

Act No. 233
Public Acts of 1992
Approved by the Governor
October 19, 1992
Filed with the Secretary of State
October 19, 1992

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

Introduced by Reps. Nye, Ciaramitaro, Gubow, Martin, Perry Bullard, Brown, Barns, Hoffman and London

ENROLLED HOUSE BILL No. 6097

AN ACT to amend sections 2528, 2529, 5756, 8202, 8371, 8381, 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," sections 2528, 2529, 5756, 8371, and 8420 as amended by Act No. 310 of the Public Acts of 1988 and section 8202 as amended by Act No. 438 of the Public Acts of 1980, being sections 600.2528, 600.2529, 600.5756, 600.8202, 600.8371, 600.8381, and 600.8420 of the Michigan Compiled Laws; and to add section 880.

The People of the State of Michigan enact:

Section 1. Sections 2528, 2529, 5756, 8202, 8371, 8381, and 8420 of Act No. 236 of the Public Acts of 1961, sections 2528, 2529, 5756, 8371, and 8420 as amended by Act No. 310 of the Public Acts of 1988 and section 8202 as amended by Act No. 438 of the Public Acts of 1980, being sections 600.2528, 600.2529, 600.5756, 600.8202, 600.8371, 600.8381, and 600.8420 of the Michigan Compiled Laws, are amended and section 880 is added to read as follows:

Sec. 880. (1) Except as provided in subsection (2), at the time of filing a petition in the probate court for 1 of the following matters, the moving party shall pay a \$15.00 filing fee to the probate court registrar:

(a) Administration of a small estate, whether testate or intestate, if the value of the property involved exceeds \$5,000.00.

(b) Supervised or independent probate of either a testate or intestate estate.

(c) Supervision in an independent probate proceeding if the petition is filed by a person other than the independent personal representative of the estate to which the proceeding relates.

(d) Administration of the estate of a person dying intestate.

(e) Admission of a will to probate, whether the decedent is a resident of this state or a nonresident.

(f) Local administration of the estate of a nonresident decedent by a foreign fiduciary.

(g) Appointment of a conservator or other protective order.

(h) Appointment or removal of a trustee.

(i) Construction of a trust or a declaration of rights under a trust.

(j) Appointment of a temporary fiduciary other than a guardian.

(k) Determination of heirs.

(l) Commencing a matter over which the probate court has exclusive jurisdiction or is granted concurrent jurisdiction pursuant to section 22 of the Revised Probate Code, Act No. 642 of the Public Acts of 1978, being section 700.22 of the Michigan Compiled Laws, if that matter is ancillary to the settlement of an estate of a decedent, ward, protected person, or trust.

(m) The change of name of an adult.

(n) Adoption.

(2) A moving party is not required to pay a fee under this section if the moving party is the attorney general, department of treasury, department of social services, state public administrator, or administrator of veterans affairs of the United States veterans administration.

(3) The probate court registrar, on or before the fifth day of the month following the month in which fees are collected under this section, shall pay to the county treasurer all of those fees received during the preceding month. The county treasurer, within 15 days after the receipt of the fees, shall transmit the fees to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992. The county treasurer shall abide by the established rules and regulations governing accounting procedures for counties when transmitting money under this subsection. The county clerk 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 county clerk transmits the fees collected under this section.

(4) The county clerk 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 county clerk transmits the portion of the fees collected under this section.

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 relative to the receipt, safekeeping, or expending of money, or the purchasing, taking, or transferring of or the collecting of interest on a security, under the direction of the court, not specifically provided for in this section, 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, 1993 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 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, under the direction of the court, not specifically provided in this section, 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, 1993 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, 1993 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. 8202. (1) 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) 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. 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. 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, an increase in the amount of salary payable to a judge of the district court caused by an increase in the salary of a justice of the supreme court resulting from the operation of Act No. 357 of the Public Acts of 1968, as amended, being sections 15.211 to 15.218 of the Michigan Compiled Laws, after September 1, 1981, shall not be 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 shall be retroactive to January 1 of that year.

(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.

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

(9) Except as provided in subsection (10), this state shall reimburse to a district control unit paying an additional salary to a district judge a portion of that additional salary in an amount provided by law, 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) Notwithstanding the limitations of subsection (9), the state shall reimburse a district control unit pursuant to subsection (9), even if the additional salary, including any cost-of-living allowance, payable by that district control unit on September 1, 1981 causes the total annual salary of a district judge to exceed the applicable percentage of the salary of a justice of the supreme court payable on September 1, 1981. However, if the additional salary of a district judge increases beyond the amount payable to the judge on September 1, 1981, and if the total annual salary of the judge exceeds the applicable percentage of the salary of a justice of the supreme court, the district control unit shall return to the state any amount paid under subsection (9) during that state fiscal year, and shall be ineligible to receive reimbursement under subsection (9) until the total annual salary of the district judge does not exceed the applicable percentage of the salary of the justice of the supreme court.

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, 1993 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. 8381. (1) When fines and costs are assessed by a magistrate, a traffic bureau, or a judge of the district court, not less than \$5.00 shall be assessed as costs and collected for each conviction or civil infraction determination and each guilty plea or civil infraction admission except for parking violations. Of the costs

assessed and collected, for each conviction or civil infraction determination and each guilty plea or civil infraction admission, \$5.00 shall be paid to the clerk of the district court. The clerk of the district court, on or before the fifteenth day of the month in which costs are collected under this section, shall transmit 6% of the costs collected to the state treasurer for deposit in the legislative 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; 9% of the costs collected to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992; and the balance of the costs collected to the state treasurer for deposit in the general fund.

(2) 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 costs 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, 1993 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.

Section 2. This amendatory act shall not take effect unless House Bill No. 6098 of the 86th Legislature is enacted into law.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved.....

Governor.