

Act No. 259
Public Acts of 1995
Approved by the Governor
January 4, 1996
Filed with the Secretary of State
January 5, 1996

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1995**

Introduced by Rep. Bryant

ENROLLED HOUSE BILL No. 5457

AN ACT to amend sections 304, 555, 821, 822, and 8202 of Act No. 236 of the Public Acts of 1961, entitled as amended "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; and to repeal all acts and parts of acts inconsistent with, or contravening any of the provisions of this act," sections 304 and 555 as amended by Act No. 438 of the Public Acts of 1980, sections 821 and 822 as amended by Act No. 389 of the Public Acts of 1994, and section 8202 as amended by Act No. 233 of the Public Acts of 1992, being sections 600.304, 600.555, 600.821, 600.822, and 600.8202 of the Michigan Compiled Laws; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Section 1. Sections 304, 555, 821, 822, and 8202 of Act No. 236 of the Public Acts of 1961, sections 304 and 555 as amended by Act No. 438 of the Public Acts of 1980, sections 821 and 822 as amended by Act No. 389 of the Public Acts of 1994, and section 8202 as amended by Act No. 233 of the Public Acts of 1992, being sections 600.304, 600.555, 600.821, 600.822, and 600.8202 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 304. (1) Through December 31, 1996, each judge of the court of appeals shall receive an annual salary equal to 96% of the annual salary of a justice of the supreme court of this state. Beginning January 1, 1997, each judge of the court of appeals shall receive an annual salary of \$114,007.00.

(2) The judges shall be reimbursed for their actual and necessary expenses from the state treasury, upon the warrant of the state treasurer.

(3) A judge of the court of appeals shall be eligible to participate in the state contributory insurance programs on the same basis as a justice of the supreme court.

(4) Beginning January 1, 1997, the salary of a judge of the court of appeals shall not be increased unless the legislature, by statute, expressly sets a higher salary.

Sec. 555. (1) Except as provided in subsections (5) and (6), each circuit judge, through December 31, 1996, shall receive an annual salary payable by the state in an amount equal to 55% of the salary of a justice of the supreme court. The county boards of commissioners in their discretion may vote to pay the circuit judge or judges of their respective counties a salary in addition to the amount of the state salary.

(2) Except as provided in subsections (3) to (6), and through December 31, 1996, the state shall reimburse to a county paying an additional salary to a circuit judge \$38,397.00 of that additional salary for calendar year 1995, and \$39,549.00

of that additional salary for calendar year 1996, unless the additional salary, including any cost-of-living allowance, payable by that county causes the total annual salary of a circuit judge to exceed 92% of the salary of a justice of the supreme court. A county may adjust the rate of pay of a circuit judge during the 1995 calendar year so that the total annualized salary of the judge for that year does not exceed \$106,075.00.

(3) Effective September 1, 1981, and through December 31, 1996, if the county of Wayne pays each circuit judge of the third judicial circuit an additional salary equal to at least the difference between 92% of the salary of a justice of the supreme court and the annual salary payable by the state to a circuit judge of the third judicial circuit, the state shall reimburse the county of Wayne, for each circuit judge of the third judicial circuit, an amount equal to that difference. However, if the county pays more than an amount equal to the difference between 92% of the salary of a justice of the supreme court and the annual salary payable by the state to a circuit judge of the third judicial circuit, the state shall not reimburse the county for any additional salary.

(4) Beginning January 1, 1997, if the county of Wayne pays each circuit judge of the third judicial circuit an additional salary of \$43,943.00, the state shall reimburse the county of Wayne, for each circuit judge of the third judicial circuit, \$43,943.00. However, if the county of Wayne pays more than \$43,943.00 to a judge of the third judicial circuit, the state shall not reimburse the county for any additional salary.

(5) For calendar year 1995, the portion of the annual salary of a circuit judge payable by the state is \$63,412.00.

(6) For calendar year 1996 and each calendar year thereafter, the portion of the annual salary of a circuit judge payable by the state is \$65,314.00, except that if a circuit judge received a total annualized salary for calendar year 1995, including cost-of-living allowances, of more than \$106,075.00, the portion of that judge's annual salary payable by the state shall be \$65,314.00 minus the amount by which his or her total annualized salary for 1995 exceeded \$106,075.00. For calendar year 1996 and each calendar year thereafter, the state shall reimburse to a county paying an additional salary to a circuit judge 90% of that additional salary, unless the additional salary, including any cost-of-living allowance, payable by that county causes the total annual salary of a circuit judge to exceed \$109,257.00. However, for a county whose circuit judge received a total annualized salary for calendar year 1995, including cost-of-living allowances, that exceeded \$106,075.00, the amount of reimbursement to which the county is otherwise entitled shall be reduced by the amount by which the judge's total annualized salary for calendar year 1995 exceeded \$106,075.00.

(7) Each circuit judge who holds court in a county other than the county of his or her residence shall be reimbursed for his or her actual and necessary expenses incurred in holding court. Each circuit judge entitled to the reimbursement shall certify the expenses incurred to the court administrator for allowance. Upon allowance by the administrator, the state treasurer shall issue a warrant on the state treasury for payment.

(8) A circuit judge whose case load is less than other circuit judges may be authorized by the supreme court or state court administrator to assist other courts and perform other judicial duties, for limited periods or specific assignments. This subsection shall not be construed as a directive to the supreme court or state court administrator.

(9) Beginning January 1, 1997, the salary of a circuit judge paid by the state shall not be increased unless the legislature, by statute, expressly sets a higher salary.

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

(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, if the county is not part of a probate court district created pursuant to law.

(d) Beginning January 1, 1997, a probate judge in a county having a population of less than 15,000, if the county is not part of a probate court district created pursuant to law.

(2) The minimum annual salary for a probate judge shall equal 90% of the annual salary payable by the state to a circuit judge. Six thousand dollars of the minimum annual salary provided in this subsection 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.

(3) The salary provided in subsection (2) shall be 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.

(4) In addition to the salary provided in subsection (2), a probate judge may receive from any county in which the probate judge regularly holds court an additional salary 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. 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. Through December 31, 1996, the additional salary granted to a probate judge pursuant to this subsection shall not cause the total of the probate judge's total annual salary from state and county funds to exceed 88% of the annual salary of a justice of the supreme court. Beginning January 1, 1997, the additional salary granted to a probate judge pursuant to this subsection shall not exceed \$45,724.00.

(5) Through December 31, 1996, the state shall reimburse to a county paying an additional salary to a probate judge \$39,953.00 of that additional salary for calendar year 1995, and \$41,152.00 of that additional salary for calendar year 1996, unless the additional salary, including any cost-of-living allowance, payable by that county causes the total annual salary of a probate judge to exceed 88% of the salary of a justice of the supreme court. A county may adjust the rate of pay of a probate judge during the 1995 calendar year so that the total annualized salary of the judge for that year does not exceed \$101,463.00.

(6) For calendar year 1995, the portion of the annual salary of a probate judge payable by the state is \$51,071.00.

(7) For calendar year 1996 and each calendar year thereafter, the portion of the annual salary of a probate judge payable by the state is \$52,783.00, except that the portion of the annual salary payable by the state of a probate judge who received a total annualized salary for calendar year 1995, including cost-of-living allowances that exceeded \$101,463.00, shall be \$52,783.00 minus the amount by which his or her total annualized salary for 1995 exceeded \$101,463.00. For calendar year 1996 and each calendar year thereafter, the state shall reimburse to a county paying an additional salary to a probate judge \$41,152.00 of that additional salary, unless the additional salary, including any cost-of-living allowance, payable by that county causes the total annual salary of a probate judge to exceed \$104,507.00. However, for a county whose probate judge received a total annualized salary for calendar year 1995 including cost-of-living allowances that exceeded \$101,463.00, the amount of reimbursement to which the county is otherwise entitled shall be reduced by the amount by which the judge's total annualized salary for 1995 exceeded \$101,463.00.

(8) Beginning January 1, 1997, the salary of a probate judge paid by the state or a county shall not be increased unless the legislature, by statute, expressly sets a higher salary.

Sec. 822. (1) Except as provided in section 821, probate judges of a county comprising part of a proposed probate court district in which the electors of 1 or more counties thereof did not approve the same shall receive an annual salary which shall be based upon the population of the county and payable as follows:

(a) For counties having a population of less than 10,000, \$9,000.00, 1/2 to be paid by the state and 1/2 by the county.

(b) For counties having a population of 10,000 or more but less than 15,000, \$10,000.00, 1/2 to be paid by the state and 1/2 by the county.

(c) For counties having a population of 15,000 or more but less than 23,000, \$15,000.00, 60% to be paid by the state and 40% by the county, through December 31, 1978; and beginning January 1, 1979 through December 31, 1980, \$18,000.00, 2/3 to be paid by the state and 1/3 by the county.

(d) For counties having a population of 23,000 or more but less than 25,000, \$15,000.00, 60% to be paid by the state and 40% by the county, through December 31, 1978.

(2) The annual salary provided in subsection (1) may be increased but shall not be decreased during the term for which those probate judges have been elected or appointed as a result of a new census. This salary shall be in full compensation for all services performed by them as probate judges, 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 any 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. In any county where an additional salary is granted, that salary shall be paid at the same rate to all probate judges regularly holding court therein.

(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 the following:

(a) For a probate judge of a county described in subsection (1)(a), \$52,000.00.

(b) For a probate judge of a county described in subsection (1)(b), \$53,000.00.

(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.

Sec. 8202. (1) Except as provided in subsection (11), and through December 31, 1996, a district judge shall receive an annual salary payable by this state equal to 90% of the annual salary payable by this state to a circuit judge.

(2) Through December 31, 1996, in addition to the salary received from this state, a district judge may receive from a district control unit in which the judge regularly holds court an additional salary as determined by the governing legislative body of the district control unit. Supplemental salaries paid by a district control unit shall be uniform as to all judges who regularly hold court in the district control unit. Through December 31, 1996, in the thirty-sixth district each district judge shall receive an additional salary that, when added to the annual salary paid by the state under subsection (1), equals 88% of the annual salary of a justice of the supreme court. Beginning with calendar year 1997, and for each calendar year thereafter, in the thirty-sixth district, each district judge shall receive an additional salary of \$45,724.00. Through December 31, 1996, the total annual additional salary paid to a district court judge by the district control units in which the judge regularly holds court shall not cause the district judge's total annual salary received from state and district control unit funds to exceed 88% of the annual salary of a justice of the supreme court. However, a district control unit may adjust the rate of pay of a district judge during the 1995 calendar year so that the total annualized salary of the judge for that year does not exceed \$101,463.00.

(3) A district judge who holds court in a county other than the county of the judge's residence shall be reimbursed for his or her actual and necessary expenses incurred in holding court upon certification and approval by the court administrator. Upon certification of the judge's expenses, the sum shall be paid out of the state treasury pursuant to the accounting laws of this state.

(4) Salaries of a district court judge may be increased but shall not be decreased during a term of office except and only to the extent of a general salary reduction in all other branches of government.

(5) Except as provided in subsection (6), the supreme court, by rule, may establish civil and criminal trial divisions within the district court. The rules shall provide for the rotation of judges among the trial divisions.

(6) The judges of the district court for the thirty-sixth district shall establish functional divisions of the court that are necessary for the effective administration of justice within the district. As ordered by the chief judge of the district, judges of that district shall be rotated among the functional divisions of the court established pursuant to this subsection.

(7) A judge of the district court is eligible to be a member of the Michigan judges retirement system created by the judges retirement act of 1992, Act No. 234 of the Public Acts of 1992, being sections 38.2101 to 38.2608 of the Michigan Compiled Laws.

(8) The district court in a district may hold evening and Saturday sessions.

(9) The state shall reimburse to a district control unit paying an additional salary to a district judge \$39,953.00 of that additional salary for calendar year 1995, and \$41,152.00 of that additional salary for calendar year 1996, unless the additional salary, including any cost-of-living allowance, payable by that district control unit causes the total annual salary of a district judge to exceed the applicable percentage of the salary of a justice of the supreme court.

(10) For calendar year 1995, the portion of the annual salary of a district judge payable by the state is \$57,071.00.

(11) For calendar year 1996 and for each calendar year thereafter, the portion of the annual salary of a district judge payable by the state is \$58,783.00, except that if a district judge received a total annualized salary for calendar year 1995, including cost-of-living allowances, of more than \$101,463.00, the portion of that judge's annual salary payable by the state shall be \$58,783.00 minus the amount by which his or her total annualized salary for 1995 exceeded \$101,463.00. For calendar year 1996 and for each calendar year thereafter, the state shall reimburse to a district control unit paying an additional salary to a district judge \$41,152.00 of that additional salary, unless the additional salary, including any cost-of-living allowance, payable by that district control unit causes the total annual salary of a district judge to exceed \$104,507.00. However, for a district control unit whose district judge received a total annualized salary for calendar year 1995 including cost-of-living allowances that exceeded \$101,463.00, the amount of reimbursement to which the district control unit is otherwise entitled shall be reduced by the amount by which the judge's total annualized salary for 1995 exceeded \$101,463.00.

(12) Beginning January 1, 1997, the salary of a district judge paid by the state or by district control units shall not be increased unless the legislature, by statute, expressly sets a higher salary.

(13) No provision of this act shall be construed to limit the authority of the legislature to determine the salaries of judges.

Section 2. The following acts and parts of acts are repealed:

(a) Sections 601, 602, and 603 of Act No. 288 of the Public Acts of 1994.

(b) Sections 301, 302, 303, 303a, and 303b of Act No. 149 of the Public Acts of 1995.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.