

SENATE BILL No. 1384

September 27, 2000, Introduced by Senators MC MANUS and NORTH and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 225, 821, 821a, and 822 (MCL 600.225, 600.821, 600.821a, and 600.822), section 225 as amended by 1996 PA 388, section 821 as amended by 1998 PA 298, section 821a as added by 1998 PA 100, and section 822 as amended by 1998 PA 313, and by adding section 823.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 225. (1) The supreme court may assign an elected judge
2 of any court to serve as a judge in any other court in this
3 state, except as provided in subsection (3). The assignment of a
4 judge under this subsection shall be for a limited period or spe-
5 cific assignment.

6 (2) The authority granted by this section may be exercised
7 by the supreme court at its discretion through its direct order,

1 or through the court administrator. The court should
2 particularly consider those cases where the chief judge of a
3 court has asked that another judge be sent to that court and has
4 properly shown any of the following:

5 (a) That the business of that court has increased beyond the
6 capacity of the judge or judges to properly dispose of.

7 (b) That a vacancy exists in the office of the judge of the
8 court.

9 (c) That a judge is unable to discharge the duties of his or
10 her office.

11 (d) Any other sufficient reason.

12 (3) All assignments and reassignments of cases filed in any
13 court in a county shall be made among the judges of that county,
14 unless no trial court judge in that county is qualified and able
15 to undertake a particular case. A judge of 1 county shall not be
16 assigned to serve as a judge in another county unless no other
17 trial court judge in the county needing assistance is able to
18 render that assistance.

19 (4) Judges assigned pursuant to subsection (1) shall hold
20 court and fulfill the duties of the office just as they would had
21 they been elected in the respective court for the time they were
22 assigned to serve.

23 (5) The county or district funding unit responsible for the
24 maintenance and operation of the court shall provide suitable
25 places where judges shall hold court.

26 (6) ~~A~~ EXCEPT AS PROVIDED IN SECTION 822, A judge who is
27 assigned as provided in this section shall receive as salary for

1 each day he or she serves in the court 1/250 of the amount by
2 which the total annual salary of a judge of the court to which he
3 or she is assigned exceeds his or her total annual salary. The
4 salary provided in this subsection is payable by the county or
5 district control unit or units that have provided an additional
6 salary for the judicial office to which the judge is assigned.
7 In addition to that salary, a judge assigned as provided in this
8 section shall be entitled to receive actual and necessary
9 expenses for travel, meals, and lodging from the county or dis-
10 trict funding unit or units that are responsible for the mainte-
11 nance and operation of the trial court to which the judge is
12 assigned. The salary and expenses shall be payable at the same
13 time and in the same manner as provided for the judicial office
14 to which the judge is assigned. As used in this section, "court"
15 means the various circuits of the circuit court, the recorder's
16 court of the city of Detroit, the various counties and probate
17 court districts of the probate court, and the various districts
18 of the district court.

19 (7) A municipal judge who is assigned as provided in this
20 section shall be compensated as provided in section 225a.

21 Sec. 821. (1) The following probate judges shall not engage
22 in the practice of law other than as a judge and shall receive,
23 subject to subsection (7), an annual salary provided in this
24 section:

25 (a) A probate judge of a county that is not part of a pro-
26 posed probate court district described in section 807.

1 (b) The probate judge in each probate court district in
2 which a majority of the electors voting on the question in each
3 county of probate court district has approved or approves cre-
4 ation of the district.

5 (c) A probate judge in a county having a population of
6 ~~15,000~~ 20,000 or more according to the ~~1990 federal decennial~~
7 ~~census~~ PRIOR YEAR JULY 1 COUNTY POPULATION ESTIMATES ISSUED BY
8 THE POPULATION ESTIMATES PROGRAM OF THE POPULATION DIVISION,
9 UNITED STATES CENSUS BUREAU, if the county is not part of a pro-
10 bate court district created pursuant to law.

11 (D) A PROBATE JUDGE IN A COUNTY THAT HAD A POPULATION OF
12 15,000 OR MORE BUT LESS THAN 20,000 ON THE EFFECTIVE DATE OF THE
13 2000 AMENDATORY ACT THAT ADDED THIS SUBDIVISION, ACCORDING TO THE
14 JULY 1, 1999 COUNTY POPULATION ESTIMATES ISSUED BY THE POPULATION
15 ESTIMATES PROGRAM OF THE POPULATION DIVISION, UNITED STATES
16 CENSUS BUREAU.

17 (2) Until the salary of a justice of the supreme court
18 exceeds \$128,538.00, each probate judge shall receive an annual
19 salary of \$109,257.00 determined as follows:

20 (a) A minimum annual salary of \$63,533.00.

21 (b) An additional salary of \$45,724.00 paid by the county or
22 by the counties comprising a probate court district. If a pro-
23 bate judge receives a total additional salary of \$45,724.00 from
24 the county, or from the counties comprising a probate court dis-
25 trict, and does not receive less than or more than \$45,724.00,
26 including any cost-of-living allowance, the state shall reimburse

1 the county or counties the amount that the county or counties
2 have paid to the judge.

3 (3) If the salary of a justice of the supreme court exceeds
4 \$128,538.00, each probate judge shall receive an annual salary
5 determined as follows:

6 (a) A minimum annual salary of the difference between 85% of
7 the salary of a justice of the supreme court and \$45,724.00.

8 (b) An additional salary of \$45,724.00 paid by the county or
9 by the counties comprising a probate court district. If a pro-
10 bate judge receives a total additional salary of \$45,724.00 from
11 the county, or from the counties comprising a probate court dis-
12 trict, and does not receive less than or more than \$45,724.00,
13 including any cost-of-living allowance, the state shall reimburse
14 the county or counties the amount that the county or counties
15 have paid to the judge.

16 (4) Six thousand dollars of the minimum annual salary pro-
17 vided in subsection (2), (3), or (4) shall be paid by the county,
18 or by the counties comprising a probate court district, and the
19 balance of that minimum annual salary shall be paid by the state
20 as a grant to the county or the counties comprising the probate
21 court district. The county, or the counties comprising the pro-
22 bate court district, shall in turn pay that amount to the probate
23 judge. Beginning January 1, 1997, the state shall annually reim-
24 burse the county or counties \$6,000.00 for each probate judge to
25 offset the cost of the county or counties required by this
26 section.

1 (5) The salary provided in this section is full compensation
2 for all services performed by a probate judge, except as
3 otherwise provided by law. In a probate court district, each
4 county of the district shall contribute to the salary in the same
5 proportion as the population of the county bears to the popula-
6 tion of the district.

7 (6) An additional salary determined by the county board of
8 commissioners may be increased during a term of office but shall
9 not be decreased except to the extent of a general salary reduc-
10 tion in all other branches of government in the county. In a
11 county where an additional salary is granted, it shall be paid at
12 the same rate to all probate judges regularly holding court in
13 the county.

14 (7) An increase in the amount of salary payable to a judge
15 under subsection (1) caused by an increase in the salary payable
16 to a justice of the supreme court resulting from the operation of
17 1968 PA 357, MCL 15.211 to 15.218, is not effective until
18 February 1 of the year in which the increase in the salary of a
19 justice of the supreme court becomes effective. If an increase
20 in salary becomes effective on February 1 of a year in which an
21 increase in the salary of a justice of the supreme court becomes
22 effective, the increase is retroactive to January 1 of that
23 year.

24 Sec. 821a. In addition to the reimbursement under section
25 821(2)(b) or (3)(b) OR 822 to a county or to counties for amounts
26 paid for probate judges' salaries, the state shall reimburse the

1 county or counties for amounts paid as the employer's share for
2 probate judges' federal social security and medicare taxes.

3 Sec. 822. (1) The probate judge of a county having a popu-
4 lation of less than ~~15,000~~ 20,000 BUT MORE THAN 4,999 according
5 to the ~~1990 federal decennial census and comprising part of a~~
6 ~~proposed probate court district in which the electors of 1 or~~
7 ~~more counties of the probate court district did not approve the~~
8 ~~probate court district~~ PRIOR YEAR JULY 1 COUNTY POPULATION ESTI-
9 MATES ISSUED BY THE POPULATION ESTIMATES PROGRAM OF THE POPULA-
10 TION DIVISION, UNITED STATES CENSUS BUREAU, AND WHICH IS NOT PART
11 OF AN APPROVED PROBATE COURT DISTRICT OR IN WHICH THE OFFICE OF
12 DISTRICT JUDGE HAS BEEN COMBINED WITH THE OFFICE OF PROBATE
13 JUDGE, SHALL NOT ENGAGE IN THE PRACTICE OF LAW OTHER THAN AS A
14 JUDGE AND shall receive an annual salary ~~of \$20,000.00.~~ AS
15 FOLLOWS:

16 (A) FOR A JUDGE OF A COUNTY WITH A POPULATION OF 5,000 OR
17 MORE BUT LESS THAN 7,500, A SALARY EQUAL TO 35% OF THE ANNUAL
18 SALARY PAYABLE TO A JUDGE OF PROBATE UNDER SECTION 821.

19 (B) FOR A JUDGE OF A COUNTY WITH A POPULATION OF 7,500 OR
20 MORE BUT LESS THAN 10,000, A SALARY EQUAL TO 45% OF THE ANNUAL
21 SALARY PAYABLE TO A JUDGE OF PROBATE UNDER SECTION 821.

22 (C) FOR A JUDGE OF A COUNTY WITH A POPULATION OF 10,000 OR
23 MORE BUT LESS THAN 12,500, A SALARY EQUAL TO 50% OF THE ANNUAL
24 SALARY PAYABLE TO A JUDGE OF PROBATE UNDER SECTION 821.

25 (D) FOR A JUDGE OF A COUNTY WITH A POPULATION OF 12,500 OR
26 MORE BUT LESS THAN 15,000, A SALARY EQUAL TO 55% OF THE ANNUAL
27 SALARY PAYABLE TO A JUDGE OF PROBATE UNDER SECTION 821.

1 (E) FOR A JUDGE OF A COUNTY WITH A POPULATION OF 15,000 OR
2 MORE BUT LESS THAN 17,500, OTHER THAN THE COUNTY OF GOGEBIC, A
3 SALARY EQUAL TO 60% OF THE ANNUAL SALARY PAYABLE TO A JUDGE OF
4 PROBATE UNDER SECTION 821.

5 (F) FOR A JUDGE OF A COUNTY WITH A POPULATION OF 17,500 OR
6 MORE BUT LESS THAN 20,000, OTHER THAN THE COUNTIES OF LEELANAU
7 AND GOGEBIC, A SALARY EQUAL TO 65% OF THE SALARY OF A JUDGE OF
8 PROBATE UNDER SECTION 821.

9 (G) Six thousand dollars of the minimum annual salary pro-
10 vided by this subsection shall be paid by the county and the bal-
11 ance of the minimum annual salary shall be paid by the state as a
12 grant to the county. The county shall, in turn, pay that amount
13 to the probate judge.

14 (2) The annual salary provided in subsection (1) may be
15 increased but shall not be decreased during the term for which
16 the probate judge has been elected or appointed. This salary is
17 in full compensation for all services performed by the person as
18 probate judge OR FOR ASSIGNMENT INTO THE FAMILY DIVISION OF THE
19 CIRCUIT WHICH INCLUDES THE COUNTY OF THE JUDGE'S ELECTION OR
20 APPOINTMENT, UNLESS THE JUDGE IS ASSIGNED BY THE SUPREME COURT TO
21 PERFORM JUDICIAL SERVICES AS PART OF A DEMONSTRATION PROJECT,
22 except as otherwise provided by law. ~~A probate judge whose~~
23 ~~annual salary is provided in subsection (1) shall not represent a~~
24 ~~party in a contested proceeding in the probate court of this~~
25 ~~state.~~ ADDITIONAL COMPENSATION FOR ASSIGNMENT FOR JUDICIAL SERV-
26 ICE SHALL NOT CAUSE THE TOTAL COMPENSATION FOR THE PROBATE JUDGE

1 TO EXCEED 100% OF THE ANNUAL SALARY OF A JUDGE OF PROBATE UNDER
2 SECTION 821.

3 ~~(3) In addition to the salary provided in subsection (1), a~~
4 ~~probate judge may receive from the county in which he or she reg-~~
5 ~~ularly holds court an additional salary of not more than~~
6 ~~\$43,000.00, as determined by the county board of commissioners.~~
7 ~~The additional salary may be increased during a term of office~~
8 ~~but shall not be decreased except to the extent of a general~~
9 ~~salary reduction in all other branches of government in the~~
10 ~~county.~~

11 ~~(4) The total annual salary of a probate judge, including~~
12 ~~the salary provided in subsection (1) and any additional salary~~
13 ~~granted by the county under subsection (3), shall not exceed~~
14 ~~\$63,000.00.~~

15 (3) ~~(5)~~ From funds appropriated to the judiciary, the
16 state shall pay to a county described in subsection (1) ~~a state~~
17 ~~salary standardization payment of \$5,750.00 for each probate~~
18 ~~judge and an additional payment of \$6,000.00 for each probate~~
19 ~~judge to offset the portion of minimum annual salary paid by the~~
20 ~~county.~~

21 SEC. 823. (1) THE PROBATE JUDGE OF A COUNTY HAVING A POPU-
22 LATION OF LESS THAN 5,000 ACCORDING TO THE PRIOR YEAR JULY 1
23 COUNTY POPULATION ESTIMATES ISSUED BY THE POPULATION ESTIMATES
24 PROGRAM OF THE POPULATION DIVISION, UNITED STATES CENSUS BUREAU,
25 AND WHICH IS NOT PART OF AN APPROVED PROBATE COURT DISTRICT AND
26 IN WHICH THE OFFICE OF DISTRICT JUDGE HAS NOT BEEN COMBINED WITH
27 THE OFFICE OF PROBATE JUDGE, SHALL RECEIVE AN ANNUAL SALARY OF

1 \$20,000.00. SIX THOUSAND DOLLARS OF THE MINIMUM ANNUAL SALARY
2 PROVIDED BY THIS SUBSECTION SHALL BE PAID BY THE COUNTY AND THE
3 BALANCE OF THE MINIMUM ANNUAL SALARY SHALL BE PAID BY THE STATE
4 AS A GRANT TO THE COUNTY. THE COUNTY SHALL, IN TURN, PAY THAT
5 AMOUNT TO THE PROBATE JUDGE.

6 (2) THE ANNUAL SALARY PROVIDED IN SUBSECTION (1) MAY BE
7 INCREASED BUT SHALL NOT BE DECREASED DURING THE TERM FOR WHICH
8 THE PROBATE JUDGE HAS BEEN ELECTED OR APPOINTED. THIS SALARY
9 SHALL BE IN FULL COMPENSATION FOR ALL SERVICES PERFORMED BY THE
10 PERSON AS PROBATE JUDGE, EXCEPT AS OTHERWISE PROVIDED BY LAW. A
11 PROBATE JUDGE WHOSE ANNUAL SALARY IS PROVIDED IN SUBSECTION (1)
12 SHALL NOT REPRESENT A PARTY IN A CONTESTED PROCEEDING IN THE PRO-
13 BATE COURT OF THIS STATE.

14 (3) IN ADDITION TO THE SALARY PROVIDED IN SUBSECTION (1), A
15 PROBATE JUDGE MAY RECEIVE FROM THE COUNTY IN WHICH HE OR SHE REG-
16 ULARLY HOLDS COURT AN ADDITIONAL SALARY OF NOT MORE THAN
17 \$43,000.00, AS DETERMINED BY THE COUNTY BOARD OF COMMISSIONERS.
18 THE ADDITIONAL SALARY MAY BE INCREASED DURING A TERM OF OFFICE
19 BUT SHALL NOT BE DECREASED EXCEPT TO THE EXTENT OF A GENERAL
20 SALARY REDUCTION IN ALL OTHER BRANCHES OF GOVERNMENT IN THE
21 COUNTY.

22 (4) THE TOTAL ANNUAL SALARY OF A PROBATE JUDGE, INCLUDING
23 THE SALARY PROVIDED IN SUBSECTION (1) AND ANY ADDITIONAL SALARY
24 GRANTED BY THE COUNTY UNDER SUBSECTION (3), SHALL NOT EXCEED
25 \$63,000.00.

26 (5) FROM FUNDS APPROPRIATED TO THE JUDICIARY, THE STATE
27 SHALL PAY TO A COUNTY DESCRIBED IN SUBSECTION (1) A STATE SALARY

1 STANDARDIZATION PAYMENT OF \$5,750.00 FOR EACH PROBATE JUDGE AND
2 AN ADDITIONAL PAYMENT OF \$6,000.00 FOR EACH PROBATE JUDGE TO
3 OFFSET THE PORTION OF MINIMUM ANNUAL SALARY PAID BY THE COUNTY.
4 Enacting section 1. This amendatory act takes effect
5 January 1, 2001.