



**COMBINE PROBATE AND DISTRICT
COURT IN CRAWFORD COUNTY**

**House Bill 5674 as introduced
First Analysis (2-21-02)**

**Sponsor: Rep. Ken Bradstreet
Committee: Civil Law and the Judiciary**

THE APPARENT PROBLEM:

A proposal currently before the legislature would formally recognize in statute an arrangement currently in place, and stemming from a demonstration project, that combines the jurisdiction of the district court with the jurisdiction of the probate court in Crawford County. Currently under the Revised Judicature Act, the 83rd District Court consists of Roscommon and Crawford counties, with one district judge. Crawford County has a part-time probate judge. Under the demonstration project, the full-time district judge is serving Roscommon County and the part-time probate judge is serving Crawford County as a full-time judge carrying out the duties of both the probate court and the district court. (The additional salary required is currently being paid through the state supreme court, according to testimony before the House Civil Law and Judiciary Committee.) Supporters say this demonstration project has worked and has the support of local elected officials. Moreover, the current district court judge in the area is expected to retire and candidates will soon be emerging to seek the office. It makes sense to put the arrangement into statute at this juncture, say advocates, so that it will be clear that candidates are seeking a Roscommon County judgeship.

THE CONTENT OF THE BILL:

The bill would amend the Revised Judicature Act to allow Crawford County to combine the jurisdiction of the probate court with the jurisdiction of the district court and to provide that, if that combination occurred, then the 83rd Judicial District would consist only of Roscommon County. If the combination occurred, the part-time probate judge in Crawford County would become a full-time judge entitled to a full-time salary and could not engage in the practice of law except as a judge. A combination of jurisdiction could not take effect unless 1) the county board of commissioners adopted a resolution approving it and filed that resolution with the state court administrator; and 2) each district control unit

in the judicial district in which the county is located filed a resolution of approval (i.e., both counties). The filings would have to take place by December 1, 2002, and the combination of jurisdiction in Crawford County and the reorganization of the 83rd Judicial District would then be effective January 1, 2003.

The bill contains one set of provisions describing what would happen if a county that was expressly permitted by the Revised Judicature Act to combine the jurisdiction of its district and probate courts did so, and another set of provisions expressly permitting Crawford County to combine the jurisdiction of the district and probate court.

General Provisions for a Combination of Jurisdictions. The bill would specify that, if a county that had been expressly permitted under the act to combine the jurisdictions of its district and probate courts elected to combine them, all of the following would apply.

- The probate court would exercise the jurisdiction and powers of the district court.
- The judge or judges of probate in the county would have the power and authority of a district judge with respect to district court matters.
- The provisions of statute and court rule concerning matters within the district court's jurisdiction would apply to the probate court in that county with respect to district court matters.
- A combination of jurisdiction under these provisions could not take effect unless the county board of commissioners adopted a resolution approving the matter and filed a copy of the resolution with the state court administrator, and each district control unit in the judicial district in which the county was located filed a resolution of approval, as provided under the bill.

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- If a county that was expressly permitted to effect a combination of jurisdictions elected to do so, the combination could not take effect unless each district control unit in the judicial district in which the county was located had adopted, by resolution of its governing body, an agreement to assume any local obligations arising in the respective counties due to the combination and the reformation of a district in the remaining county or counties, and the resolution had been filed with the State Court Administrator by the prescribed deadline.

MCL 600.810a et al.

BACKGROUND INFORMATION:

A bill with the same provisions, House Bill 4866, passed the House in the 1997-98 legislative session but did not pass the Senate. At that time, the boards of commissioners in the two counties involved had passed resolutions supporting the proposal.

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

The bill would essentially ratify in statute the current practice within the geographic area covered currently by the 83rd District Court, Roscommon and Crawford counties. Under the bill, the 83rd district would cover only Roscommon County, which has the caseload to justify its own judge, and the probate and district courts in Crawford County would be combined. This would elevate a part-time probate judge to a full-time judge carrying out the functions of both the probate court and the district court in Crawford County. This is an efficient use of judicial resources. This needs to be done in a timely manner so that candidates for judicial office in the upcoming election will know the nature of the office being contested, in terms of geography and jurisdiction.

Against:

Some people have expressed concern that the bill could have implications beyond Crawford and Roscommon counties. According to a committee staff memo, criticism has also been voiced that this is piecemeal reorganization that goes against the grain of proposals to merge what remains of probate courts with circuit courts and results in adding a full-time judge when the caseloads of the affected areas do not warrant one.

POSITIONS:

The legal counsel to the Michigan Supreme Court indicated support for the bill to the House Committee on Civil Law and the Judiciary. (2-19-02)

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.