

SENATE BILL No. 298

April 12, 1989, Introduced by Senators IRWIN and
BARCIA and referred to the Committee on Judiciary.

A bill to amend section 821 of Act No. 236 of the Public Acts of 1961, entitled as amended
"Revised judicature act of 1961,"
as amended by Act No. 438 of the Public Acts of 1980, being section 600.821 of the Michigan Compiled Laws; to add section 827; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 821 of Act No. 236 of the Public Acts of
2 1961, as amended by Act No. 438 of the Public Acts of 1980, being
3 section 600.821 of the Michigan Compiled Laws, is amended and
4 section 827 is added to read as follows:

5 Sec. 821. (1) The following probate judges shall not
6 engage in the practice of law other than as a judge and shall
7 receive the minimum annual salary provided in subsection (2):

1 (a) A probate judge of a county ~~which~~ THAT is not part of
2 a proposed probate court district described in section 807.

3 (b) The probate judge in each probate court district in
4 which a majority of the electors voting on the question in each
5 county of the probate court district has approved or approves
6 creation of the district.

7 (c) A probate judge in a county having a population of
8 ~~25,000~~ 15,000 or more, if the county is not part of a probate
9 court district created pursuant to law.

10 (d) ~~Beginning January 1, 1979, a~~ A probate judge in a
11 county having a population of ~~23,000 or more but~~ less than
12 ~~25,000~~ 15,000, if the county is not part of a probate court
13 district created pursuant to law.

14 ~~(e) Beginning January 1, 1981, a probate judge in a county~~
15 ~~having a population of 15,000 or more but less than 23,000, if~~
16 ~~the county is not part of a probate court district created pursu-~~
17 ~~ant to law.~~

18 (2) ~~Beginning April 1, 1977, the minimum annual salary for~~
19 ~~a probate judge governed by subsection (1)(a), (b), or (c) shall~~
20 ~~be \$24,000.00. Beginning October 1, 1977, the~~ THE minimum
21 annual salary for a probate judge ~~governed by subsection (1)(a),~~
22 ~~(b), or (c) and for a probate judge governed by subsection (1)(d)~~
23 ~~or (e) as prescribed in those subdivisions~~ shall be equal to
24 90% of the annual salary payable by the state to a circuit
25 judge. ~~Beginning April 1, 1977, \$6,000.00~~ SIX THOUSAND DOLLARS
26 of the minimum annual salary provided in this subsection shall be
27 paid by the county, or by the counties comprising a probate court

1 district, and the balance of that minimum annual salary shall be
2 paid by the state as a grant to the county ~~which~~ OR THE COUN-
3 TIES COMPRISING THE PROBATE COURT DISTRICT. THE COUNTY, OR THE
4 COUNTIES COMPRISING THE PROBATE COURT DISTRICT, SHALL in turn
5 ~~shall~~ pay that amount to the probate judge. IN ADDITION, THE
6 STATE COURT ADMINISTRATOR SHALL PAY A PROBATE JUDGE GOVERNED BY
7 SUBSECTION (1)(D) A PER DIEM FOR NOT MORE THAN 10 DAYS OF VACA-
8 TION AND NOT MORE THAN 10 DAYS OF JUDICIAL CONFERENCES AND SEMI-
9 NARS ANNUALLY AND NECESSARY FOOD, LODGING, AND MILEAGE EXPENSE
10 INCIDENTAL TO ATTENDING NOT MORE THAN 10 DAYS OF JUDICIAL CONFER-
11 ENCES AND SEMINARS ANNUALLY. THE AMOUNT OF THE PER DIEM PROVIDED
12 FOR BY THIS SUBSECTION SHALL BE CALCULATED PURSUANT TO
13 SECTION 827.

14 (3) The salary provided in subsection (2) shall be full com-
15 pensation for all services performed by a probate judge, except
16 as otherwise provided by law. In a probate court district, each
17 county of the district shall contribute to the salary in the same
18 proportion as the population of the county bears to the popula-
19 tion of the district.

20 (4) In addition to the salary AND PER DIEM EARNINGS provided
21 in subsection (2), a probate judge may receive from any county in
22 which the probate judge regularly holds court an additional
23 salary determined by the county board of commissioners. The
24 additional salary may be increased during a term of office but
25 shall not be decreased except to the extent of a general salary
26 reduction in all other branches of government in the county. In
27 a county where an additional salary is granted, it shall be paid

1 at the same rate to all probate judges regularly holding court in
2 the county. The ~~total~~ additional salary granted to a probate
3 judge ~~by 1 or more counties~~ pursuant to this subsection shall
4 not cause the TOTAL OF THE probate judge's ~~total~~ PER DIEM EARN-
5 INGS GRANTED PURSUANT TO THIS SECTION AND SECTION 827 AND annual
6 salary from state and ~~county~~ POLITICAL SUBDIVISION funds to
7 exceed 88% of the annual salary of a justice of the supreme
8 court. However, an increase in the amount of salary payable to a
9 judge of the probate court caused by an increase in the salary of
10 a justice of the supreme court resulting from the operation of
11 Act No. 357 of the Public Acts of 1968, as amended, being sec-
12 tions 15.211 to 15.218 of the Michigan Compiled Laws, after ~~the~~
13 ~~effective date of subsection (5)~~ SEPTEMBER 1, 1981, shall not be
14 effective until February 1 of the year in which the increase in
15 the salary of a justice of the supreme court becomes effective.
16 If an increase in salary becomes effective on February 1 of a
17 year in which an increase in the salary of a justice of the
18 supreme court becomes effective, the increase shall be retroac-
19 tive to January 1 of that year.

20 (5) Except as provided in subsection (6), the state shall
21 reimburse to a county paying an additional salary to a probate
22 judge a portion of that additional salary in an amount provided
23 by law, unless the additional salary, including any
24 cost-of-living allowance, payable by that county causes the total
25 ~~annual salary of a probate judge~~ OF THE PROBATE JUDGE'S PER
26 DIEM EARNINGS GRANTED PURSUANT TO THIS SECTION AND SECTION 827

1 AND ANNUAL SALARY FROM STATE AND POLITICAL SUBDIVISION FUNDS to
2 exceed 88% of the salary of a justice of the supreme court.

3 (6) Notwithstanding the limitations of subsection (5), the
4 state shall reimburse a county pursuant to subsection (5), even
5 if the additional salary, including any cost-of-living allowance,
6 payable by that county on ~~the effective date of this subsection~~
7 SEPTEMBER 1, 1981 causes the total ~~annual salary of a probate~~
8 ~~judge~~ OF THE PROBATE JUDGE'S PER DIEM EARNINGS GRANTED PURSUANT
9 TO THIS SECTION AND SECTION 827 AND ANNUAL SALARY FROM STATE AND
10 POLITICAL SUBDIVISION FUNDS to exceed 88% of the salary of a jus-
11 tice of the supreme court payable on ~~the effective date of this~~
12 ~~subsection~~ SEPTEMBER 1, 1981. However, if the additional salary
13 of a probate judge increases beyond the amount payable to the
14 judge on ~~the effective date of this subsection~~ SEPTEMBER 1,
15 1981, and if the total ~~annual salary of the judge~~ OF THE
16 JUDGE'S PER DIEM EARNINGS GRANTED PURSUANT TO THIS SECTION AND
17 SECTION 827 AND ANNUAL SALARY FROM STATE AND POLITICAL SUBDIVI-
18 SION FUNDS exceeds 88% of the salary of a justice of the supreme
19 court, the county shall return to the state any amount paid under
20 subsection (5) during that state fiscal year, and shall be ineli-
21 gible to receive reimbursement under subsection (5) until the
22 total ~~annual salary of the probate judge~~ OF THE PROBATE JUDGE'S
23 PER DIEM EARNINGS GRANTED PURSUANT TO THIS SECTION AND SECTION
24 827 AND ANNUAL SALARY FROM STATE AND POLITICAL SUBDIVISION FUNDS
25 does not exceed 88% of the salary of ~~the~~ A justice of the
26 supreme court.

1 SEC. 827. (1) THE SUPREME COURT, THROUGH ITS DIRECT ORDER
2 OR THROUGH THE STATE COURT ADMINISTRATOR, SHALL ANNUALLY OFFER
3 EACH PROBATE JUDGE DESCRIBED BY SECTION 821(1)(D) THE OPPORTUNITY
4 TO SERVE ON ASSIGNMENT FOR 90 DAYS AS A CIRCUIT, PROBATE, OR DIS-
5 TRICT JUDGE. A PROBATE JUDGE DESCRIBED BY SECTION 821(1)(D)
6 SHALL ANNUALLY ACCEPT 30 DAYS OF ASSIGNMENTS OFFERED UNDER THIS
7 SUBSECTION AND MAY ACCEPT UP TO 90 DAYS OF SUCH ASSIGNMENTS.

8 (2) FOR EACH DAY THAT A PROBATE JUDGE DESCRIBED BY
9 SECTION 821(1)(D) IS COMPELLED TO ACCEPT AN ASSIGNMENT UNDER SEC-
10 TION 225, 825, OR 8212, THE NUMBER OF DAYS FOR WHICH THE PROBATE
11 JUDGE IS REQUIRED TO ACCEPT ASSIGNMENTS OFFERED UNDER SUBSECTION
12 (1) SHALL BE REDUCED BY 1 IN WHATEVER YEAR OF HIS OR HER TERM THE
13 PROBATE JUDGE CHOOSES. THE FACT THAT THE NUMBER OF DAYS FOR
14 WHICH A PROBATE JUDGE IS REQUIRED TO ACCEPT ASSIGNMENTS OFFERED
15 UNDER SUBSECTION (1) IS, PURSUANT TO THIS SUBSECTION, REDUCED TO
16 0 FOR THE REMAINDER OF THE PROBATE JUDGE'S TERM DOES NOT AFFECT
17 THE AUTHORITY OF THE SUPREME COURT UNDER SECTION 225, 825, OR
18 8212 TO DIRECT AND COMPEL A PROBATE JUDGE TO SERVE IN A COURT.

19 (3) THE STATE COURT ADMINISTRATOR SHALL PAY A PROBATE JUDGE
20 SERVING ON ASSIGNMENT PURSUANT TO SUBSECTION (1) A PER DIEM. THE
21 PER DIEM SHALL EQUAL THE AMOUNT OF THE JUDICIAL SALARY STANDARD-
22 IZATION PAYMENT AVAILABLE TO COUNTIES AND DISTRICT CONTROL UNITS
23 PER PROBATE JUDGE DESCRIBED BY SECTION 821(1)(A), (B), OR (C)
24 DIVIDED BY 110. NECESSARY FOOD, LODGING, AND MILEAGE EXPENSES
25 INCIDENTAL TO THE PERFORMANCE OF THE DUTIES REQUIRED BY THE
26 ASSIGNMENT SHALL BE PAID BY THE COUNTY OR DISTRICT CONTROL UNIT
27 OR UNITS THAT ARE RESPONSIBLE FOR THE MAINTENANCE AND OPERATION

1 OF THE COURT TO WHICH THE JUDGE IS ASSIGNED. HOWEVER, SUCH
2 EXPENSES SHALL BE PAID BY THE STATE IN ACCORDANCE WITH ESTAB-
3 LISHED PROVISIONS AND PROCEDURES FOR STATE OFFICIALS IF THE PRO-
4 BATE JUDGE IS ASSIGNED TO THE PROBATE COURT IN A COUNTY THAT HAS
5 A POPULATION OF LESS THAN 15,000 AND THAT IS NOT PART OF A PRO-
6 BATE COURT DISTRICT CREATED PURSUANT TO LAW AND IF THE PROBATE
7 JUDGE IS ASSIGNED TO THAT COURT TO REPLACE A PROBATE JUDGE
8 ASSIGNED PURSUANT TO SUBSECTION (1).

9 (4) THE STATE COURT ADMINISTRATOR SHALL RECORD THE NUMBER OF
10 DAYS A PROBATE JUDGE DESCRIBED BY SECTION 821(1)(D) SERVES ON
11 ASSIGNMENT PURSUANT TO SUBSECTION (1) AND THE TOTAL AMOUNT OF THE
12 PER DIEM PAYMENTS MADE TO THE PROBATE JUDGE PURSUANT TO
13 SECTION 821 AND SUBSECTION (3), AND SHALL REPORT THAT INFORMATION
14 TO THE RETIREMENT SYSTEM ESTABLISHED BY EITHER THE JUDGES'
15 RETIREMENT ACT, ACT NO. 198 OF THE PUBLIC ACTS OF 1951, BEING
16 SECTIONS 38.801 TO 38.831 OF THE MICHIGAN COMPILED LAWS, OR THE
17 PROBATE JUDGES RETIREMENT ACT, ACT NO. 165 OF THE PUBLIC ACTS OF
18 1954, BEING SECTIONS 38.901 TO 38.933 OF THE MICHIGAN COMPILED
19 LAWS, AS APPROPRIATE FOR THE MEMBERSHIP OF EACH PROBATE JUDGE.

20 Section 2. Section 822 of Act No. 236 of the Public Acts of
21 1961, being section 600.822 of the Michigan Compiled Laws, is
22 repealed.

23 Section 3. This amendatory act shall take effect on
24 October 1, 1990.

25 Section 4. This amendatory act shall not take effect unless
26 all of the following bills of the 85th Legislature are enacted
27 into law:

1 (a) Senate Bill No. 299.

2

3 (b) Senate Bill No. 300.

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