiction ~~may~~ **SHALL** be adopted by a majority vote of ~~each of the~~
5 ~~following groups of~~ **ALL OF THE** judges ~~for~~ **OF** the participating

trial courts **IN THE PLAN** in that county or judicial circuit. +

~~— (a) The circuit judges, the probate judges, and the district judges.~~

~~— (b) The circuit judges and the probate judges.~~

~~— (c) The circuit judges and the district judges.~~

~~— (d) The probate judges and the district judges.~~

(2) ~~A~~**THE** plan of concurrent jurisdiction ~~may~~**SHALL** 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.

(c) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the circuit court.

(d) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the district court.

(e) The district court and 1 or more district judges may exercise the power and jurisdiction of the circuit court.

(f) The district court and 1 or more district judges may exercise the power and jurisdiction of the probate court.

(G) IF THERE ARE MULTIPLE DISTRICT COURT DISTRICTS WITHIN THE JUDICIAL CIRCUIT, 1 OR MORE DISTRICT JUDGES MAY EXERCISE THE POWER AND JURISDICTION OF JUDGE OF ANOTHER DISTRICT COURT DISTRICT WITHIN THE JUDICIAL CIRCUIT.

(3) ~~A~~**THE** 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

1 necessary to implement the plan and to fairly distribute the
2 workload among those judges.

3 (4) IF THE PLAN OF CONCURRENT JURISDICTION REQUIRED UNDER THIS
4 SECTION IS NOT ADOPTED, THE SUPREME COURT SHALL DEVELOP AND
5 IMPLEMENT THE PLAN FOR THAT COUNTY OR JUDICIAL CIRCUIT.

6 (5) ~~(4)~~ A plan of concurrent jurisdiction shall become **BECOMES**
7 effective ~~on the first day of the month at least 90 days after~~ **UPON**
8 the approval of the plan by the supreme court.

9 (6) ~~(5)~~ This section does not apply to the counties of
10 Genesee, Ingham, Kent, Macomb, Oakland, Washtenaw, and Wayne, which
11 have district court districts of the third class.

12 Sec. 406. (1) Within the counties of Genesee, Ingham, Kent,
13 Macomb, Oakland, Washtenaw, and Wayne, the circuit judges and the
14 probate judges, subject to approval by the state supreme court and
15 ~~subject to the limitations contained in sections 410, 601, 841, and~~
16 8304, by a majority vote of ~~each group of~~ **ALL OF THE CIRCUIT AND**
17 **PROBATE** judges, ~~may~~ **SHALL** adopt 1 or more plans of concurrent
18 jurisdiction **UNDER THIS SECTION OR SECTION 407** for the circuit
19 court and probate court in that county.

20 (2) ~~A~~ **THE** plan of concurrent jurisdiction under this section
21 ~~may~~ **SHALL** provide for 1 or more of the following:

22 (a) The circuit court and 1 or more circuit judges may
23 exercise the power and jurisdiction of the probate court.

24 (b) The probate court and 1 or more probate judges may
25 exercise the power and jurisdiction of the circuit court.

26 (3) ~~A~~ **THE** plan of concurrent jurisdiction shall provide for
27 the transfer or assignment of cases between the trial courts

1 affected by the plan and to individual judges of those courts as
 2 necessary to implement the plan and to fairly distribute the
 3 workload among those judges.

4 **(4) IF THE PLAN OF CONCURRENT JURISDICTION REQUIRED UNDER THIS**
 5 **SECTION OR SECTION 407 IS NOT ADOPTED, THE SUPREME COURT SHALL**
 6 **DEVELOP AND IMPLEMENT THE PLAN FOR THAT COUNTY.**

7 (5) ~~(4) A THE~~ plan of concurrent jurisdiction ~~shall become~~
 8 **BECOMES** effective ~~on the first day of the month at least 90 days~~
 9 ~~after~~ **UPON** the approval of the plan by the supreme court.

10 Sec. 407. (1) Within the counties of Genesee, Ingham, Kent,
 11 Macomb, Oakland, and Washtenaw, the circuit judges, the probate
 12 judges, and the district judges in the county-funded district court
 13 district, subject to approval by the state supreme court and
 14 ~~subject to the limitations contained in sections 410, 601, 841, and~~
 15 ~~8304, by a majority vote of each group of~~ **ALL OF THE** judges **OF THE**
 16 **TRIAL COURTS IN THE PLAN,** ~~may~~ **SHALL** adopt 1 or more plans of
 17 concurrent jurisdiction **UNDER THIS SECTION OR SECTION 406** for the
 18 ~~participating trial courts~~ **IN THE PLAN** in that county.

19 (2) ~~A THE~~ plan of concurrent jurisdiction under this section
 20 ~~may~~ **SHALL** provide for 1 or more of the following:

21 (a) The circuit court and 1 or more circuit judges may
 22 exercise the power and jurisdiction of the probate court.

23 (b) The circuit court and 1 or more circuit judges may
 24 exercise the power and jurisdiction of the district court within
 25 the county-funded district court district.

26 (c) The probate court and 1 or more probate judges may
 27 exercise the power and jurisdiction of the circuit court.

(d) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the district court within the county-funded district court district.

(e) 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 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.

(G) IF THERE ARE MULTIPLE COUNTY-FUNDED DISTRICT COURT DISTRICTS WITHIN THE COUNTY, 1 OR MORE DISTRICT JUDGES MAY EXERCISE THE POWER AND JURISDICTION OF JUDGE OF ANOTHER COUNTY-FUNDED DISTRICT COURT DISTRICT WITHIN THE COUNTY.

(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) IF THE PLAN OF CONCURRENT JURISDICTION REQUIRED UNDER THIS SECTION OR SECTION 406 IS NOT ADOPTED, THE SUPREME COURT SHALL DEVELOP AND IMPLEMENT THE PLAN FOR THAT COUNTY.

~~(5) (4) A plan of concurrent jurisdiction shall become~~ **BECOMES** effective ~~on the first day of the month at least 90 days after~~ **UPON** 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 circuit judges, the probate judges, and the district judges in 1 or more district court

districts **OF THE THIRD CLASS** within the county, subject to approval by the state supreme court and ~~subject to~~ the limitations contained in sections 410, ~~601,~~ 841, and 8304, by a majority vote of ~~each~~ ~~group of~~ **ALL OF THE** judges **OF THE TRIAL COURTS IN THE PLAN**, may adopt 1 or more plans of concurrent jurisdiction for the ~~participating~~ trial courts **IN THE PLAN** 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 **IN THE PLAN** within the county.

(c) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the circuit court.

(d) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the district court within the ~~participating~~ district court districts **IN THE PLAN** within the county.

(e) The district court and 1 or more district judges in the ~~participating~~ district court districts **IN THE PLAN** within the county may exercise the power and jurisdiction of the circuit court.

(f) The district court and 1 or more district judges in the ~~participating~~ district court districts **IN THE PLAN** within the county may exercise the power and jurisdiction of the probate

1 court.

2 (G) IF THERE ARE MULTIPLE DISTRICT COURT DISTRICTS WITHIN THE
3 COUNTY, 1 OR MORE DISTRICT JUDGES MAY EXERCISE THE POWER AND
4 JURISDICTION OF THE JUDGE OF ANOTHER DISTRICT COURT DISTRICT WITHIN
5 THE COUNTY.

6 (3) A plan of concurrent jurisdiction shall provide for the
7 transfer or assignment of cases between the trial courts affected
8 by the plan and to individual judges of those courts as necessary
9 to implement the plan and to fairly distribute the workload among
10 those judges.

11 (4) A plan of concurrent jurisdiction involving district court
12 districts of the third class may include an agreement as to the
13 allocation of court revenue, other than revenue payable by statute
14 to libraries or state funds, and court expenses. This agreement is
15 subject to approval by the county board of commissioners and by
16 each local funding unit of each participating district of the third
17 class.

18 (5) A plan of concurrent jurisdiction ~~shall become~~ **BECOMES**
19 effective ~~on the first day of the month at least 90 days after~~ **UPON**
20 the approval of the plan by the supreme court.

21 Sec. 410. A plan of concurrent jurisdiction adopted under this
22 chapter shall not include a delegation of ~~any~~ **EITHER** of the
23 following:

24 (a) A power of appointment to a public office delegated by
25 constitution or statute to the circuit court or a circuit judge.

26 (b) A power of appointment to a public office delegated by
27 constitution or statute to the probate court or a probate judge.

~~1 (c) Except as provided in section 411, a power of appointment~~
~~2 to a public office delegated by constitution or statute to the~~
~~3 district court or a district judge.~~

4 Sec. 601. (1) The circuit court has the power and jurisdiction
 5 **THAT IS ANY OF THE FOLLOWING:**

6 (a) Possessed by courts of record at the common law, as
 7 altered by the state constitution of 1963, the laws of this state,
 8 and the rules of the supreme court.

9 (b) Possessed by courts and judges in chancery in England on
 10 March 1, 1847, as altered by the state constitution of 1963, the
 11 laws of this state, and the rules of the supreme court.

12 (c) Prescribed by the rules of the supreme court.

13 (2) The circuit court has exclusive jurisdiction over
 14 condemnation cases commenced under the drain code of 1956, 1956 PA
 15 40, MCL 280.1 to 280.630.

16 (3) In a judicial circuit in which the circuit court is
 17 affected by a plan of concurrent jurisdiction adopted under chapter
 18 4, the circuit court has concurrent jurisdiction with the probate
 19 court or the district court, or both, as provided in the plan of
 20 concurrent jurisdiction. ~~, except as to the following matters:~~

21 ~~(a) The probate court has exclusive jurisdiction over trust~~
 22 ~~and estate matters.~~

23 ~~(b) Except as provided in section 411, the district court has~~
 24 ~~exclusive jurisdiction over small claims and civil infraction~~
 25 ~~actions.~~

26 (4) The family division of circuit court has jurisdiction as
 27 provided in chapter 10.

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

3 (a) As conferred upon it under the estates and protected
4 individuals code, 1998 PA 386, MCL 700.1101 to ~~700.8102~~ **700.8206**.

5 (b) As conferred upon it under the mental health code, 1974 PA
6 258, MCL 330.1001 to 330.2106.

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

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

9 (2) In a judicial circuit in which the probate court is
10 affected by a plan of concurrent jurisdiction adopted under chapter
11 4, the probate court has concurrent jurisdiction with the circuit
12 court or the district court, or both, as provided in the plan of
13 concurrent jurisdiction, except as to the following matters:

14 (a) The circuit court has exclusive jurisdiction over appeals
15 from the district court and from administrative agencies as
16 authorized by law.

17 (b) The circuit court has exclusive jurisdiction and power to
18 issue, hear, and determine prerogative and remedial writs
19 consistent with section 13 of article VI of the state constitution
20 of 1963.

21 (c) The circuit court has exclusive jurisdiction to hear and
22 decide matters within the jurisdiction of the court of claims under
23 chapter 64.

24 ~~—— (d) Except as provided in section 411, the district court has~~
25 ~~exclusive jurisdiction over small claims and civil infraction~~
26 ~~actions.~~

27 Sec. 8304. In a district court district in which the district

1 court is affected by a plan of concurrent jurisdiction adopted
2 under chapter 4, the district court has concurrent jurisdiction
3 with the circuit court or the probate court, or both, as provided
4 in the plan of concurrent jurisdiction, except as to the following
5 matters:

6 (a) The circuit court ~~shall have~~ **HAS** exclusive jurisdiction
7 over appeals from the district court and from administrative
8 agencies as authorized by statute.

9 (b) The circuit court ~~shall have~~ **HAS** exclusive jurisdiction
10 and power to issue, hear, and determine prerogative and remedial
11 writs consistent with section 13 of article VI of the state
12 constitution of 1963.

13 (c) The circuit court ~~shall have~~ **HAS** exclusive jurisdiction to
14 hear and decide matters within the jurisdiction of the court of
15 claims under chapter 64.

16 ~~— (d) The probate court shall have exclusive jurisdiction over~~
17 ~~trusts and estates.~~

18 Enacting section 1. Section 411 of the revised judicature act
19 of 1961, 1961 PA 236, MCL 600.411, is repealed.