

HOUSE BILL No. 5108

October 19, 2011, Introduced by Rep. Irwin and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 803, 805, 8112, 8132, 8156, and 8159 (MCL
600.803, 600.805, 600.8112, 600.8132, 600.8156, and 600.8159),
section 803 as amended by 2002 PA 715, section 805 as amended by
1988 PA 134, section 8112 as amended by 1998 PA 13, and section
8132 as amended by 1998 PA 47.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 803. (1) Except as otherwise provided in this section,
2 each county ~~which~~ **THAT** is not part of a probate court district
3 created ~~pursuant to sections 808 to 810 or previously created~~
4 ~~pursuant to law shall have at least~~ **BY LAW HAS** 1 judge of probate.

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

7 (3) **THE COUNTY OF GRATIOT HAS THE FOLLOWING NUMBER OF JUDGES**

1 OF PROBATE:

2 (A) UNTIL JANUARY 1, 2012, 1 JUDGE.

3 (B) BEGINNING JANUARY 1, 2012, UNDER SECTION 15 OF ARTICLE VI
4 OF THE STATE CONSTITUTION OF 1963, THE OFFICE OF PROBATE JUDGE FOR
5 THE COUNTY OF GRATIOT SHALL BE COMBINED WITH THE OFFICE OF JUDGE OF
6 THE SIXTY-FIFTH-B JUDICIAL DISTRICT, AND THE COUNTY OF GRATIOT
7 SHALL HAVE 2 JUDGES OF PROBATE. THE JUDGESHIP ADDED UNDER THIS
8 SUBDIVISION SHALL BE FILLED BY THE INCUMBENT JUDGE OF THE SIXTY-
9 FIFTH-B JUDICIAL DISTRICT, WHO SHALL BECOME A PROBATE JUDGE FOR THE
10 COUNTY OF GRATIOT FOR THE BALANCE OF THE TERM TO WHICH HE OR SHE
11 WAS ELECTED.

12 (C) BEGINNING 12 NOON, JANUARY 1, 2013, THE COUNTY OF GRATIOT
13 HAS 1 JUDGE OF PROBATE.

14 (4) THE COUNTY OF HILLSDALE HAS THE FOLLOWING NUMBER OF JUDGES
15 OF PROBATE:

16 (A) UNTIL JANUARY 1, 2012, 1 JUDGE.

17 (B) BEGINNING JANUARY 1, 2012, UNDER SECTION 15 OF ARTICLE VI
18 OF THE STATE CONSTITUTION OF 1963, THE OFFICE OF PROBATE JUDGE FOR
19 THE COUNTY OF HILLSDALE SHALL BE COMBINED WITH THE OFFICE OF JUDGE
20 OF THE SECOND-B JUDICIAL DISTRICT, AND THE COUNTY OF HILLSDALE
21 SHALL HAVE 2 JUDGES OF PROBATE. THE JUDGESHIP ADDED UNDER THIS
22 SUBDIVISION SHALL BE FILLED BY THE INCUMBENT JUDGE OF THE SECOND-B
23 JUDICIAL DISTRICT, WHO SHALL BECOME A PROBATE JUDGE FOR THE COUNTY
24 OF HILLSDALE FOR THE BALANCE OF THE TERM TO WHICH HE OR SHE WAS
25 ELECTED.

26 (C) BEGINNING THE EARLIER OF THE FOLLOWING DATES, THE COUNTY
27 OF HILLSDALE HAS 1 JUDGE OF PROBATE:

1 (i) THE DATE ON WHICH A VACANCY OCCURS IN THE OFFICE OF PROBATE
2 JUDGE IN THIS COUNTY.

3 (ii) THE BEGINNING DATE OF THE TERM FOR WHICH AN INCUMBENT
4 PROBATE JUDGE IN THIS COUNTY NO LONGER SEEKS ELECTION OR REELECTION
5 TO THAT OFFICE.

6 (5) THE COUNTY OF CHIPPEWA HAS THE FOLLOWING NUMBER OF JUDGES
7 OF PROBATE:

8 (A) UNTIL JANUARY 1, 2012, 1 JUDGE.

9 (B) BEGINNING JANUARY 1, 2012, UNDER SECTION 15 OF ARTICLE VI
10 OF THE STATE CONSTITUTION OF 1963, THE OFFICE OF PROBATE JUDGE FOR
11 THE COUNTY OF CHIPPEWA SHALL BE COMBINED WITH THE OFFICE OF JUDGE
12 OF THE NINETY-FIRST JUDICIAL DISTRICT, AND THE COUNTY OF CHIPPEWA
13 SHALL HAVE 2 JUDGES OF PROBATE. THE JUDGESHIP ADDED UNDER THIS
14 SUBDIVISION SHALL BE FILLED BY THE INCUMBENT JUDGE OF THE NINETY-
15 FIRST JUDICIAL DISTRICT, WHO SHALL BECOME A PROBATE JUDGE FOR THE
16 COUNTY OF CHIPPEWA FOR THE BALANCE OF THE TERM TO WHICH HE OR SHE
17 WAS ELECTED.

18 (C) BEGINNING THE EARLIER OF THE FOLLOWING DATES, THE COUNTY
19 OF CHIPPEWA HAS 1 JUDGE OF PROBATE:

20 (i) THE DATE ON WHICH A VACANCY OCCURS IN THE OFFICE OF PROBATE
21 JUDGE IN THIS COUNTY.

22 (ii) THE BEGINNING DATE OF THE TERM FOR WHICH AN INCUMBENT
23 PROBATE JUDGE IN THIS COUNTY NO LONGER SEEKS ELECTION OR REELECTION
24 TO THAT OFFICE.

25 (6) THE COUNTY OF DELTA HAS THE FOLLOWING NUMBER OF JUDGES OF
26 PROBATE:

27 (A) UNTIL JANUARY 1, 2012, 1 JUDGE.

(B) BEGINNING JANUARY 1, 2012, UNDER SECTION 15 OF ARTICLE VI OF THE STATE CONSTITUTION OF 1963, THE OFFICE OF PROBATE JUDGE FOR THE COUNTY OF DELTA SHALL BE COMBINED WITH THE OFFICE OF JUDGE OF THE NINETY-FOURTH JUDICIAL DISTRICT, AND THE COUNTY OF DELTA SHALL HAVE 2 JUDGES OF PROBATE. THE JUDGESHIP ADDED UNDER THIS SUBDIVISION SHALL BE FILLED BY THE INCUMBENT JUDGE OF THE NINETY-FOURTH JUDICIAL DISTRICT, WHO SHALL BECOME A PROBATE JUDGE FOR THE COUNTY OF DELTA FOR THE BALANCE OF THE TERM TO WHICH HE OR SHE WAS ELECTED.

(C) BEGINNING THE EARLIER OF THE FOLLOWING DATES, THE COUNTY OF DELTA HAS 1 JUDGE OF PROBATE:

(i) THE DATE ON WHICH A VACANCY OCCURS IN THE OFFICE OF PROBATE JUDGE IN THIS COUNTY.

(ii) THE BEGINNING DATE OF THE TERM FOR WHICH AN INCUMBENT PROBATE JUDGE IN THIS COUNTY NO LONGER SEEKS ELECTION OR REELECTION TO THAT OFFICE.

(7) ~~(3)~~—The counties of Berrien, Calhoun, **GENESEE**, Ingham, **MACOMB**, Monroe, Muskegon, Saginaw, St. Clair, and Washtenaw shall each have 2 judges of probate.

~~——(4) Until 12 noon, January 1, 2005, the county of Genesee shall have 3 judges of probate; however, if, after 12 noon, January 1, 2003, a vacancy occurs in the judgeship held by the incumbent probate judge in Genesee county whose term of office expires January 1, 2005 and who would be ineligible to seek reelection to that office in 2004, that probate judgeship is eliminated effective 12 noon, January 1, 2005. Beginning 12 noon, January 1, 2005, the county of Genesee shall have 2 judges of probate.~~

~~—— (5) Until 12 noon, January 1, 2005, the county of Macomb shall have 3 judges of probate; however, if the incumbent probate judge in Macomb county whose term of office as probate judge expires on January 1, 2005 is elected in 2002 to the office of circuit judge in the sixteenth judicial circuit for a term beginning January 1, 2003, that probate judgeship is eliminated effective 12 noon, January 1, 2005. Beginning 12 noon, January 1, 2005, the county of Macomb shall have 2 judges of probate.~~

(8) ~~(6)~~ The county of Kalamazoo shall have **HAS** 3 judges of probate.

(9) ~~(7)~~ The county of Kent shall have **HAS** 4 judges of probate.

(10) ~~(8)~~ The county of Oakland shall have **HAS** 4 judges of probate.

(11) ~~(9)~~ The county of Wayne shall have the following number of judges of probate:

~~—— (a) Until subdivision (b) takes effect, the county of Wayne shall have 9 judges of probate.~~

~~—— (b) The county of Wayne shall have **HAS** 8 judges of probate beginning on the earliest of the following dates:~~

~~—— (i) Upon the occurrence of a vacancy in a judgeship held by an incumbent probate judge in Wayne county whose term expires on January 1, 2005, and who would be ineligible to seek reelection to that office in 2004.~~

~~—— (ii) Upon the expiration of the term of an incumbent probate judge who is not eligible to seek reelection to that office.~~

(12) ~~(10)~~ When 1 or more new judges of probate are authorized in a county pursuant to **UNDER** this section, the new judgeship or

1 judgeships shall appear on the ballot separate and apart from other
2 judicial offices of the same court in the primary and general
3 election.

4 Sec. 805. (1) The additional judges of probate permitted by
5 section 803 shall not be ~~authorized to be~~ filled by election unless
6 the county, by resolution adopted by the county board of
7 commissioners, approves the creation of that judgeship and unless
8 the clerk of that county files a copy of the resolution with the
9 state court administrator not later than 4 p.m. of the thirteenth
10 Tuesday preceding the August primary for the election to fill the
11 additional judge of probate. The state court administrator shall
12 immediately notify the county clerk with respect to any new judge
13 of probate authorized for that county ~~pursuant to~~ **UNDER** this
14 subsection.

15 (2) By permitting an additional judgeship, the legislature is
16 not creating that judgeship. If a county, acting through its board
17 of commissioners, approves the creation of an additional judge of
18 probate, that approval constitutes an exercise of the county's
19 option to provide a new activity or service or to increase the
20 level of activity or service offered in the county beyond that
21 required by existing law, as the elements of that option are
22 defined by ~~Act No. 101 of the Public Acts of 1979, being sections~~
23 ~~21.231 to 21.244 of the Michigan Compiled Laws 1979 PA 101, MCL~~
24 **21.231 TO 21.244**, and a voluntary acceptance by the county of all
25 expenses and capital improvements ~~which~~ **THAT** may result from the
26 creation of the judgeship. However, the exercise of the option does
27 not affect the state's obligation to pay the same portion of the

1 additional judge's salary ~~which~~ **THAT** is paid by the state to the
 2 other judges of probate of the same county, or to appropriate and
 3 disburse funds to the county for the necessary costs of state
 4 requirements established by a state law ~~which becomes effective~~
 5 **THAT TAKES EFFECT** on or after December 23, 1978.

6 (3) Each additional judgeship created ~~pursuant to~~ **UNDER**
 7 subsection (1) shall be filled by election ~~pursuant to~~ **UNDER** the
 8 Michigan election law, ~~Act No. 116 of the Public Acts of 1954, as~~
 9 ~~amended, being sections 168.1 to 168.992 of the Michigan Compiled~~
 10 ~~Laws 1954 PA 116, MCL 168.1 TO 168.992.~~ The first term of each
 11 additional judgeship shall be 6 years unless the law permitting the
 12 additional judgeship provides for a term of a different length.

13 (4) **A COMBINATION OF THE OFFICE OF PROBATE JUDGE WITH A**
 14 **JUDICIAL OFFICE OF LIMITED JURISDICTION WITHIN A COUNTY UNDER**
 15 **SECTION 15 OF ARTICLE VI OF THE STATE CONSTITUTION OF 1963 THAT**
 16 **DOES NOT RESULT IN AN INCREASE IN THE TOTAL NUMBER OF JUDGESHIPS**
 17 **DOES NOT REQUIRE A RESOLUTION OF APPROVAL BY THE COUNTY BOARD OF**
 18 **COMMISSIONERS UNDER THIS SECTION.**

19 Sec. 8112. ~~(1) Except as provided in subsection (2), the~~
 20 ~~second district consists of the counties of Lenawee and Hillsdale,~~
 21 ~~is a district of the first class, and is divided into the following~~
 22 ~~election divisions:~~

23 ~~—— (a) The first division consists of the county of Lenawee and~~
 24 ~~has 2 judges.~~

25 ~~—— (b) The second division consists of the county of Hillsdale~~
 26 ~~and has 1 judge.~~

27 ~~—— (2) Effective January 1, 1999, if the county of Lenawee~~

~~approves the creation of the second a district pursuant to law, and if the county of Hillsdale approves the creation of the second b district pursuant to law, both of the following apply:~~

(1) ~~(a)~~ The second-a district consists of the county of Lenawee, is a district of the first class, and has 2 judges.

(2) ~~(b)~~ **THE EXCEPT AS PROVIDED IN THIS SUBSECTION, THE** second-b district consists of the county of Hillsdale, is a district of the first class, and has 1 judge. **BEGINNING JANUARY 1, 2012, THE SECOND-B DISTRICT CONSISTS OF THE COUNTY OF HILLSDALE AND IS A DISTRICT OF THE FIRST CLASS. UNDER SECTION 810A, A PROBATE JUDGE FOR THE COUNTY OF HILLSDALE SHALL SERVE AS A JUDGE OF THE SECOND-B DISTRICT.**

Sec. 8132. ~~(1) Except as provided in subsection (2), the sixty fifth district consists of the counties of Gratiot and Clinton, is a district of the first class, and is divided into the following election divisions:~~

~~—— (a) The first division consists of the county of Gratiot and has 1 judge.~~

~~—— (b) The second division consists of the county of Clinton and has 1 judge.~~

~~(2) Effective January 1, 1999, if the county of Clinton approves the creation of the sixty fifth a district pursuant to law and if the county of Gratiot approves the creation of the sixty fifth b district pursuant to law, both of the following apply:~~

(1) ~~(a)~~ The sixty-fifth-a district consists of the county of Clinton, is a district of the first class, and has 1 judge.

(2) ~~(b)~~ **THE EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,**

1 THE sixty-fifth-b district consists of the county of Gratiot, is a
2 district of the first class, and has 1 judge. BEGINNING JANUARY 1,
3 2012, THE SIXTY-FIFTH-B DISTRICT CONSISTS OF THE COUNTY OF GRATIOT
4 AND IS A DISTRICT OF THE FIRST CLASS. UNDER SECTION 810A, A PROBATE
5 JUDGE FOR THE COUNTY OF GRATIOT SHALL SERVE AS A JUDGE OF THE
6 SIXTY-FIFTH-B DISTRICT.

7 Sec. 8156. The ninety-first district consists of the county of
8 Chippewa, is a district of the first class, and has 1 judge.
9 BEGINNING JANUARY 1, 2012, THE NINETY-FIRST DISTRICT CONSISTS OF
10 THE COUNTY OF CHIPPEWA AND IS A DISTRICT OF THE FIRST CLASS. UNDER
11 SECTION 810A, A PROBATE JUDGE FOR THE COUNTY OF CHIPPEWA SHALL
12 SERVE AS A JUDGE OF THE NINETY-FIRST DISTRICT.

13 Sec. 8159. The ninety-fourth district consists of the county
14 of Delta, is a district of the first class, and has 1 judge.
15 BEGINNING JANUARY 1, 2012, THE NINETY-FOURTH DISTRICT CONSISTS OF
16 THE COUNTY OF DELTA AND IS A DISTRICT OF THE FIRST CLASS. UNDER
17 SECTION 810A, A PROBATE JUDGE FOR THE COUNTY OF DELTA SHALL SERVE
18 AS JUDGE OF THE NINETY-FOURTH DISTRICT.