

MICHIGAN SUPREME COURT
State Court Administrative Office



Judicial Resources Recommendations Addendum
(Part-Time Probate Judges)

September 2003

Part-Time Probate Judges

Background

The issues that involve part-time probate judges have existed for many years and have gone through numerous legislative iterations. Ethical considerations weigh in favor of the elimination of part-time judgeships, as the practice of law by members of the judiciary may raise an appearance of impropriety. There may now be an opportunity to revisit this issue and eliminate all of the remaining ten part-time positions.

The legislature created the family division of the circuit court in 1996 to handle delinquency cases, neglect and abuse cases, adoption proceedings, name changes, and other family matters. Because many of these matters were previously heard in the probate court, the creation of the family division has generally resulted in an increase in circuit courts' caseloads and a corresponding decrease in probate courts' caseloads. In areas where such a caseload shift has occurred and the legislature has not changed the number of judges assigned to the various courts, probate judges have been assigned to the circuit court, allowing the courts to more efficiently handle their respective caseloads. In some instances this has been addressed by part-time probate judges assuming responsibility for their former cases (delinquency, abuse/neglect, etc.) but not domestic relations cases.

The boundaries for multi-county judicial circuits, district court districts, and probate court districts in northern Michigan were aligned historically. But beginning in the 1970s, uneven caseload growth resulted in changes in those boundaries. For example, a county might have been aligned with one set of neighboring counties for purposes of the circuit court, while being aligned with different neighbors in a district court or probate court district. With the creation of the family division of the circuit court in 1996, it was suggested that the differing boundaries complicated planning and implementation of the new court entities.

Public Act 92 of 2002 amended the Revised Judicature Act (RJA) to change the boundaries of six judicial circuits and six judicial districts in northern Michigan so that the boundaries of multi-county circuit and district courts would be aligned. Public Act 40 of 2003 amended the RJA to establish the boundaries of a number of multi-court probate districts, including those counties with part-time probate judges, as follows:

The first district now consists of any of the following counties: Baraga, Houghton, and Keweenaw Counties, Houghton and Baraga Counties, or Houghton and Keweenaw Counties. The second district consists of the counties of Ontonagon and Gogebic. The third district consists of the counties of Iron and Dickinson. The eighth district consists of the counties of Cheboygan and Presque Isle. The ninth district consists of the counties of Alpena and Montmorency. The twelfth district consists of the counties of Manistee and Benzie. The thirteenth district consists of the counties of Wexford and Missaukee. The fifteenth district consists of the counties of Alcona and Oscoda.

Public Act 678 of 2002 (MCL 600.401 *et seq*), effective April 1, 2003, allows trial courts to adopt a plan of concurrent jurisdiction within a county or judicial circuit. The law adds Chapter 4 to the RJA to allow the judges of circuit, probate, and district courts to adopt plans of trial court concurrent jurisdiction. The statute also specifies areas of exclusive jurisdiction for the circuit, probate, and district courts that would remain with each of those courts, notwithstanding a plan of concurrent jurisdiction.

Within a county or judicial circuit, subject to approval by the Supreme Court, the following judges can adopt a plan of concurrent jurisdiction for the participating trial courts in that county or circuit: the circuit judges, the probate judges, and the district judges; the circuit judges and the probate judges; the circuit

judges and the district judges; or the probate judges and the district judges. A plan of concurrent jurisdiction can provide for one or more of the following: The circuit court and one or more circuit judges can exercise the power and jurisdiction of the probate court and/or the district court; the probate court and one or more probate judges can exercise the power and jurisdiction of the circuit court and/or the district court; and the district court and one or more district judges can exercise the power and jurisdiction of the circuit court and/or the probate court. At least 30 days before a proposed plan is submitted to the Supreme Court, it must be submitted to the local funding unit or units for review of the plan's financial implications. The cost of implementing the plan is subject to the approval of the funding unit or units through their budgeting process.

The law specifies that, in a judicial circuit in which the circuit court, probate court, or district court are included in a plan of concurrent jurisdiction, the courts possess concurrent jurisdiction as provided in the plan. The circuit court, however, would have exclusive jurisdiction over appeals from district court and from administrative agencies to issue, hear, and determine prerogative and remedial writs (consistent with Article VI, Section 13 of the State Constitution), and over matters within the Court of Claims. The probate court would have exclusive jurisdiction over trust and estate matters. The district court would have exclusive jurisdiction over small claims actions and civil infraction actions.

A plan of concurrent jurisdiction must provide for the transfer or assignment of cases between the affected trial courts and to individual judges of those courts, as necessary to implement the plan and to distribute the workload fairly among the judges, and can include a family court plan required under Chapter 10 of the RJA. Part-time probate judges could provide significant assistance to district and circuit courts if included in a concurrent jurisdiction plan.

The most recent legislative initiative to address the part-time probate judge issue began with the enactment of Public Act 92 of 2002. This approach involves combining the office of probate judge with the office of district judge in the counties that have part-time probate judgeships. Such a combination of judgeships is constitutionally permissible under Article 6, Section 15 of the Michigan Constitution of 1963. Four part-time probate judgeships have been converted to full-time in this manner.

Options

Option #1 - Conversion by making probate judge a probate/district judge

This option would resolve the part-time judge issue by giving the probate judge district court authority. This option is possible legislatively pursuant to Article 6, Section 15 of the Michigan Constitution of 1963, which provides in part, *“the legislature may provide for the combination of the office of probate judge with any judicial office of limited jurisdiction within a county with supplemental pay as provided by law.”*

Public Act 92 of 2002 added MCL 600.810a, making part-time probate judges in Arenac, Kalkaska, and Crawford counties full-time probate judges with district court jurisdiction. Public Act 715 of 2002 added the part-time probate judge in Lake County to the list. Converting additional judges in this manner would require legislative action.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

600.810a Arenac, Kalkaska, Crawford, and Lake counties; power, authority, and title of probate judges.

Sec. 810a. The probate judges in the counties of Arenac, Kalkaska, Crawford, and Lake 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.

Option #2 - Conversion by establishment of a probate court district

This option would seek to eliminate part-time probate judgeships by combining counties into probate court districts. This is a local option that does not require legislation.

REVISED JUDICATURE ACT OF 1961 (EXCERPTS)

600.808 Question of creation of district; submission to electors; resolution calling for special election; form of question; counting, canvassing, and returning votes; canvassing and certifying results; effect of approval; election of probate judge.

Sec. 808.

(1) When each county board of commissioners of a district described in section 807 agrees by resolution to form a district, the question of creation of the district shall be submitted to the electors of the affected counties at the next primary, general, or special election that occurs more than 49 days after the resolution is adopted. A special election for submission of the question may be called by resolution adopted by each county board of commissioners in the proposed district.

(2) The question relative to creating the district shall be in substantially the following form:
"Shall this county join in a probate court district, which will consist of _____
and _____ if the majority of the electors voting on the question in each affected county
approve?"

Yes () No ()"

(3) The votes on the question shall be counted, canvassed, and returned in the manner provided by law. The results shall be canvassed and certified by the board of state canvassers in the same manner as provided for state propositions under chapter 31 of the Michigan election law, 1954 PA 116, MCL 168.841 to 168.847.

(4) If approved by a majority of the electors voting on the question in each of the counties affected, those counties shall constitute the probate court district corresponding to the appropriate district described in section 807, and that district becomes effective as provided in section 809 or 810, whichever section results in an earlier effective date.

(5) The election of the probate judge for a probate court district created under this section shall be held as provided in section 811.

(6) The state shall reimburse the affected counties for 1/2 of the additional cost of submitting the question of the district to the electors of the affected counties if the question is submitted to the electors at a primary, general, or special election held after the effective date of the 2003 amendatory act that amended this subsection but before November 3, 2004.

600.809 Probate court district; effective date; term of incumbent probate judge; election of probate judge.

Sec.809.

(1) Except when the vacancy or vacancies occur after the date established by Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for non-incumbent candidates to file for the office of probate judge for a full 6-year term or for the un-expired portion of a term, whichever is applicable, a probate court district created under section 808 shall become effective upon the existence of a vacancy in the office of probate judge in all but 1 of the counties comprising that district.

(2) When a probate court district becomes effective pursuant to subsection (1), the remaining incumbent probate judge in the district shall serve as the probate judge of the district until the term for which he was elected or appointed expires. Thereafter the 1 probate judge for the district shall be elected as provided in section 808(5).

600.810 Probate court district; effective date; common expiration of terms; election of probate judge.

Sec. 810.

Except when section 809 results in an earlier effective date, a probate court district created under section 808 shall become effective upon the date of common expiration of the terms of the probate judges in the counties comprising the district which occurs not less than 220 days after the vote on the question. At the general election immediately preceding that date of common expiration of terms, 1 probate judge for the district shall be elected as provided in section 808(5).

Option #3 –Conversion by having the part-time probate judge participate in a concurrent jurisdiction plan and family court plan and receive a supplemental salary paid for by the county, not to exceed current annual salaries established for full-time probate judges.

This option involves utilizing part-time probate judges in concurrent jurisdiction plans and permitting local funding units to compensate them beyond the statutory salary cap. This option was made possible with the enactment of Public Act 40 of 2003. This is a local option that does not require legislation.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

600.821 Probate judges; practice of law; annual salary; county contribution and reimbursement; additional salary; increase in salary.

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 described in section 807.

(b) The probate judge in each probate court district described in section 807 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 who has the power, authority, and title of a district judge within his or her respective county pursuant to 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.

600.822 Probate judge; annual salary based on population; payment; increase or decrease in salary; representing party in contested proceeding; additional salary; total annual salary; state salary standardization payment.

Sec.822.

- (1) Except as provided in subsection (6), a probate judge not included in section 821 shall receive a minimum 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 minimum 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 minimum 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 \$45,724.00, 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) Except as provided in subsection (8), 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 \$65,724.00.

(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.

(6) A probate judge described in subsection (1) may receive an additional minimum annual salary, in addition to the \$20,000.00 minimum annual salary described in subsection (1), if all of the following apply:

(a) The county board of commissioners approves payment to the probate judge of an additional salary from the county in the amount of \$45,724.00 as provided in subsection (3).

(b) The county board of commissioners passes a resolution that includes all of the following:

(i) A determination of an amount that the county is willing to reimburse the state as an additional minimum annual salary for the probate judge.

(ii) An agreement to immediately reimburse the state for the additional minimum annual salary authorized under this subsection.

(iii) An agreement that the determination under subparagraph (i) will not be decreased during the term of office of the probate judge.

(iv) An agreement that the amount of reimbursement for the additional minimum annual salary will not be decreased during the term of office of the probate judge.

(c) The probate judge agrees in writing to the following:

(i) To participate in a plan of concurrent jurisdiction as provided in chapter 4.

(ii) To participate in a family court plan as provided in chapter 10.

(iii) To not engage in the practice of law other than as a judge.

(iv) That if he or she becomes included in section 821, any additional minimum annual salary authorized under this subsection would thereafter be considered part of the minimum annual salary described in section 821.

(d) The supreme court or the state court administrative office approves the payment of the additional minimum annual salary authorized under this subsection.

(7) The additional minimum annual salary authorized under subsection (6) shall be paid by the state as a grant to the county, and the county shall in turn pay that amount to the probate judge in the same manner as provided in section 821(3). The county may increase the determination authorized under subsection (6)(b)(i) and its obligation to reimburse the state during the term of office of the probate judge.

(8) The total annual salary paid to a probate judge who receives an additional minimum annual salary under subsection (6), including the minimum annual salary provided in subsection (1), the additional county salary provided in subsection (3), and the additional minimum annual salary provided in subsection (6), shall not exceed 85% of the salary of a justice of the supreme court.

(9) If a probate judge described in subsection (1) becomes included in section 821, any additional minimum annual salary authorized under subsection (6) shall thereafter be considered part of the minimum annual salary described in section 821(2)(a), and the county's obligation to reimburse the state under subsection (6) shall cease.

(10) A probate judge who receives an additional minimum annual salary under subsection (6) shall not engage in the practice of law other than as a judge.

Individual Recommendations for Part-Time Probate Judges

Missaukee County – C28 (Judge Charles Parsons)

County	Resident Judges				Judicial Need				
	Circuit	Probate	District	Total	Circuit Family	Circuit Non-Family	Probate	District	Total
Missaukee	0.00	0.37	0.00	0.37	0.43	0.26	0.03	0.74	1.46
Wexford	1.00	1.00	1.00	3.00	1.00	0.71	0.07	1.02	2.80
Total	1.00	1.37	1.00	3.37	1.43	0.97	0.10	1.76	4.26

Recommendation: Convert the part-time judgeship to full-time by giving the judge district court authority immediately.

Rationale: The current caseload in the 28th Circuit justifies the immediate conversion of this judgeship to full-time. Converting the judgeship to full-time would provide 4 full-time judges in the circuit, with a caseload calling for 4.26 judges.

Presque Isle County – C53 (Judge Kenneth Radzibon)

County	Resident Judges				Judicial Need				
	Circuit	Probate	District	Total	Circuit Family	Circuit Non-Family	Probate	District	Total
Cheboygan	1.00	1.00	1.00	3.00	0.81	0.85	0.06	0.96	2.68
Presque Isle	0.00	0.37	0.00	0.37	0.30	0.38	0.03	0.72	1.43
Total	1.00	1.37	1.00	3.37	1.11	1.23	0.09	1.68	4.11

Recommendation: Convert the part-time judgeship to full-time by giving the judge district court authority effective January 2, 2005.

Rationale: Presque Isle was part of the former 26th Circuit and this recommendation coincides with the elimination of a circuit judgeship in the current 26th Circuit. Prior to April 1, 2003, the 26th Circuit consisted of Alcona, Alpena, Montmorency, and Presque Isle Counties and had 2 circuit judgeships. Since April 1, 2003, the 26th Circuit has consisted of Alpena and Montmorency Counties. One of the circuit judgeships that used to serve Presque Isle County is scheduled to be eliminated on January 1, 2005. Converting the probate judgeship to full-time on January 2, 2005, would provide 4 full-time judges in the 53rd Circuit, with a current caseload calling for 4.11 judges.

Montmorency County – C26 (Vacant)

County	Resident Judges				Judicial Need				
	Circuit	Probate	District	Total	Circuit Family	Circuit Non-Family	Probate	District	Total
Alpena	2.00	1.00	1.00	4.00	0.96	0.56	0.08	0.93	2.53
Montmorency	0.00	0.37	0.00	0.37	0.27	0.30	0.03	0.73	1.33
Total	2.00	1.37	1.00	4.37	1.23	0.86	0.11	1.66	3.86

Recommendation: Convert the part-time judgeship to full-time by giving the judge district court authority effective January 2, 2005.

Rationale: Montmorency is part of the 26th Circuit and this recommendation coincides with the elimination of a circuit judgeship in that court. Prior to April 1, 2003, the 26th Circuit consisted of Alcona, Alpena, Montmorency, and Presque Isle Counties and had 2 circuit judgeships. Since April 1, 2003, the 26th Circuit has consisted of Alpena and Montmorency Counties, and is scheduled to lose a circuit judgeship on January 1, 2005. Converting the probate judgeship to full-time on January 2, 2005, would provide 4 full-time judges in the circuit, with a current caseload calling for 3.86 judges.

Alcona County – C23 (Judge James Cook)

County	Resident Judges				Judicial Need				
	Circuit	Probate	District	Total	Circuit Family	Circuit Non-Family	Probate	District	Total
Alcona	0.00	0.37	0.00	0.37	0.29	0.25	0.04	0.70	1.28
Oscoda	0.00	0.37	0.00	0.37	0.25	0.21	0.01	0.70	1.17
Iosco	1.00	1.00	0.00	2.00	0.78	0.52	0.09	0.94	2.33
Arenac	1.00	1.00	1.00	3.00	0.45	0.43	0.04	0.81	1.73
Total	2.00	2.74	1.00	5.74	1.77	1.41	0.18	3.15	6.51

Recommendation: Convert the part-time judgeship to full-time by giving the judge district court authority effective January 2, 2005.

Rationale: Alcona was part of the former 26th Circuit and this recommendation coincides with the elimination of a circuit judgeship in the current 26th Circuit. Prior to April 1, 2003, the 26th Circuit consisted of Alcona, Alpena, Montmorency, and Presque Isle Counties and had 2 circuit judgeships. Since April 1, 2003, the 26th Circuit has consisted of Alpena and Montmorency Counties. One of the circuit judgeships that used to serve Alcona County is scheduled to be eliminated on January 1, 2005. Converting the probate judgeship to full-time on January 2, 2005, would provide 6.37 judges in the 23rd Circuit, with a current caseload calling for 6.51 judges.

Oscoda County – C23 (Judge Kathryn Root)

County	Resident Judges				Judicial Need				
	Circuit	Probate	District	Total	Circuit Family	Circuit Non-Family	Probate	District	Total
Alcona	0.00	0.37	0.00	0.37	0.29	0.25	0.04	0.70	1.28
Oscoda	0.00	0.37	0.00	0.37	0.25	0.21	0.01	0.70	1.17
Iosco	1.00	1.00	0.00	2.00	0.78	0.52	0.09	0.94	2.33
Arenac	1.00	1.00	1.00	3.00	0.45	0.43	0.04	0.81	1.73
Total	2.00	2.74	1.00	5.74	1.77	1.41	0.18	3.15	6.51

Recommendation: Convert the part-time judgeship to full-time by giving the judge district court authority effective January 2, 2007.

Rationale: Converting the judgeship to full-time on January 2, 2007, would result in an increase in the number of judges in the circuit from the 6.37 resulting from the January 2, 2005, conversion to full-time of the Alcona probate judge, to 7 full-time judges. The current caseload in the circuit calls for 6.51 judges. It is anticipated that the caseload in the 23rd Circuit will justify full-time status for the Oscoda County probate judge by January 2, 2007.

Benzie County – C19 (Judge Nancy Kida)

County	Resident Judges				Judicial Need				
	Circuit	Probate	District	Total	Circuit Family	Circuit Non-Family	Probate	District	Total
Benzie	0.00	0.37	0.00	0.37	0.37	0.26	0.04	0.75	1.42
Manistee	1.00	1.00	1.00	3.00	0.64	0.50	0.08	0.91	2.13
Total	1.00	1.37	1.00	3.37	1.01	0.76	0.12	1.66	3.55

Recommendation: Convert the part-time judgeship to full-time by giving the judge district court authority effective January 2, 2007.

Rationale: Converting the judgeship to full-time on January 2, 2007, would provide 4 full-time judges in the circuit. The current caseload in the circuit calls for 3.55 judges. It is anticipated that the caseload in the 19th Circuit will justify full-time status for the Benzie County probate judge by January 2, 2007.

Iron County – C41 (Judge Joseph Schwedler)

County	Resident Judges				Judicial Need				
	Circuit	Probate	District	Total	Circuit Family	Circuit Non-Family	Probate	District	Total
Dickinson	2.00	1.00	1.00	4.00	0.76	0.59	0.03	0.88	2.26
Iron	0.00	0.37	0.00	0.37	0.33	0.26	0.03	0.72	1.34
Menominee	0.00	1.00	1.00	2.00	0.60	0.41	0.04	0.85	1.90
Total	2.00	2.37	2.00	6.37	1.69	1.26	0.10	2.45	5.50

Recommendation: The part-time judgeship should be converted to full-time by giving the judge district court authority and a circuit judgeship in the 41st Circuit should be eliminated by attrition.

Rationale: Iron County has been participating in an extremely successful demonstration project since February 1, 1999. The demonstration project involves a unified trial court in Iron County with the probate judge serving full-time by assignment. The caseload in the 41st Circuit will possibly never justify converting this judgeship to full-time statutorily without eliminating another judgeship by attrition. Converting the probate judgeship to full-time and eliminating one of the circuit judgeships by attrition, would provide 6 full-time judges in the circuit. The current caseload in the circuit calls for 5.50 judges.

Ontonagon County – C32 (Judge Joseph Zeleznik)

County	Resident Judges				Judicial Need				
	Circuit	Probate	District	Total	Circuit Family	Circuit Non-Family	Probate	District	Total
Gogebic	1.00	1.00	1.00	3.00	0.77	0.29	0.03	0.80	1.89
Ontonagon	0.00	0.37	0.00	0.37	0.26	0.07	0.02	0.68	1.03
Total	1.00	1.37	1.00	3.37	1.03	0.36	0.05	1.48	2.92

Recommendation: The counties have the option of forming a probate court district. If the counties do not form a probate court district, the part-time judgeship should be converted to full-time by giving the judge district court authority upon a district judgeship vacancy in the 98th District.

Rationale: The caseload in the 32nd Circuit will possibly never justify converting this judgeship to full-time without eliminating another judgeship by attrition, or by forming a probate court district. Forming a probate court district, or enacting legislation that would automatically convert the part-time probate judgeship to full-time when the district judgeship is eliminated by attrition, would provide 3 full-time judges in the circuit. The current caseload in the circuit calls for 2.92 judges. Both probate judges would be given district court authority to compensate for the absence of an elected district judge in the circuit if the district judgeship is eliminated.

Baraga County – C12 (Judge Timothy Brennan)

Keweenaw County – C12 (Judge James Jaaskelainen)

County	Resident Judges				Judicial Need				
	Circuit	Probate	District	Total	Circuit Family	Circuit Non-Family	Probate	District	Total
Baraga	1.00	0.37	0.00	1.37	0.21	0.18	0.02	0.69	1.10
Houghton	0.00	1.00	1.00	2.00	0.81	0.29	0.05	0.80	1.95
Keweenaw	0.00	0.37	0.00	0.37	0.04	0.05	0.01	0.60	0.70
Total	1.00	1.74	1.00	3.74	1.06	0.52	0.08	2.09	3.75

Recommendation: The counties have the option of forming a probate court district. If the counties do not form a probate court district, both part-time judgeships should be converted to full-time by giving them district court authority upon a district judgeship vacancy in the 97th District Court.

Rationale: The caseload in the 12th Circuit will possibly never justify converting these judgeships to full-time without eliminating another judgeship by attrition, or by forming a probate court district. If the counties form a probate court district comprised of the counties of Houghton, Baraga, or Keweenaw, there would be 3 full-time judges in the circuit. If the counties form a probate court district comprised of the counties of Houghton and Baraga, or Houghton and Keweenaw, there would be 3.37 judges in the circuit. Enacting legislation that would automatically convert the part-time probate judgeships to full-time when the district judgeship is eliminated by attrition, would provide 4 full-time judges in the circuit. The current caseload in the circuit calls for 3.75 judges. All three probate judges would be given district court authority to compensate for the absence of an elected district judge in the circuit if the district judgeship is eliminated.

