

SENATE BILL NO. 638

June 9, 1999, Introduced by Senators SIKKEMA and SHUGARS and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 308, 1416, 6431, 6440, 6452, 6458, 6467,
6470, and 6475 (MCL 600.308, 600.1416, 600.6431, 600.6440,
600.6452, 600.6458, 600.6467, 600.6470, and 600.6475), section
308 as amended by 1994 PA 375, and by adding section 645; and to
repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 308. (1) ~~The~~ EXCEPT AS PROVIDED IN SUBSECTION (2),
2 THE court of appeals has jurisdiction on appeals from the follow-
3 ing orders and judgments which shall be appealable as a matter of
4 right:

5 (a) All final judgments from the circuit court. ~~—~~

6 (B) ALL FINAL JUDGMENTS OF THE FORMER court of claims ~~—~~

7 and THE FORMER recorder's court ~~—, except judgments on ordinance~~

~~1 violations in the traffic and ordinance division of recorder's~~
~~2 court and final judgments and orders described in subsection (2)~~
3 THAT WERE ENTERED BEFORE THE RESPECTIVE DATES ON WHICH EACH OF
4 THOSE COURTS WAS ABOLISHED.

5 (C) ~~(b)~~ Those orders of the probate court from which an
6 appeal as of right may be taken under section 861.

7 (2) The court of appeals has jurisdiction on appeal from the
8 following orders and judgments which shall be reviewable only
9 upon application for leave to appeal granted by the court of
10 appeals:

11 (a) A final judgment or order made by the circuit court
12 under any of the following circumstances:

13 (i) In an appeal from an order, sentence, or judgment of the
14 probate court under section 863(1) and (2).

15 (ii) In an appeal from a final judgment or order of the dis-
16 trict court appealed to the circuit court under section 8342.

17 (iii) An appeal from a final judgment or order of a munici-
18 pal court.

19 ~~(iv) In an appeal from an ordinance violation conviction in~~
~~20 the traffic and ordinance division of recorder's court of the~~
~~21 city of Detroit if the conviction occurred before September 1,~~
22 ~~1981.~~

23 (b) An order, sentence, or judgment of the probate court if
24 the probate court certifies the issue or issues under section
25 863(3).

1 (c) A final judgment or order made by the FORMER recorder's
 2 court of the city of Detroit in an appeal from the district court
 3 in the thirty-sixth district pursuant to section 8342(2).

4 (d) A final order or judgment from the circuit court, or BY
 5 THE FORMER recorder's court for the city of Detroit, based upon a
 6 defendant's plea of guilty or nolo contendere.

7 (e) Any other judgment or interlocutory order as determined
 8 by court rule.

9 SEC. 645. (1) THE COURT OF CLAIMS IS ABOLISHED EFFECTIVE
 10 JANUARY 1, 2001. A CLAIM AGAINST THE STATE THAT IS BROUGHT AFTER
 11 JANUARY 1, 2001 SHALL BE COMMENCED IN THE COURT HAVING JURISDIC-
 12 TION OVER THAT MATTER AS PROVIDED BY LAW AND COURT RULES.

13 (2) A CASE THAT IS PENDING IN THE COURT OF CLAIMS ON JANUARY
 14 1, 2000 SHALL BE TRANSFERRED TO THE CIRCUIT COURT FOR THE THIRTI-
 15 ETH JUDICIAL CIRCUIT AND SHALL BE ASSIGNED TO A JUDGE OF THAT
 16 JUDICIAL CIRCUIT.

17 Sec. 1416. (1) The following courts are courts of record
 18 and possess seals:

19 (a) ~~the~~ THE supreme court. ~~,~~

20 (b) ~~the several~~ THE circuit ~~courts,~~ COURT.

21 (c) ~~the several~~ THE probate ~~courts,~~ COURT.

22 ~~(d) the recorder's court of Detroit,~~

23 ~~(e) the court of claims, and~~

24 (D) ~~(f) any~~ ANY other courts the legislature designates as
 25 courts of record.

26 (2) Whenever the seal of any court becomes unusable the
 27 court shall have that seal destroyed.

1 (3) Whenever the seal of any court is lost or destroyed that
2 court shall have a duplicate made which then shall become the
3 seal of that court.

4 (4) The expense of a new seal for a court shall be paid from
5 the state treasury.

6 Sec. 6431. (1) ~~No~~ A claim may NOT be maintained against
7 the state unless the claimant, within 1 year after ~~such~~ THE
8 claim has accrued, files in the office of the clerk of the court
9 ~~of claims~~ HAVING JURISDICTION either a written claim or a writ-
10 ten notice of intention to file a claim against the state or any
11 of its departments, commissions, boards, institutions, arms, or
12 agencies. ~~, stating~~ THE WRITTEN CLAIM OR NOTICE OF INTENTION
13 SHALL STATE the time when and the place where ~~such~~ THE claim
14 arose and in detail the nature of the ~~same~~ CLAIM and of the
15 items of damage alleged or claimed to have been sustained, ~~which~~
16 ~~claim or notice~~ AND shall be signed and verified by the claimant
17 before an officer authorized to administer oaths.

18 (2) ~~Such~~ A WRITTEN claim or notice OF INTENTION TO FILE A
19 CLAIM shall designate any department, commission, board, institu-
20 tion, arm, or agency of the state involved in connection with
21 ~~such~~ THE claim. ~~, and a~~ A copy of ~~such~~ THE claim or notice
22 shall be furnished to the clerk at the time of the filing of the
23 original for transmittal to the attorney general and to each of
24 the departments, commissions, boards, institutions, arms, or
25 agencies designated.

26 (3) In all actions AGAINST THE STATE for property damage or
27 personal injuries, THE claimant shall file with the clerk of the

1 court ~~of claims~~ HAVING JURISDICTION a notice of intention to
2 file a claim or the claim itself within 6 months following the
3 happening of the event giving rise to the cause of action.

4 Sec. 6440. ~~No~~ A claimant may ~~be permitted to~~ NOT file
5 claim in ~~said~~ court against the state ~~nor~~ OR AGAINST any
6 department, commission, board, institution, arm, or agency
7 ~~thereof who~~ OF THE STATE IF THE CLAIMANT has an adequate remedy
8 upon his OR HER claim in the federal courts. ~~, but it~~ IT is not
9 necessary in the complaint filed to allege that claimant has no
10 ~~such~~ adequate remedy IN THE FEDERAL COURTS, but that fact may
11 be put in issue by the answer or motion filed by the state or the
12 department, commission, board, institution, arm, or agency
13 ~~thereof~~ OF THE STATE.

14 Sec. 6452. (1) Every claim against the state ~~, cognizable~~
15 ~~by the court of claims,~~ shall be forever barred unless the claim
16 is filed with the clerk of ~~the court or~~ A COURT OF THIS STATE
17 THAT HAS JURISDICTION, OR UNLESS suit IS instituted ~~thereon~~ ON
18 THE CLAIM in federal court as authorized in section 6440, within
19 3 years after the claim first accrues.

20 (2) Except as modified by this section, the provisions of
21 ~~RJA~~ chapter 58, relative to the limitation of actions, ~~shall~~
22 also ~~be~~ ARE applicable to the limitation prescribed in this
23 section.

24 (3) The attorney general ~~shall have~~ HAS the same right as
25 a creditor HAS under ~~the provisions of the statutes of the state~~
26 ~~of Michigan in such case made and provided,~~ LAW to petition for

1 the granting of letters of administration of the estate of any
2 deceased person.

3 (4) The attorney general ~~shall have~~ HAS the same right as
4 a ~~superintendent of the poor under the provisions of the stat-~~
5 ~~utes of the state of Michigan in such case made and provided,~~
6 COUNTY DEPARTMENT OF SOCIAL SERVICES to petition for the appoint-
7 ment of a guardian of the estate of a minor or any other person
8 under disability.

9 Sec. 6458. (1) In rendering any judgment against the state,
10 or any department, commission, board, institution, arm, or agency
11 ~~thereof~~ OF THE STATE, the court shall determine and specify in
12 ~~such~~ THE judgment the department, commission, board, institu-
13 tion, arm, or agency from whose appropriation ~~such~~ THE judgment
14 shall be paid.

15 (2) Upon any judgment against the state or any department,
16 commission, board, institution, arm, or agency ~~thereof~~ OF THE
17 STATE becoming final, or upon allowance of any claim by the state
18 administrative board and upon certification ~~thereof~~ OF THE
19 CLAIM by the secretary of the state administrative board to the
20 clerk of the court of ~~claims, he~~ THE COURT THAT ENTERED THE
21 JUDGMENT OR ALLOWED THE CLAIM, the clerk of the court shall cer-
22 tify to the auditor general the fact that ~~such~~ THE judgment was
23 entered or that ~~such~~ THE claim was allowed and, EXCEPT AS PRO-
24 VIDED IN SUBSECTION (3), the ~~same~~ JUDGMENT OR CLAIM shall
25 ~~thereupon~~ be paid from the unencumbered appropriation of the
26 department, commission, board, institution, arm, or agency. →

~~1 Provided, however, That the auditor general determines the funds~~
~~2 therein are sufficient for such payment. In the event that~~

3 (3) IF THE AUDITOR GENERAL DETERMINES THAT funds are not
4 ~~available~~ SUFFICIENT to pay ~~any such~~ THE judgment or allowed
5 claim, the auditor general shall instruct the clerk of the court
6 ~~of claims~~ to issue a voucher against an appropriation made by
7 the legislature for the payment of judgment claims and allowed
8 claims. ~~In the event that funds are not available to pay any~~
9 ~~such judgment or allowed claim, such fact,~~ A STATEMENT THAT
10 FUNDS ARE NOT SUFFICIENT TO PAY THE JUDGMENT OR CLAIM, together
11 with the name of the claimant, date of judgment ~~—~~ OR date of
12 allowance of claim by the state administrative board, and THE
13 amount ~~thereof~~ OF THE JUDGMENT OR CLAIM shall be reported to
14 the legislature at its next session, and ~~said~~ THE judgment or
15 allowed claim shall be paid as soon as ~~moneys~~ MONEY are avail-
16 able for such purpose. The clerk shall not certify any judgment
17 to the auditor general until the period for appeal from ~~such~~
18 THE judgment ~~shall have~~ HAS expired, unless written stipulation
19 between the attorney general and the claimant or ~~his~~ THE
20 CLAIMANT'S attorney, waiving any right of appeal or new trial, is
21 filed with the clerk of the court.

22 (4) ~~(3)~~ The clerk shall approve vouchers under the direc-
23 tion of the court for the payment of ~~the several~~ judgments
24 rendered by ~~said~~ THE court. All warrants issued in satisfac-
25 tion of ~~said~~ THOSE judgments shall be transmitted to the clerk
26 for distribution; and all warrants issued in satisfaction of
27 claims allowed by the state administrative board shall be

1 transmitted to the secretary of ~~said~~ THE STATE ADMINISTRATIVE
2 board for distribution.

3 Sec. 6467. The court ~~shall have power to~~ PRESIDING OVER
4 AN ACTION BROUGHT AGAINST THE STATE MAY call upon any officer,
5 department, institution, board, arm, or agency of the state gov-
6 ernment for any examination, information, or papers pertinent to
7 the issues involved in ~~any case then pending before the court~~
8 THAT ACTION. ~~No~~ A state employee shall NOT receive any addi-
9 tional fees or compensation for rendering ~~such~~ THOSE services
10 or appearing as a witness before the court upon behalf of the
11 state.

12 Sec. 6470. ~~Any~~ A person who corruptly practices, or
13 attempts to practice, any fraud against the state of Michigan, in
14 the proof, statement, establishment, or allowance of any claim or
15 of any part of a claim, against the state, shall ~~thereby~~ for-
16 feit the ~~same~~ CLAIM to the state. ~~and it shall be the duty of~~
17 IF the court ~~of claims in such case to find~~ FINDS specifically
18 that ~~such~~ fraud was practiced, or attempted to be practiced,
19 ~~and thereupon to give~~ THE COURT SHALL ENTER judgment that
20 ~~such~~ THE claim is forfeited to the state and that the claimant
21 ~~be~~ IS forever barred from prosecuting the ~~same~~ CLAIM.

22 Sec. 6475. In all actions brought ~~in the court of claims~~
23 against the state to recover damages resulting from the negligent
24 operation by an officer, agent, or employee of the state of a
25 motor vehicle or an aircraft, other than a military aircraft, of
26 which the state is owner, the fact that the state, in the
27 ownership or operation of ~~such~~ THE motor vehicle or aircraft,

1 was engaged in a governmental function ~~shall~~ IS not ~~be~~ a
2 defense to ~~such~~ THE action. This act shall not be construed to
3 impose upon the state a liability other or greater than the
4 liability imposed by law upon other owners of motor vehicles or
5 aircraft.

6 Enacting section 1. Sections 6401, 6404, 6407, 6410, 6413,
7 6416, 6419, 6419a, 6420, 6421, 6422, 6425, 6428, 6434, 6437,
8 6443, 6446, 6449, 6461, and 6464 of the revised judicature act of
9 1961, 1961 PA 236, MCL 600.6401, 600.6404, 600.6407, 600.6410,
10 600.6413, 600.6416, 600.6419, 600.6419a, 600.6420, 600.6421,
11 600.6422, 600.6425, 600.6428, 600.6434, 600.6437, 600.6443,
12 600.6446, 600.6449, 600.6461, and 600.6464, are repealed.