

Act No. 338
Public Acts of 2012
Approved by the Governor
October 16, 2012
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**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Reps. Cotter and Heise

ENROLLED HOUSE BILL No. 5124

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 the courts, and of the judges and other officers of the courts; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in the courts; pleading, evidence, practice, and procedure in civil and criminal actions and proceedings in the courts; to provide for the powers and duties of certain state governmental officers and entities; 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 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 by adding sections 412 and 413; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 401. (1) Within each judicial circuit, subject to approval by the supreme court and to the limitations contained in sections 410, 841, and 8304, a plan of concurrent jurisdiction shall be adopted by a majority vote of all of the judges of the trial courts in the plan unless a majority of all of the judges of the trial courts in that judicial circuit vote not to have a plan of concurrent jurisdiction. If a majority of all of the judges of the trial courts in a judicial circuit vote not to have a plan of concurrent jurisdiction, the chief judge of the circuit court of that judicial circuit shall report the results of that vote to the state court administrator.

(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.
- (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 plan of concurrent jurisdiction under this section 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 under this section may include agreements as to other matters involving the operation of the trial courts participating in the plan, as approved by the supreme court.

(5) A plan of concurrent jurisdiction becomes effective upon the approval of the plan by the supreme court.

(6) 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. 406. (1) Within the counties of Genesee, Ingham, Kent, Macomb, Oakland, Washtenaw, and Wayne, a majority of all of the circuit and probate judges, subject to approval by the supreme court and to the limitations contained in sections 410, 841, and 8304, shall adopt 1 or more plans of concurrent jurisdiction under this section unless a plan of concurrent jurisdiction has been adopted under section 407 or 408, or unless a majority of all of the circuit and probate judges in that county vote not to have a plan of concurrent jurisdiction. If a majority of all of the circuit and probate judges in that county vote not to have a plan of concurrent jurisdiction, the chief judge of the circuit court shall report the results of that vote to the state court administrator.

(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 under this section 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 under this section may include agreements as to other matters involving the operation of the trial courts participating in the plan, as approved by the supreme court.

(5) A plan of concurrent jurisdiction becomes effective upon the approval of the plan by the supreme court.

Sec. 407. (1) Within the counties of Genesee, Ingham, Kent, Macomb, Oakland, and Washtenaw, a majority of all of the district judges in the county-funded district court district and the circuit judges and probate judges of the courts in the plan, subject to approval by the supreme court and to the limitations contained in sections 410, 841, and 8304, shall adopt 1 or more plans of concurrent jurisdiction under this section unless a plan of concurrent jurisdiction has been adopted under section 406 or 408, or unless a majority of all of the district judges in the county-funded district court district and the circuit judges and probate judges in that county vote not to have a plan of concurrent jurisdiction. If a majority of all of the district judges in the county-funded district court district and the circuit judges and probate judges in that county vote not to have a plan of concurrent jurisdiction, the chief judge of the circuit court in that county shall report the results of that vote to the state court administrator.

(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 county-funded district court district.

(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 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.

(3) A plan of concurrent jurisdiction under this section 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 under this section may include agreements as to other matters involving the operation of the trial courts participating in the plan, as approved by the supreme court.

(5) A plan of concurrent jurisdiction becomes effective 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 within the county, subject to approval by the supreme court and to the limitations contained in sections 410, 841, and 8304, by a majority vote 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 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.

(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 within the county.

(e) The district court and 1 or more district judges in the participating district court districts 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 within the county may exercise the power and jurisdiction of the probate court.

(g) If there are multiple district court districts within the county, 1 or more district judges may exercise the power and jurisdiction of the judge of another district court district within the county.

(3) A plan of concurrent jurisdiction under this section 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 under this section may include agreements as to other matters involving the operation of the trial courts participating in the plan, as approved by the supreme court.

(5) A plan of concurrent jurisdiction involving district court districts of the third class may include an agreement as to the allocation of court revenue, other than revenue payable by statute to libraries or state funds, and court expenses. This agreement is subject to approval as follows:

(a) Except as provided in subdivision (b), by the county board of commissioners and by each local funding unit of each participating district.

(b) If the plan of concurrent jurisdiction only involves district court districts of the third class, by each local funding unit of each participating district of the third class.

(6) A plan of concurrent jurisdiction becomes effective upon the approval of the plan by the supreme court.

Sec. 410. A plan of concurrent jurisdiction adopted under this chapter shall not include a delegation of any of the following:

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

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

(c) A power of appointment to a public office delegated by law to the district court or a district judge, unless that power of appointment is delegated to a court or judge other than the circuit court or a circuit judge.

Sec. 412. A concurrent jurisdiction plan that was adopted, approved by the supreme court, and in effect on December 31, 2012, is considered valid and in compliance with the requirements of this chapter.

Sec. 413. (1) Concurrent jurisdiction plans shall be designed to benefit the citizens utilizing the courts involved rather than the courts themselves or any judge or judges.

(2) A judge voting not to have a plan of concurrent jurisdiction under this chapter may file an objection with the state court administrator. An objection must specifically state the reasons for the objection and may include, but not be limited to, objections based on insufficient allocation of staff or resources, inadequate training for any judge or staff, excessive assignments outside of a judge's election district, or retaliation for any action, including failing to vote for a concurrent jurisdiction plan.

(3) Subject to approval of the supreme court, before the supreme court approves a concurrent jurisdiction plan under this chapter, the state court administrator shall review objections under this section and report the substance of the objections and the administrator's findings about the objections' validity to the supreme court. Subject to approval of the supreme court, the state court administrator shall forward a proposed concurrent jurisdiction plan to the supreme court for review after affirmatively finding that the proposed concurrent jurisdiction plan is in compliance with this chapter and the best interests of the people of the communities being served.

Sec. 601. (1) The circuit court has the power and jurisdiction that is any of the following:

(a) Possessed by courts of record at the common law, as altered by the state constitution of 1963, the laws of this 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, 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.

(4) 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 700.8206.

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

(c) As conferred upon it under this act.

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

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

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

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

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

Sec. 8304. In a district court district in which the district court is affected by a plan of concurrent jurisdiction adopted under chapter 4, the district court has concurrent jurisdiction with the circuit court or the probate court, or both, as provided in the plan of concurrent jurisdiction, except as to the following matters:

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

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

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

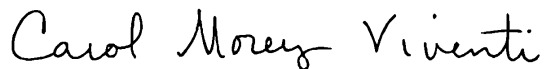
Enacting section 1. Section 411 of the revised judicature act of 1961, 1961 PA 236, MCL 600.411, is repealed.

Enacting section 2. This amendatory act takes effect January 1, 2013.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor