

Act No. 92
Public Acts of 2002
Approved by the Governor
March 27, 2002
Filed with the Secretary of State
March 27, 2002

EFFECTIVE DATE: 91st day after final adjournment of 2002 Regular Session

**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2002**

Introduced by Rep. Bradstreet

ENROLLED HOUSE BILL No. 5674

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 such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; 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 512, 524, 527, 535, 549b, 549e, 550a, 821, 821a, 822, 8143, 8144, 8146, 8147, 8148, 8152, and 8176 (MCL 600.512, 600.524, 600.527, 600.535, 600.549b, 600.549e, 600.550a, 600.821, 600.821a, 600.822, 600.8143, 600.8144, 600.8146, 600.8147, 600.8148, 600.8152, and 600.8176), sections 535, 550a, and 8147 as amended by 1990 PA 54, section 549e as added by 1980 PA 129, section 821 as amended by 1998 PA 298, section 821a as added by 1998 PA 100, section 822 as amended by 1998 PA 313, section 8152 as amended by 2000 PA 38, and section 8176 as amended by 1994 PA 138, and by adding section 810a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 512. The eleventh judicial circuit consists of the counties of Alger, Luce, and Schoolcraft and has 1 judge. Beginning April 1, 2003, the eleventh judicial circuit court consists of the counties of Alger, Luce, Mackinac, and schoolcraft and has 1 judge.

Sec. 524. The twenty-third judicial circuit consists of the counties of Iosco and Oscoda and has 1 judge. Beginning April 1, 2003, the twenty-third judicial circuit consists of the counties of Alcona, Arenac, Iosco, and Oscoda and has 2 judges. The additional judgeship in this circuit shall be filled by the incumbent circuit judge of the thirty-fourth circuit residing in Arenac county with a term ending January 1, 2009, who shall serve as a judge of the twenty-third circuit for the balance of the term to which he or she was elected or appointed. For purposes of the November 2008 general election only, the term of the candidate for circuit judge in this circuit who receives the highest number of votes shall be 8 years, and the term of the candidate receiving the second highest number of votes shall be 6 years.

Sec. 527. The twenty-sixth judicial circuit consists of the counties of Alpena, Alcona, Montmorency, and Presque Isle and has 2 judges. Beginning April 1, 2003, the twenty-sixth judicial circuit consists of the counties of Alpena and Montmorency. This circuit shall have 1 judge beginning on the earlier of the following dates:

- (a) The date on which a vacancy occurs in the office of circuit judge for this judicial circuit.
- (b) Twelve noon, January 1, 2005.

Sec. 535. The thirty-fourth judicial circuit consists of the counties of Arenac, Ogemaw, and Roscommon and has 2 judges. Beginning April 1, 2003, the thirty-fourth judicial circuit consists of the counties of Ogemaw and Roscommon and has 1 judge.

Sec. 549b. The fiftieth judicial circuit consists of the counties of Chippewa and Mackinac and has 1 judge. Beginning April 1, 2003, the fiftieth judicial circuit consists of the county of Chippewa and has 1 judge.

Sec. 549e. The fifty-third judicial circuit consists of the county of Cheboygan and has 1 judge. Beginning April 1, 2003, the fifty-third judicial circuit consists of the counties of Cheboygan and Presque Isle and has 1 judge.

Sec. 550a. (1) If a new judicial circuit is proposed by law, that new circuit shall not be created and any circuit judgeship proposed for the circuit shall not be authorized or filled by election unless each county in the proposed circuit, by resolution adopted by the county board of commissioners, approves the creation of the new circuit and each judgeship proposed for the circuit and unless the clerk of each county adopting that resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the sixteenth Tuesday preceding the August primary immediately following the effective date of the amendatory act permitting the creation of the new circuit. The state court administrator shall immediately notify the elections division of the department of state with respect to each new judicial circuit and circuit judgeship authorized pursuant to this subsection.

(2) By proposing a new judicial circuit and 1 or more circuit judgeships for the circuit, the legislature is not creating that circuit or any judgeship in the circuit. If a county, acting through its board of commissioners, approves the creation of a new circuit and 1 or more circuit judgeships proposed by law for that circuit, that approval constitutes an exercise of the county's option to provide a new activity or service or to increase the level of activity or service offered in the county beyond that required by existing law, as the elements of that option are defined by 1979 PA 101, MCL 21.231 to 21.244, and a voluntary acceptance by the county of all expenses and capital improvements which may result from the creation of the new circuit and each judgeship. However, the exercise of the option does not affect the state's obligation to pay a portion of the circuit judge's or judges' salary as provided by law, or to appropriate and disburse funds to the county for the necessary costs of state requirements established by a state law which becomes effective on or after December 23, 1978.

(3) Each circuit judgeship created pursuant to subsection (1) shall be filled by election pursuant to the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. The first term of each circuit judgeship shall be 6 years, unless the law permitting the creation of the new circuit and 1 or more judgeships provides for a term of a different length.

(4) The reformation of the eleventh, twenty-third, twenty-sixth, thirty-fourth, fiftieth, and fifty-third judicial circuits pursuant to the 2002 amendatory act that added this subsection does not require the approval of the county board of commissioners under this section or section 550.

Sec. 810a. The probate judges in the counties of Arenac, Kalkaska, and Crawford have the power, authority, and title of a district judge within their respective counties, in addition to the power, authority, and title of a probate judge.

Sec. 821. (1) The following probate judges shall not engage in the practice of law other than as a judge and shall receive, subject to subsection (6), an annual salary provided in this section:

(a) A probate judge of a county that is not part of a proposed probate court district described in section 807.

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

(c) A probate judge in a county having a population of 15,000 or more according to the 1990 federal decennial census, if the county is not part of a probate court district created pursuant to law.

(d) A probate judge described in section 810a.

(2) Each probate judge shall receive an annual salary determined as follows:

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

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

(3) Six thousand dollars of the minimum annual salary provided in subsection (2) shall be paid by the county, or by the counties comprising a probate court district, and the balance of that minimum annual salary shall be paid by the state as a grant to the county or the counties comprising the probate court district. The county, or the counties comprising the probate court district, shall in turn pay that amount to the probate judge. Beginning January 1, 1997,

the state shall annually reimburse the county or counties \$6,000.00 for each probate judge to offset the cost of the county or counties required by this section.

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

(5) An additional salary determined by the county board of commissioners may be increased during a term of office but shall not be decreased except to the extent of a general salary reduction in all other branches of government in the county. In a county where an additional salary is granted, it shall be paid at the same rate to all probate judges regularly holding court in the county.

(6) An increase in the amount of salary payable to a judge under subsection (1) caused by an increase in the salary payable to a justice of the supreme court resulting from the operation of 1968 PA 357, MCL 15.211 to 15.218, is not effective until February 1 of the year in which the increase in the salary of a justice of the supreme court becomes effective. If an increase in salary becomes effective on February 1 of a year in which an increase in the salary of a justice of the supreme court becomes effective, the increase is retroactive to January 1 of that year.

Sec. 821a. In addition to the reimbursement under section 821(2)(b) to a county or to counties for amounts paid for probate judges' salaries, the state shall reimburse the county or counties for amounts paid as the employer's share for probate judges' federal social security and medicare taxes.

Sec. 822. (1) A probate judge not described in section 821 shall receive an annual salary of \$20,000.00. Six thousand dollars of the minimum annual salary provided by this subsection shall be paid by the county and the balance of the minimum annual salary shall be paid by the state as a grant to the county. The county shall, in turn, pay that amount to the probate judge.

(2) The annual salary provided in subsection (1) may be increased but shall not be decreased during the term for which the probate judge has been elected or appointed. This salary is in full compensation for all services performed by the person as probate judge, except as otherwise provided by law. A probate judge whose annual salary is provided in subsection (1) shall not represent a party in a contested proceeding in the probate court of this state.

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

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

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

Sec. 8143. The seventy-eighth district consists of the counties of Newaygo and Lake, is a district of the first class, and has 1 judge. Beginning April 1, 2003, the seventy-eighth district consists of the counties of Newaygo and Oceana, is a district of the first class, and has 1 judge.

Sec. 8144. The seventy-ninth district consists of the counties of Oceana and Mason, is a district of the first class, and has 1 judge. Beginning April 1, 2003, the seventy-ninth district consists of the counties of Lake and Mason, is a district of the first class, and has 1 judge.

Sec. 8146. The eighty-first district consists of the counties of Iosco and Arenac, is a district of the first class, and has 1 judge. Beginning April 1, 2003, the eighty-first district consists of the counties of Alcona, Arenac, Iosco, and Oscoda, is a district of the first class, and has 1 judge.

Sec. 8147. The eighty-second district consists of the counties of Alcona, Oscoda, and Ogemaw, is a district of the first class, and has 1 judge. Beginning April 1, 2003, the eighty-second district consists of the county of Ogemaw, is a district of the first class, and has 1 judge.

Sec. 8148. The eighty-third district consists of the counties of Roscommon and Crawford, is a district of the first class, and has 1 judge. Beginning April 1, 2003, the eighty-third district consists of the county of Roscommon, is a district of the first class, and has 1 judge.

Sec. 8152. The eighty-seventh district consists of the counties of Kalkaska and Otsego, is a district of the first class, and has 1 judge. Effective April 1, 2003, the eighty-seventh district consists of the counties of Crawford, Kalkaska, and Otsego, is a district of the first class, and has 1 judge.

Sec. 8176. (1) If a new district is proposed by law, that new district shall not be created and any district judgeship proposed for the district shall not be authorized or filled by election unless each district control unit in the proposed district, by resolution adopted by the governing body of the district control unit, approves the creation of the new district and each judgeship proposed for the district and unless the clerk of each district control unit adopting that resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the sixteenth Tuesday preceding the August primary for the election immediately preceding the effective date of the new district. The state court administrator shall immediately notify the elections division of the department of state with respect to each new judicial district and district judgeship authorized pursuant to this subsection.

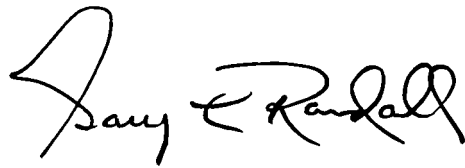
(2) A resolution required under subsection (1) that is filed before the effective date of the amendatory act that authorized that new district is a valid approval for purposes of this section only if the filing occurs within the 2-year state legislative session during which the amendatory act was enacted. A resolution required under subsection (1) that is filed after the effective date of the amendatory act that authorized that new district is a valid approval for purposes of this section only if the filing occurs not later than 4 p.m. of the sixteenth Tuesday preceding the August primary for the election immediately preceding the effective date of the new district.

(3) By proposing a new district and 1 or more district judgeships for the district, the legislature is not creating that district or any judgeship in the district. If a district control unit, acting through its governing body, approves the creation of a new district and 1 or more district judgeships proposed by law for that district, that approval constitutes an exercise of the district control unit's option to provide a new activity or service or to increase the level of activity or service offered in the district control unit beyond that required by existing law, as the elements of that option are defined by 1979 PA 101, MCL 21.231 to 21.244, and a voluntary acceptance by the district control unit of all expenses and capital improvements which may result from the creation of the new district and each judgeship. However, the exercise of the option does not affect the state's obligation to pay the same portion of each judge's salary which is paid by the state to other district judges as provided by law, or to appropriate and disburse funds to the district control unit for the necessary costs of state requirements established by a state law which becomes effective on or after December 23, 1978.

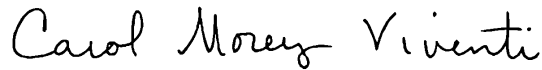
(4) Each district judgeship created pursuant to subsection (1) shall be filled by election pursuant to the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. The first term of each district judgeship shall be 6 years, unless the law permitting the creation of the new district and 1 or more judgeships provides for a term of a different length.

(5) The reformation of the seventy-eighth, seventy-ninth, eighty-first, eighty-second, eighty-third, and eighty-seventh judicial districts pursuant to the 2002 amendatory act that added this subsection does not require the approval of the district control unit under this section or section 8175.

Enacting section 1. Section 9948 of the revised judicature act of 1961, 1961 PA 236, MCL 600.9948, is repealed.



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Clerk of the House of Representatives.



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Secretary of the Senate.

Approved

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Governor.