

# HOUSE BILL No. 5502

February 14, 1990, Introduced by Reps. Gubow and Perry Bullard  
and referred to the Committee on Judiciary.

A bill to amend sections 803 and 805 of Act No. 236 of the  
Public Acts of 1961, entitled as amended  
"Revised judicature act of 1961,"  
section 803 as amended by Act No. 129 of the Public Acts of 1980  
and section 805 as amended by Act No. 134 of the Public Acts of  
1988, being sections 600.803 and 600.805 of the Michigan Compiled  
Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 803 and 805 of Act No. 236 of the  
2 Public Acts of 1961, section 803 as amended by Act No. 129 of the  
3 Public Acts of 1980 and section 805 as amended by Act No. 134 of  
4 the Public Acts of 1988, being sections 600.803 and 600.805 of  
5 the Michigan Compiled Laws, are amended to read as follows:

6       Sec. 803. (1) Except as otherwise provided in this  
7 section, each county which is not part of a probate court

1 district created pursuant to sections 808 to 810 or previously  
2 created pursuant to law shall have at least 1 judge of probate.  
3 Subject to section 805, the county of Ottawa may have 1 addi-  
4 tional judge of probate effective January 1, 1981.

5 (2) Each probate court district created pursuant to law  
6 shall have 1 judge of probate.

7 (3) The counties of Berrien, Calhoun, Ingham, Jackson,  
8 Kalamazoo, Monroe, Muskegon, Saginaw, St. Clair, and Washtenaw  
9 shall each have 2 judges of probate. Subject to section 805, the  
10 counties of Ingham and Kalamazoo may each have 1 additional judge  
11 of probate effective January 1, 1981.

12 (4) The counties of Genesee and Macomb shall each have 3  
13 judges of probate. SUBJECT TO SECTION 805, THE COUNTY OF MACOMB  
14 MAY HAVE 1 ADDITIONAL JUDGE OF PROBATE EFFECTIVE JANUARY 1, 1991.

15 (5) The county of Kent shall have 4 judges of probate.

16 (6) The county of Oakland shall have at least 4 judges of  
17 probate. The county board of commissioners, by a majority vote  
18 of the members of the board, may provide for an additional judge  
19 of probate when the board considers it necessary. The county of  
20 Oakland shall have not more than 5 judges of probate. The addi-  
21 tional probate judge shall be elected at the next general elec-  
22 tion which occurs not less than 175 days after authorization by  
23 the county board of commissioners. To insure that the judges of  
24 probate are elected in different general elections and that not  
25 more than 2 of the judges' terms expire at the same time, the  
26 first term of the fifth probate judge shall expire on January 1  
27 of the next odd numbered year in which 2 existing regular terms

1 do not expire, except that the term shall be for not less than 6  
2 years.

3       (7) The county of Wayne shall have at least 8 but not more  
4 than 12 judges of probate. The county board of commissioners, by  
5 a majority vote of the members of the board, may provide for  
6 additional judges of probate when the county board of commission-  
7 ers considers it necessary. The additional probate judges shall  
8 be elected at the next general election which occurs not less  
9 than 175 days after the authorization by the county board of  
10 commissioners. To insure that the judges of probate are elected  
11 in different elections and that not more than 3 of the judges'  
12 terms expire at the same time, the first term of a ninth probate  
13 judge shall expire on January 1 of the next odd numbered year in  
14 which 3 existing regular terms do not expire, except that the  
15 term shall be for not less than 6 years. The first term of a  
16 tenth probate judge shall be for 6 years. The first term of an  
17 eleventh or twelfth probate judge shall expire on January 1 of  
18 the odd numbered year in which a total of 4 existing regular  
19 terms or terms of simultaneously authorized judgeships do not  
20 expire, except that the term shall be for not less than 6 years.

21       (8) When 1 or more new judges of probate are authorized in a  
22 county pursuant to this section, the new judgeship or judgeships  
23 shall appear on the ballot separate and apart from other judicial  
24 offices of the same court in the primary and general election.

25       Sec. 805. (1) The additional judges of probate permitted by  
26 section 803 shall not be authorized to be filled by election  
27 unless the county, by resolution adopted by the county board of

1 commissioners, approves the creation of that judgeship and unless  
2 the clerk of that county files a copy of the resolution with the  
3 state court administrator not later than 4 p.m. of the  
4 ~~thirteenth~~ SIXTEENTH Tuesday preceding the August primary for  
5 the election to fill the additional judge of probate. The state  
6 court administrator shall immediately notify the county clerk  
7 with respect to any new judge of probate authorized for that  
8 county pursuant to this subsection.

9       (2) By permitting an additional judgeship, the legislature  
10 is not creating that judgeship. If a county, acting through its  
11 board of commissioners, approves the creation of an additional  
12 judge of probate, that approval constitutes an exercise of the  
13 county's option to provide a new activity or service or to  
14 increase the level of activity or service offered in the county  
15 beyond that required by existing law, as the elements of that  
16 option are defined by Act No. 101 of the Public Acts of 1979,  
17 being sections 21.231 to 21.244 of the Michigan Compiled Laws,  
18 and a voluntary acceptance by the county of all expenses and cap-  
19 ital improvements which may result from the creation of the  
20 judgeship. However, the exercise of the option does not affect  
21 the state's obligation to pay the same portion of the additional  
22 judge's salary which is paid by the state to the other judges of  
23 probate of the same county, or to appropriate and disburse funds  
24 to the county for the necessary costs of state requirements  
25 established by a state law which becomes effective on or after  
26 December 23, 1978.

1       (3) Each additional judgeship created pursuant to subsection  
2 (1) shall be filled by election pursuant to the Michigan election  
3 law, Act No. 116 of the Public Acts of 1954, as amended, being  
4 sections 168.1 to 168.992 of the Michigan Compiled Laws. The  
5 first term of each additional judgeship shall be 6 years unless  
6 the law permitting the additional judgeship provides for a term  
7 of a different length.