

Act No. 292
Public Acts of 1992
Approved by the Governor
December 18, 1992
Filed with the Secretary of State
December 18, 1992

**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1992**

Introduced by Reps. Perry Bullard, Bandstra, Gubow, Goss, Strand, Fitzgerald, Jondahl, Dalman and Jamian

ENROLLED HOUSE BILL No. 5737

AN ACT to amend sections 2528, 2529, 5756, 8371, and 8420 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," as amended by Act No. 233 of the Public Acts of 1992, being sections 600.2528, 600.2529, 600.5756, 600.8371, and 600.8420 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 2528, 2529, 5756, 8371, and 8420 of Act No. 236 of the Public Acts of 1961, as amended by Act No. 233 of the Public Acts of 1992, being sections 600.2528, 600.2529, 600.5756, 600.8371, and 600.8420 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 2528. (1) In the circuit court in a county having a population of less than 100,000, the following fees shall be paid to the clerk of the court:

(a) Before a civil action is commenced in the circuit court, or before the filing of an application for superintending control or for an extraordinary writ, except the writ of habeas corpus, the moving party shall pay the sum of \$42.00. The clerk shall transmit, at the end of each month, for each \$42.00 collected within the month, \$18.75 to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992; \$5.00 to the secretary of the Michigan legislative retirement system for deposit with the state treasurer in the retirement fund created by the Michigan legislative retirement system act, Act No. 261 of the Public Acts of 1957, as amended, being sections 38.1001 to 38.1060 of the Michigan Compiled Laws; \$5.25 to the state treasurer for deposit in the general fund; \$2.00 to the state treasurer to be credited to the community dispute resolution fund created by the community dispute resolution act, Act No. 260 of the Public Acts of 1988,

being sections 691.1551 to 691.1564 of the Michigan Compiled Laws; and the balance of the filing fee to the county treasurer.

(b) Before the filing and entering of a transcript, claim of appeal, or motion for leave to appeal from the district court, the sum of \$5.00.

(c) For each trial before a court of record, with or without a jury, the plaintiff shall pay the sum of \$10.00. The clerk shall pay \$5.00 of each trial fee to the state treasurer, to apply to the credit of the general fund, and \$5.00 of each trial fee into the county treasury, to apply to the credit of the general fund.

(d) Before the entry of a final judgment by default in pleading in an action without a jury or by consent without trial, or the entry of a judgment against a garnishee defendant upon a district court transcript, or upon the entry of a judgment on an award from a board or referee upon whose award the law permits the entry of judgment, and in all other cases finally disposed of by court order except those described in subdivision (e), the sum of \$10.00. The clerk shall pay \$5.00 of each judgment fee to the state treasurer, to apply to the credit of the general fund.

(e) Before the entry of a final judgment in an action in which trial has been had, or in which a jury is called to render a verdict upon default in pleading, the sum of \$10.00. The clerk shall pay \$5.00 of each judgment fee to the state treasurer, to apply to the credit of the general fund.

(f) Beginning July 1, 1983, in addition to the judgment fee provided in subdivision (d) or (e), before entry of a final judgment in an action for divorce or separate maintenance in which minor children are involved, or the entry of a final judgment in a child custody dispute submitted to the circuit court as an original action, 1 of the following sums, which shall be deposited by the county treasurer as provided in section 2530:

(i) If the matter was contested or uncontested and was not submitted to domestic relations mediation or investigation by the office of the friend of the court, \$30.00.

(ii) If the matter was contested or uncontested and was submitted to domestic relations mediation, \$50.00.

(iii) If the matter was contested or uncontested and the office of the friend of the court conducted an investigation and made a recommendation to the court, \$70.00.

(g) If causes of action are consolidated or tried simultaneously and separate judgments rendered, the sum of \$10.00 on the entry of each judgment. The clerk shall pay \$5.00 of each judgment fee to the state treasurer, to apply to the credit of the general fund.

(h) For services under the direction of the court that are not specifically provided for in this section relative to the receipt, safekeeping, or expending of money, or the purchasing, taking, or transferring of or collecting of interest on a security, the clerk shall receive the allowance and compensation from the parties as the court may consider just and shall direct by court order, after notice to the parties to be charged.

(i) Upon appeal to the supreme court, the sum of \$10.00.

(2) The sum or sums paid under this section shall be held to be in full for all clerk, entry, and judgment fees in any action from the commencement of the action to and including the issuance and return of the execution or other final process, and are taxable as costs.

(3) In counties where the county clerk receives the fees of his or her office, all or in part, instead of a salary, all or in part, the clerk shall pay over to the county treasurer the sum of \$5.00 on each civil action that is commenced in the circuit court.

(4) In counties where the county clerk is paid a salary instead of fees collected by the county clerk, pursuant to this chapter, all fees shall be paid over to the county treasurer as required by law, except as otherwise provided in this section.

(5) The court may order any of the fees prescribed in this section waived or suspended until the conclusion of the litigation, upon a showing by affidavit of indigency or inability to pay.

(6) After January 1, 1996 the filing fee shall be \$40.00 and the state treasurer shall not credit \$2.00 to the community dispute resolution fund created by Act No. 260 of the Public Acts of 1988.

(7) The clerk of the circuit court shall prepare and submit a court filing fee report to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992 at the same time the clerk of the circuit court transmits the portion of the fees collected under this section to the executive secretary.

Sec. 2529. (1) In the circuit court in a county having a population of 100,000 or more, the following fees shall be paid to the clerk of the court:

(a) Before a civil action is commenced, or before the filing of an application for superintending control or for an extraordinary writ, except the writ of habeas corpus, the moving party shall pay the sum of \$42.00. The clerk at the end of each month shall transmit for each \$42.00 collected within the month, \$18.75 to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992; \$5.00 to the

secretary of the Michigan legislative retirement system for deposit with the state treasurer in the retirement fund created by the Michigan legislative retirement system act, Act No. 261 of the Public Acts of 1957, as amended, being sections 38.1001 to 38.1060 of the Michigan Compiled Laws; \$5.25 to the state treasurer for deposit in the general fund; \$2.00 to the state treasurer to be credited to the community dispute resolution fund created by the community dispute resolution act, Act No. 260 of the Public Acts of 1988, being sections 691.1551 to 691.1564 of the Michigan Compiled Laws; and the balance of the filing fee to the county treasurer.

(b) Before the filing and entering of a transcript, claim of appeal, or motion for leave to appeal from the district court or a municipal court, the sum of \$5.00.

(c) For each trial without a jury, the plaintiff shall pay the sum of \$15.00. If a trial by jury is demanded, the party making the demand at the time shall pay the sum of \$30.00. Failure to pay the fee within the time provided in the court rules constitutes a waiver of the right to a jury trial. The sum shall be taxed in favor of the party paying the fee, in case the party recovers a judgment for costs.

(d) Before entry of a final judgment by default in pleading in an action without a jury or by consent without trial, or the entry of a judgment against a garnishee defendant upon a district or municipal court transcript, or the entry of a judgment on an award from a board or referee upon whose award the law permits the entry of judgment, the sum of \$10.00.

(e) Before entry of a final judgment in an action in which trial has been had, or in which a jury is called to render a verdict upon default in pleading, the sum of \$10.00.

(f) In addition to the judgment fee provided in subdivision (d) or (e), before entry of a final judgment in an action for divorce or separate maintenance in which minor children are involved, or the entry of a final judgment in a child custody dispute submitted to the circuit court as an original action, 1 of the following sums, which shall be deposited by the county treasurer as provided in section 2530:

(i) If the matter was contested or uncontested and was not submitted to domestic relations mediation or investigation by the friend of the court, \$30.00.

(ii) If the matter was contested or uncontested and was submitted to domestic relations mediation, \$50.00.

(iii) If the matter was contested or uncontested and the office of the friend of the court conducted an investigation and made a recommendation to the court, \$70.00.

(g) Upon the filing of a motion, the sum of \$10.00.

(h) If causes of action are consolidated or tried simultaneously and separate judgments rendered, the sum of \$10.00 on the entry of each judgment.

(i) For services under the direction of the court that are not specifically provided for in this section relative to the receipt, safekeeping, or expending of money, or the purchasing, taking, or transferring of a security, or the collecting of interest on a security, the clerk shall receive the allowance and compensation from the parties as the court may consider just and shall direct by court order, after notice to the parties to be charged.

(j) Upon appeal to the supreme court, the sum of \$20.00.

(2) The sums paid as provided in this section shall be held to be in full for all clerk, entry, and judgment fees in an action from the commencement of the action to and including the issuance and return of the execution or other final process, and are taxable as costs.

(3) Except as otherwise provided in this section, the fees shall be paid over to the county treasurer as required by law.

(4) The court may order any of the fees prescribed in this section waived or suspended until the conclusion of the litigation, upon a showing by affidavit of indigency or inability to pay.

(5) After January 1, 1996 the filing fee shall be \$40.00 and the state treasurer shall not credit \$2.00 to the community dispute resolution fund created by Act No. 260 of the Public Acts of 1988.

(6) The clerk of the circuit court shall prepare and submit a court filing fee report to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992 at the same time the clerk of the circuit court transmits the portion of the fees collected under this section to the executive secretary.

Sec. 5756. (1) If the complaint is for the recovery of possession of premises only, the fee for filing a proceeding under this chapter is \$22.00.

(2) If a claim for a money judgment is joined with a claim for the recovery of possession of premises, the plaintiff shall pay a supplemental filing fee in the same amount as established by law for the filing of a claim for a money judgment in the same court.

(3) Of each filing fee and supplemental filing fee collected under this section, at the end of each month, the clerk of the district court shall transmit \$2.00 to the state treasurer to be credited to the community dispute resolution fund created by the community dispute resolution act, Act No. 260 of the Public Acts of 1988, being

sections 691.1551 to 691.1564 of the Michigan Compiled Laws; 45% of the remaining filing fee and supplemental filing fee to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992; and the balance to the treasurer of the district control unit in which the action was commenced.

(4) After January 1, 1996 the filing fee is \$20.00 and the state treasurer shall not credit \$2.00 to the community dispute resolution fund as provided in subsection (3).

(5) The clerk of the district court shall prepare and submit a court filing fee report to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992 at the same time the clerk of the district court transmits the portion of the fees collected under this section to the executive secretary.

Sec. 8371. (1) Before a civil action is commenced in the district court, the moving party shall pay to the clerk the sum of \$32.00 if the amount in controversy exceeds \$3,000.00, the sum of \$22.00 if the amount in controversy exceeds \$600.00 but does not exceed \$3,000.00, or the sum of \$12.00 if the amount in controversy does not exceed \$600.00.

(2) Of each filing fee collected within the month, at the end of each month, the clerk shall transmit \$2.00 to the state treasurer to be credited to the community dispute resolution fund created by the community dispute resolution act, Act No. 260 of the Public Acts of 1988, being sections 691.1551 to 691.1564 of the Michigan Compiled Laws; 45% of the remaining filing fee to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992; and the balance of each filing fee to the treasurer of the district control unit in which the action was commenced.

(3) The judge may order payment of any statutory fees waived or suspended until the conclusion of the litigation, upon a showing by affidavit of indigency or inability to pay.

(4) Neither this state nor a political subdivision of this state shall be required to pay a filing fee in a civil infraction action.

(5) Except for civil actions filed for relief under chapter 43, 57, or 84, if a civil action is filed for relief other than money damages, the filing fee shall be equal to the filing fee in actions for money damages in excess of \$3,000.00 as provided in subsection (1).

(6) After January 1, 1996 the filing fee shall be \$30.00 if the amount in controversy exceeds \$3,000.00, \$20.00 if the amount in controversy exceeds \$600.00, and \$10.00 if the amount does not exceed \$600.00, and the state treasurer shall not credit \$2.00 to the community dispute resolution fund created by Act No. 260 of the Public Acts of 1988.

(7) The clerk of the district court shall prepare and submit a court filing fee report to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992 at the same time the clerk of the district court transmits the portion of the fees collected under this section to the executive secretary.

Sec. 8420. (1) A fee of \$12.00 shall be charged and collected for the filing of the affidavit for the commencement of any action in which the amount in controversy does not exceed \$600.00, and a fee of \$22.00 shall be charged and collected in any action in which the amount in controversy exceeds \$600.00. A fee in an amount equal to the prevailing postal rate for the service provided shall be charged and collected for each defendant to whom a copy of the affidavit is mailed by the clerk. A fee of \$5.00 shall be charged and collected for the issuance of a writ of execution, attachment, or garnishment, and for the issuance of a judgment debtor discovery subpoena. Except as otherwise provided in this chapter, a fee or charge shall not be collected by an officer for any service rendered under this chapter or for the taking of affidavits for use in connection with any action commenced under this chapter.

(2) Of each filing fee collected within the month, at the end of each month, the clerk shall transmit \$2.00 to the state treasurer to be credited to the community dispute resolution fund created by the community dispute resolution act, Act No. 260 of the Public Acts of 1988, being sections 691.1551 to 691.1564 of the Michigan Compiled Laws; 45% of the remaining filing fee to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992; and the balance of each filing fee to the treasurer of the district control unit in which the action was commenced.

(3) If the affidavit and notice to appear and answer are served by personal service, the person serving the process is entitled to the same fee and mileage as for the service of a summons and complaint out of the district court.

(4) After January 1, 1996 the filing fee shall be \$10.00 if the amount in controversy does not exceed \$600.00, or \$20.00 if the amount in controversy exceeds \$600.00, and the clerk shall not transmit \$2.00 to the state treasurer to be credited to the community dispute resolution fund as provided in subsection (2).

(5) The clerk of the district court shall prepare and submit a court filing fee report to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992 at the same time the clerk of the district court transmits the portion of the fees collected under this section to the executive secretary.

This act is ordered to take immediate effect.

.....
Clerk of the House of Representatives.

.....
Secretary of the Senate.

Approved.....

.....
Governor.