

HOUSE BILL No. 5502

March 22, 2016, Introduced by Reps. Kesto and Tedder and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 308, 846, 866, and 867 (MCL 600.308, 600.846, 600.866, and 600.867), section 308 as amended by 2013 PA 164 and section 846 as amended by 1989 PA 70; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 308. (1) The court of appeals has jurisdiction on appeals
2 from ~~the following orders and judgments, which are appealable as a~~
3 ~~matter of right.~~

4 ~~— (a) All~~ **ALL** final judgments **AND FINAL ORDERS** from the circuit
5 court, court of claims, and ~~recorder's~~ **PROBATE** court, **AS THOSE**
6 **TERMS ARE DEFINED BY LAW AND SUPREME COURT RULE**, except judgments

~~on ordinance violations in the traffic and ordinance division of recorder's court and final judgments and FINAL orders described in subsections (2) and (3). A FINAL JUDGMENT OR FINAL ORDER DESCRIBED IN THIS SUBSECTION IS APPEALABLE AS A MATTER OF RIGHT.~~

~~—— (b) These orders of the probate court from which an appeal as of right may be taken under section 861.~~

(2) The court of appeals has jurisdiction on appeal from the following orders and judgments that ~~shall be~~ **ARE** reviewable only ~~upon~~ **ON** application for leave to appeal granted by the court of appeals:

(a) A final judgment or **FINAL** order ~~made by~~ **OF** the circuit court under any of the following circumstances:

~~—— (i) In an appeal from an order, sentence, or judgment of the probate court under section 863(1) and (2).~~

~~(i)~~ **(ii)** In an appeal from a final judgment or **FINAL** order of the district court appealed to the circuit court under section 8342.

(ii) ~~(iii)~~ An **IN AN** appeal from a final judgment or **FINAL** order of a municipal court.

~~—— (iv) In an appeal from an ordinance violation conviction in the traffic and ordinance division of recorder's court of the city of Detroit, if the conviction occurred before September 1, 1981.~~

~~—— (b) An order, sentence, or judgment of the probate court, if the probate court certifies the issue or issues under section 863(3).~~

~~—— (c) A final judgment or order made by the recorder's court of the city of Detroit in an appeal from the district court in the~~

~~thirty-sixth district under section 8342(2).~~

(B) ~~(d)~~ A final **JUDGMENT OR FINAL** order ~~or judgment~~ from the circuit court ~~or recorder's court for the city of Detroit~~ based ~~upon~~ **ON** a defendant's plea of guilty or nolo contendere.

(C) ~~(e)~~ Any other judgment or interlocutory order **FROM THE CIRCUIT COURT, COURT OF CLAIMS, BUSINESS COURT, OR PROBATE COURT** as determined by **SUPREME** court rule.

(3) An order concerning the assignment of a case to the business court under chapter 80 ~~shall~~ **IS** not ~~be appealed~~ **APPEALABLE** to the court of appeals.

(4) The court of appeals has exclusive original jurisdiction over any action challenging the validity of section 6404, 6410, 6413, or 6419.

Sec. 846. In an action or proceeding pending in any other court of this state of which the probate court and the other court have concurrent jurisdiction, the judge of the other court, upon motion of a party and after a finding and order on the jurisdictional issue, may by order remove the action or proceeding to the probate court. If the action or proceeding is removed to the probate court, the judge of the other court shall forward to the probate court the original of all papers in the action or proceeding and thereafter proceedings shall not be had before the other court. ~~, except by appeal or review provided by law or supreme court rule, and the action or proceeding shall be prosecuted in the probate court as a probate court proceeding.~~

Sec. 866. (1) All appeals from the probate court shall be on a written transcript of the record made in the probate court or on a

record settled and agreed to by the parties and approved by the
PROBATE court. An appeal shall not be tried de novo.

(2) ~~Notice~~ **A PARTY APPEALING FROM THE PROBATE COURT SHALL GIVE**
NOTICE of appeal ~~shall be given to~~ all interested parties as
 provided by supreme court rule.

(3) Except as otherwise provided in ~~sections 861 to~~ **THIS**
SECTION AND SECTION 867, appeals from the probate court ~~or a judge~~
~~thereof shall be~~ **ARE** governed by supreme court rule.

Sec. 867. (1) After an appeal ~~is claimed~~ **OF RIGHT FROM A**
JUDGMENT OR ORDER OF THE PROBATE COURT IS FILED WITH THE COURT OF
APPEALS and notice of the appeal is ~~given at~~ **FILED WITH** the probate
 court, all further proceedings in pursuance of the **JUDGMENT**, order,
 OR sentence, ~~or judgment appealed from shall cease~~ **ARE STAYED FOR A**
PERIOD OF 21 DAYS OR, IF A MOTION FOR STAY PENDING APPEAL IS
GRANTED, until the appeal is determined, except as otherwise
 provided in subsection (2), ~~and in section 65(2) of chapter 10 of~~
~~Act No. 288 of the Public Acts of 1939, being section 710.65 of the~~
~~Michigan Compiled Laws.~~ **X OF THE PROBATE CODE OF 1939, 1939 PA 288,**
MCL 710.65, OR SUPREME COURT RULE.

(2) The pendency of an appeal from the ~~juvenile~~ **FAMILY**
 division of the ~~probate~~ **CIRCUIT** court or from an order of the
 probate court entered ~~pursuant to Act No. 258 of the Public Acts of~~
~~1974, as amended, being sections 330.1001 to 330.2106 of the~~
~~Michigan Compiled Laws shall~~ **UNDER THE MENTAL HEALTH CODE, 1974 PA**
258, MCL 330.1001 TO 330.2106, OR SECTIONS 5201 TO 5319 OF THE
ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.5201
TO 700.5319, DOES not ~~suspend~~ **STAY** the **JUDGMENT OR** order unless the

1 court **FROM WHICH OR** to which the appeal is taken specifically
2 orders the ~~suspension~~.—**STAY**. An application for a delayed appeal
3 from an order of the juvenile—**FAMILY** division **OF THE CIRCUIT COURT**
4 shall be filed within 6 months after entry of the **JUDGMENT OR**
5 order.

6 Enacting section 1. Sections 861 and 863 of the revised
7 judicature act of 1961, 1961 PA 236, MCL 600.861 and 600.863, are
8 repealed.

9 Enacting section 2. This amendatory act takes effect 90 days
10 after the date it is enacted into law.

11 Enacting section 3. This amendatory act does not take effect
12 unless Senate Bill No.____ or House Bill No. 5503 (request no.
13 02243'15 a) of the 98th Legislature is enacted into law.