

# HOUSE BILL No. 5578

February 17, 1998, Introduced by Reps. Murphy, Wallace, Freeman, Hood, Price, LaForge, Parks, Agee, Hale, Schermesser, Callahan and Bogardus and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled  
"Revised judicature act of 1961,"  
by amending sections 8321 and 8322 (MCL 600.8321 and 600.8322),  
section 8322 as amended by 1996 PA 388.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 8321. (1) Civil process in the district court shall be  
2 served by a sheriff, deputy sheriff, or a court officer appointed  
3 by the judges of the court for ~~such~~ THAT purpose, except that  
4 officers of the department of state police may serve civil pro-  
5 cess in any action to which the state is a party and police offi-  
6 cers of an incorporated city or village may serve civil process  
7 in any action to which the incorporated city or village is a  
8 party.

9       (2) Under rules of the supreme court, any other person may  
10 serve any process or order of the district court which does not

1 require the seizure, attachment, or garnishment of property or  
2 the arrest of a person. This section ~~shall apply~~ APPLIES not-  
3 withstanding the provisions of section 1908.

4 (3) NOTWITHSTANDING SUBSECTION (1) OR (2), IN THE DISTRICT  
5 COURT IN THE THIRTY-SIXTH DISTRICT, CIVIL PROCESS SHALL BE SERVED  
6 BY BAILIFFS AS PROVIDED IN SECTION 8322.

7 Sec. 8322. (1) A person serving as a bailiff of the common  
8 pleas court of Detroit on August 31, 1981, pursuant to an  
9 appointment under section 23 of former ~~Act No. 260 of the Public~~  
10 ~~Acts of 1929~~ 1929 PA 260, shall become a bailiff of the district  
11 court in the thirty-sixth district on September 1, 1981. A bai-  
12 liff shall be considered a court officer under section 8321(1)  
13 for the exclusive purpose of serving civil process in a civil  
14 action commenced in the district court in the thirty-sixth dis-  
15 trict, except for process issued in a summary proceeding under  
16 chapter 57. All process issued by the district court in civil  
17 actions shall be rotated among the bailiffs pursuant to rules  
18 adopted by the court. A bailiff shall file with the clerk of the  
19 court a surety bond in the amount of \$100,000.00 with a surety  
20 company. The premium on the surety bond shall be paid by the  
21 district control unit. A bailiff shall possess only the powers  
22 necessary to serve process issued by the court. A bailiff gov-  
23 erned pursuant to this subsection may bear arms while in office  
24 and in the exercise of his or her duties as bailiff. A bailiff  
25 shall hold office until death, retirement, resignation, or  
26 removal from office by the court for misfeasance or malfeasance  
27 in office. ~~A~~ THE CHIEF JUDGE OF THE DISTRICT COURT FOR THE

1 THIRTY-SIXTH DISTRICT SHALL APPOINT A PERSON TO FILL ANY vacancy  
2 OCCURRING in the office of bailiff as established pursuant to  
3 this subsection. ~~—shall not be filled.—~~ HOWEVER, THERE SHALL BE  
4 NOT MORE THAN 30 BAILIFFS SERVING PURSUANT TO THIS SUBSECTION.

5 (2) A person serving as a bailiff of the common pleas court  
6 on August 31, 1981, pursuant to an appointment under section 31  
7 of former ~~Act No. 260 of the Public Acts of 1929~~ 1929 PA 260,  
8 shall become a bailiff of the district court in the thirty-sixth  
9 district on September 1, 1981. A bailiff shall be considered a  
10 court officer under section 8321(1) for the exclusive purpose of  
11 serving civil process in summary proceedings commenced under  
12 chapter 57 in the district court in the thirty-sixth district.  
13 All process issued by the district court in summary proceedings  
14 shall be rotated among the bailiffs pursuant to rules adopted by  
15 the court, except that a writ of restitution shall be issued to  
16 the bailiff to whom the summons was issued in the particular  
17 proceeding. A bailiff shall file with the clerk of the court a  
18 surety bond in an amount of \$100,000.00 with a surety company.  
19 The premium on the surety bond shall be paid by the district con-  
20 trol unit. A bailiff governed pursuant to this subsection shall  
21 be considered a peace officer only for the purpose of receiving  
22 compensation provided by ~~Act No. 329 of the Public Acts of 1937,~~  
23 ~~being sections 419.101 to 419.104 of the Michigan Compiled Laws~~  
24 1937 PA 329, MCL 419.101 TO 419.104. A bailiff shall hold office  
25 until death, retirement, resignation, or removal from office by  
26 the court for misfeasance or malfeasance in office. ~~—A~~ THE  
27 CHIEF JUDGE OF THE DISTRICT COURT IN THE THIRTY-SIXTH DISTRICT

1 SHALL APPOINT A PERSON TO FILL ANY vacancy OCCURRING in the  
2 office of bailiff established pursuant to this subsection. ~~shall~~  
3 ~~not be filled.~~ HOWEVER, THERE SHALL BE NOT MORE THAN 12 BAILIFFS  
4 SERVING PURSUANT TO THIS SUBSECTION.

5 (3) A PERSON APPOINTED TO THE OFFICE OF BAILIFF UNDER THIS  
6 SECTION SHALL HAVE BEEN A RESIDENT AND QUALIFIED ELECTOR OF THIS  
7 STATE, AND OF THE COUNTY OF WAYNE, FOR AT LEAST 5 YEARS BEFORE  
8 THE DATE OF HIS OR HER APPOINTMENT. THE PERSON ALSO SHALL NEVER  
9 HAVE PREVIOUSLY BEEN REMOVED FROM THE OFFICE OF BAILIFF FOR ANY  
10 REASON.

11 (4) ~~(3)~~ A bailiff governed pursuant to this section shall  
12 keep a written record of the date, amount, and nature of each  
13 financial transaction conducted by the bailiff in the course of  
14 his or her service as bailiff. An audit of each bailiff's finan-  
15 cial transactions shall be conducted annually by the district  
16 control unit and reported immediately to the judges of the  
17 district. If the audit prescribed by this subsection is not con-  
18 ducted by the district control unit before June 30 of any year,  
19 the judges of the court shall contract with a certified public  
20 accountant to perform the audit. If a certified public accoun-  
21 tant is required to perform the audit, the cost of the audit  
22 shall be paid by the district control unit.

23 ~~(4) Upon the existence of a vacancy in the office of bai-~~  
24 ~~liff established under this section, the chief judge of the dis-~~  
25 ~~trict may appoint a court officer pursuant to section 8321(1).~~

26 (5) A bailiff serving civil process pursuant to subsection  
27 (1) or (2) shall be compensated by ~~salary and~~ the fees and

1 mileage prescribed in section 8326. ~~A full-time bailiff, as~~  
2 ~~defined by the employer designated under section 8274(2) or (3),~~  
3 ~~shall receive from the city of Detroit a \$20,000.00 annual~~  
4 ~~salary. For each part-time bailiff, as defined by the employer~~  
5 ~~designated under section 8274(2) or (3), the employer designated~~  
6 ~~under section 8274(2) or (3) shall establish a salary which is a~~  
7 ~~pro rata portion of \$20,000.00 based on that portion of a~~  
8 ~~full-time bailiff's workload to be assigned to the bailiff. A~~  
9 bailiff covered by this subsection shall not be entitled to any  
10 compensation ~~from the city of Detroit~~ other than that specifi-  
11 cally authorized in this subsection.

12       (6) A bailiff serving civil process pursuant to subsection  
13 (1) or (2) shall not become a member of the state employees'  
14 retirement system created by 1943 PA 240, MCL 38.1 TO 38.47. ~~Act~~  
15 ~~No. 240 of the Public Acts of 1943, being sections 38.1 to 38.47~~  
16 ~~of the Michigan Compiled Laws. Beginning September 1, 1981, the~~  
17 ~~city of Detroit shall contribute to the retirement system in~~  
18 ~~which the bailiff is a member on August 31, 1981, an amount equal~~  
19 ~~to the amount which the state would have contributed to the state~~  
20 ~~employees' retirement system pursuant to Act No. 240 of the~~  
21 ~~Public Acts of 1943, if the bailiff had become a member of the~~  
22 ~~state employees' retirement system, based on the salary paid by~~  
23 ~~the city of Detroit pursuant to subsection (5). Beginning~~  
24 ~~September 1, 1981, each bailiff shall continue to contribute to~~  
25 ~~the retirement system in which the bailiff is a member on August~~  
26 ~~31, 1981, as required by ordinance, based on salary and fees~~  
27 ~~received pursuant to subsection (5), except mileage.~~

1       (7) From each filing fee collected under section 8371, the  
2 clerk of the court shall pay to the Wayne county retirement  
3 system the sum of \$1.00, to be credited to the retirement fund of  
4 the bailiffs of the district court in the thirty-sixth district  
5 serving civil process pursuant to subsection (1). The county of  
6 Wayne shall annually review the retirement fund and shall ensure  
7 that the fund is maintained in an actuarially sound condition.  
8 Copies of the actuarial reports shall be provided to the  
9 ~~employer designated under section 8274(2) or (3)~~ DETROIT JUDI-  
10 CIAL COUNCIL and to the state court administrator.

11       (8) From each filing fee collected for filing a summary pro-  
12 ceeding under section 5756, the clerk of the court shall pay to  
13 the Wayne county retirement system the sum of \$1.00 for each  
14 defendant served in the proceeding, to be credited to the retire-  
15 ment fund of the bailiffs of the district court in the  
16 thirty-sixth district serving civil process pursuant to subsec-  
17 tion (2). However, the amount credited to the retirement fund  
18 under this subsection shall not exceed 1/2 of the fee collected  
19 in a proceeding. The county of Wayne shall annually review the  
20 retirement fund and shall ensure that the fund is maintained in  
21 an actuarially sound condition. Copies of the actuarial reports  
22 shall be provided to the ~~employer designated under section~~  
23 ~~8274(2) or (3)~~ DETROIT JUDICIAL COUNCIL and to the state court  
24 administrator.