

REPRINT

SUBSTITUTE FOR

HOUSE BILL NO. 4140

(As passed the House, November 1, 2001)

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
(MCL 600.101 to 600.9948) by adding chapter 80.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER 80.

2 THE CYBER COURT

3 SEC. 8001. (1) THE CYBER COURT IS CREATED AND IS A COURT OF
4 RECORD.

5 (2) THE PURPOSE OF THE CYBER COURT IS TO DO ALL OF THE
6 FOLLOWING:

7 (A) ESTABLISH JUDICIAL STRUCTURES THAT WILL HELP TO
8 STRENGTHEN AND REVITALIZE THE ECONOMY OF THIS STATE.

9 (B) ALLOW DISPUTES BETWEEN BUSINESS AND COMMERCIAL ENTITIES
10 TO BE RESOLVED WITH THE EXPERTISE, TECHNOLOGY, AND EFFICIENCY
11 REQUIRED BY THE INFORMATION AGE ECONOMY.

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1 (C) ASSIST THE JUDICIARY IN RESPONDING TO THE RAPID
2 EXPANSION OF INFORMATION TECHNOLOGY IN THIS STATE.

3 (D) ESTABLISH A TECHNOLOGY-RICH SYSTEM TO SERVE THE NEEDS OF
4 A JUDICIAL SYSTEM OPERATING IN A GLOBAL ECONOMY.

5 (E) MAINTAIN THE INTEGRITY OF THE JUDICIAL SYSTEM WHILE
6 APPLYING NEW TECHNOLOGIES TO JUDICIAL PROCEEDINGS.

7 (F) SUPPLEMENT OTHER STATE PROGRAMS DESIGNED TO MAKE THE
8 STATE ATTRACTIVE TO TECHNOLOGY-DRIVEN COMPANIES.

9 (G) PERMIT ALTERNATIVE DISPUTE RESOLUTION MECHANISMS TO BEN-
10 EFIT FROM THE TECHNOLOGY CHANGES.

11 (H) ESTABLISH VIRTUAL COURTROOM FACILITIES, AND ALLOW THE
12 CONDUCTING OF COURT PROCEEDINGS ELECTRONICALLY AND THE ELECTRONIC
13 FILING OF DOCUMENTS.

14 (3) THE CYBER COURT SHALL BE LOCATED IN 1 OR MORE COUNTIES
15 AS DETERMINED BY THE SUPREME COURT. THE CYBER COURT SHALL SIT IN
16 FACILITIES DESIGNED TO ALLOW ALL HEARINGS AND PROCEEDINGS TO BE
17 CONDUCTED BY MEANS OF ELECTRONIC COMMUNICATIONS, INCLUDING, BUT
18 NOT LIMITED TO, VIDEO AND AUDIO CONFERENCING AND INTERNET
19 CONFERENCING.

20 (4) THE CYBER COURT SHALL HOLD SESSION AND SHALL SCHEDULE
21 HEARINGS OR OTHER PROCEEDINGS TO ACCOMMODATE PARTIES OR WITNESSES
22 WHO ARE LOCATED OUTSIDE OF THIS STATE. A CYBER COURT FACILITY IS
23 OPEN TO THE PUBLIC TO THE SAME EXTENT AS A CIRCUIT COURT
24 FACILITY. WHEN TECHNOLOGICALLY FEASIBLE, AND AT THE DISCRETION
25 OF THE JUDGE, PURSUANT TO THE COURT RULES, ALL PROCEEDINGS OF THE
26 CYBER COURT SHALL BE BROADCAST ON THE INTERNET.

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1 (5) THE CYBER COURT SHALL MAINTAIN ITS STAFF AND SUPPORT
2 SERVICES AT THE SEAT OF GOVERNMENT.

3 (6) THE CYBER COURT SHALL BE FUNDED FROM ANNUAL APPROPRIA-
4 TIONS TO THE SUPREME COURT.

5 SEC. 8003. (1) THE SUPREME COURT SHALL ASSIGN TO THE CYBER
6 COURT PERSONS WHO HAVE BEEN ELECTED TO AND SERVED AS JUDGES IN
7 THIS STATE AND WHO HAVE REQUESTED TO BE CONSIDERED FOR THAT
8 ASSIGNMENT. IN MAKING ASSIGNMENTS TO THE CYBER COURT, THE
9 SUPREME COURT SHALL CONSIDER A PERSON'S EXPERIENCE IN PRESIDING
10 OVER COMMERCIAL LITIGATION AND HIS OR HER EXPERIENCE AND INTEREST
11 IN THE APPLICATION OF TECHNOLOGY TO THE ADMINISTRATION OF
12 JUSTICE. THE SUPREME COURT SHALL ENDEAVOR TO REFLECT THE ETHNIC
13 AND RACIAL DIVERSITY OF THE STATE POPULATION AND THE STATEWIDE
14 JUDICIAL BENCH WHEN MAKING THE ASSIGNMENTS UNDER THIS
15 SUBSECTION.

16 (2) THE TOTAL NUMBER OF JUDGES ASSIGNED TO THE CYBER COURT
17 SHALL REASONABLY REFLECT THE CASELOAD OF THE CYBER COURT.

18 (3) THE DURATION OF A JUDGE'S ASSIGNMENT TO THE CYBER COURT
19 SHALL BE AT LEAST 3 YEARS.

20 (4) THE SUPREME COURT SHALL APPOINT THE CLERK OF THE CYBER
21 COURT.

22 (5) THE MICHIGAN JUDICIAL INSTITUTE SHALL PROVIDE APPROPRI-
23 ATE TRAINING FOR JUDGES WHO ARE ASSIGNED AS JUDGES OF THE CYBER
24 COURT.

25 SEC. 8005. (1) THE CYBER COURT HAS CONCURRENT JURISDICTION
26 OVER BUSINESS AND COMMERCIAL ACTIONS IN WHICH THE AMOUNT IN
27 CONTROVERSY EXCEEDS \$25,000.00.

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1 (2) FOR PURPOSES OF THIS SECTION, "BUSINESS AND COMMERCIAL
2 ACTIONS" MEANS DISPUTES ARISING BETWEEN BUSINESS OWNERS, ASSOCI-
3 ATES, OR COMPETITORS OR BETWEEN A BUSINESS ENTITY AND ITS
4 CUSTOMERS. BUSINESS AND COMMERCIAL ACTIONS INCLUDE, BUT ARE NOT
5 LIMITED TO, THE FOLLOWING TYPES OF DISPUTES:

6 (A) THOSE INVOLVING INFORMATION TECHNOLOGY, SOFTWARE, OR
7 WEBSITE DEVELOPMENT, MAINTENANCE, OR HOSTING.

8 (B) THOSE INVOLVING THE INTERNAL ORGANIZATION OF BUSINESS
9 ENTITIES AND THE RIGHTS OR OBLIGATIONS OF SHAREHOLDERS, PARTNERS,
10 MEMBERS, OWNERS, OFFICERS, DIRECTORS, OR MANAGERS.

11 (C) THOSE ARISING OUT OF CONTRACTUAL AGREEMENTS OR OTHER
12 BUSINESS DEALINGS, INCLUDING LICENSING, TRADE SECRET, NONCOMPETE,
13 NONSOLICITATION, AND CONFIDENTIALITY AGREEMENTS.

14 (D) THOSE ARISING OUT OF COMMERCIAL TRANSACTIONS, INCLUDING
15 COMMERCIAL BANK TRANSACTIONS.

16 (E) THOSE ARISING OUT OF BUSINESS OR COMMERCIAL INSURANCE
17 POLICIES.

18 (F) THOSE INVOLVING COMMERCIAL REAL PROPERTY OTHER THAN
19 LANDLORD/TENANT DISPUTES.

20 (3) NOTWITHSTANDING SUBSECTION (2), BUSINESS AND COMMERCIAL
21 ACTIONS EXPRESSLY EXCLUDE THE FOLLOWING TYPES OF DISPUTES:

22 (A) TORT ACTIONS, INCLUDING, BUT NOT LIMITED TO, PERSONAL
23 INJURY, WRONGFUL DEATH, OR MEDICAL MALPRACTICE MATTERS.

24 (B) LANDLORD/TENANT MATTERS.

25 (C) EMPLOYEE/EMPLOYER DISPUTES.

26 (D) ADMINISTRATIVE AGENCY, TAX, ZONING, AND OTHER APPEALS.

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1 (E) CRIMINAL MATTERS.

2 (F) PROCEEDINGS TO ENFORCE JUDGMENTS OF ANY TYPE.

3 SEC. 8007. (1) AN ACTION MAY BE FILED IN THE CYBER COURT BY
4 FILING A COMPLAINT WITH THE CLERK OF THE CYBER COURT.

5 (2) PRACTICE AND PROCEDURE IN THE CYBER COURT, THE FORM AND
6 MANNER OF PLEADINGS, AND THE MANNER OF SERVICE OF PROCESS SHALL
7 BE IN ACCORDANCE WITH SPECIAL RULES FOR THE CYBER COURT ADOPTED
8 BY THE SUPREME COURT.

9 SEC. 8009. BEFORE A CIVIL ACTION IS FILED IN THE CYBER
10 COURT, THE PARTY BRINGING THE ACTION SHALL PAY A FILING FEE IN
11 THE AMOUNT OF \$200.00. EACH MONTH THE CLERK OF THE CYBER COURT
12 SHALL DEPOSIT WITH THE STATE TREASURER ALL FEES COLLECTED, SECUR-
13 ING AND FILING A RECEIPT FOR ALL THE FEES DEPOSITED.

14 SEC. 8011. (1) A DEFENDANT IN AN ACTION FILED IN THE CYBER
15 COURT MAY REMOVE THE ACTION TO THE CIRCUIT COURT NOT LATER THAN
16 14 DAYS AFTER THE DEADLINE FOR FILING AN ANSWER TO THE
17 COMPLAINT. IF THE ACTION IS REMOVED TO THE CIRCUIT COURT, THE
18 ACTION SHALL BE HEARD IN THE CIRCUIT COURT IN A COUNTY IN WHICH
19 VENUE WOULD BE PROPER.

20 (2) IF THE DEFENDANT REMOVES THE ACTION TO THE CIRCUIT COURT
21 AS PROVIDED IN SUBSECTION (1), THE CLERK OF THE CYBER COURT SHALL
22 FORWARD TO THE CIRCUIT COURT, AS A FILING FEE, A PORTION OF THE
23 FILING FEE PAID AT THE COMMENCEMENT OF THE ACTION IN THE CYBER
24 COURT THAT IS EQUAL TO THE FILING FEE OTHERWISE REQUIRED IN THE
25 CIRCUIT COURT.

26 SEC. 8013. UNLESS A PARTY REMOVES AN ACTION FILED IN THE
27 CYBER COURT TO THE CIRCUIT COURT PURSUANT TO SECTION 8011, ALL

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1 PARTIES TO AN ACTION IN THE CYBER COURT SHALL BE CONSIDERED TO
2 HAVE WAIVED THE RIGHT TO TRIAL BY JURY.

3 SEC. 8015. ALL MATTERS HEARD IN THE CYBER COURT SHALL BE
4 HEARD BY MEANS OF ELECTRONIC COMMUNICATIONS, INCLUDING, BUT NOT
5 LIMITED TO, VIDEO AND AUDIO CONFERENCING AND INTERNET CONFERENC-
6 ING AMONG THE JUDGE AND COURT PERSONNEL, PARTIES, WITNESSES, AND
7 OTHER PERSONS NECESSARY TO THE PROCEEDING.

8 SEC. 8017. THE CYBER COURT HAS THE SAME POWER TO SUBPOENA
9 WITNESSES AND REQUIRE THE PRODUCTION OF BOOKS, PAPERS, RECORDS,
10 DOCUMENTS, ELECTRONIC DOCUMENTS, AND ANY OTHER EVIDENCE AND TO
11 PUNISH FOR CONTEMPT AS THE CIRCUIT COURT HAS. THE JUDGE AND
12 CLERK OF THE CYBER COURT MAY ADMINISTER OATHS AND AFFIRMATIONS
13 AND TAKE ACKNOWLEDGMENTS OF INSTRUMENTS BY ELECTRONIC MEANS. AN
14 OATH OR AFFIRMATION TAKEN FROM A PERSON LOCATED OUTSIDE OF THIS
15 STATE AND PURSUANT TO THE LAWS OF THE JURISDICTION IN WHICH THE
16 PERSON IS LOCATED SHALL BE CONSIDERED TO BE AN OATH OR AFFIRMA-
17 TION AUTHORIZED BY THE LAWS OF THIS STATE.

18 SEC. 8019. AN ACTION IN THE CYBER COURT SHALL BE HEARD BY
19 THE JUDGE WITHOUT A JURY. THE COURT MAY GRANT A NEW TRIAL UPON
20 THE SAME TERMS AND UNDER THE SAME CONDITIONS AND FOR THE SAME
21 REASONS AS PREVAIL IN THE CASE OF THE CIRCUIT COURT OF THIS
22 STATE, IN A CASE HEARD BY A JUDGE WITHOUT A JURY.

23 SEC. 8021. (1) AN APPEAL FROM THE CYBER COURT SHALL BE TO
24 THE COURT OF APPEALS, AS PRESCRIBED BY SUPREME COURT RULES.

25 (2) THE CLERK OF THE CYBER COURT SHALL IMMEDIATELY FURNISH
26 THE PARTIES TO EVERY ACTION WITH AN ELECTRONIC NOTICE OF ENTRY OF

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1 ANY FINAL ORDER OR JUDGMENT. THE TIME WITHIN WHICH AN APPEAL AS
2 OF RIGHT MAY BE TAKEN SHALL BE GOVERNED BY SUPREME COURT RULES.

3 SEC. 8023. THE SUPREME COURT SHALL PROVIDE BY RULE FOR AN
4 ALTERNATIVE DISPUTE RESOLUTION FOR MATTERS BEFORE THE CYBER
5 COURT.

6 SEC. 8025. NOT LATER THAN OCTOBER 1, 2004, THE STATE COURT
7 ADMINISTRATOR SHALL SUBMIT A WRITTEN REPORT TO THE LEGISLATURE ON
8 THE OPERATION OF THE CYBER COURT. THE REPORT SHALL INCLUDE THE
9 STATE COURT ADMINISTRATOR'S RECOMMENDATIONS, IF ANY, FOR EXPAND-
10 ING THE JURISDICTION OF THE CYBER COURT OVER OTHER MATTERS.

11 SEC. 8027. THE SUPREME COURT SHALL ADOPT RULES TO IMPLEMENT
12 THIS CHAPTER.

13 SEC. 8029. (1) A LEGISLATIVE OVERSIGHT COMMITTEE ON THE
14 CYBER COURT IS CREATED. THE COMMITTEE SHALL CONSIST OF 3 MEMBERS
15 OF THE HOUSE OF REPRESENTATIVES APPOINTED BY THE SPEAKER OF THE
16 HOUSE OF REPRESENTATIVES, 1 OF WHOM SHALL NOT BE A MEMBER OF THE
17 MAJORITY PARTY, AND 3 MEMBERS OF THE SENATE APPOINTED BY THE
18 MAJORITY LEADER OF THE SENATE, 1 OF WHOM SHALL NOT BE A MEMBER OF
19 THE MAJORITY PARTY. MEMBERS SHALL BE APPOINTED OR REMOVED IN THE
20 SAME MANNER AS MEMBERS OF STANDING COMMITTEES ARE APPOINTED OR
21 REMOVED IN EACH HOUSE. VACANCIES SHALL BE FILLED IN THE SAME
22 MANNER AS ORIGINAL APPOINTMENTS. MEMBERS OF THE COMMITTEE MAY BE
23 REIMBURSED FOR EXPENSES INCURRED IN THE ADMINISTRATION OF THEIR
24 DUTIES.

25 (2) ANNUALLY THE COMMITTEE SHALL ELECT FROM ITS MEMBERSHIP A
26 CHAIRPERSON AND ALTERNATE CHAIRPERSON, WHO SHALL BE FROM
27 DIFFERENT HOUSES, WITH THE FIRST CHAIRPERSON BEING FROM THE HOUSE

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1 OF REPRESENTATIVES. THE POSITION OF CHAIRPERSON SHALL ALTERNATE
2 BETWEEN THE SENATE AND THE HOUSE OF REPRESENTATIVES.

3 (3) THE BUSINESS THAT THE COMMITTEE PERFORMS SHALL BE CON-
4 DUCTED AT A PUBLIC MEETING OF THE COMMITTEE HELD IN COMPLIANCE
5 WITH THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.
6 PUBLIC NOTICE OF THE TIME, DATE, AND PLACE OF THE MEETING SHALL
7 BE GIVEN IN THE MANNER REQUIRED BY THAT ACT.

8 (4) SPECIAL MEETINGS OF THE COMMITTEE SHALL BE HELD ON CALL
9 OF THE CHAIRPERSON OR A MAJORITY OF THE COMMITTEE. THE COMMITTEE
10 SHALL PRESCRIBE RULES FOR ITS OWN PROCEDURE. A MAJORITY OF THE
11 COMMITTEE CONSTITUTES A QUORUM. ANY RECOMMENDATION OF THE COM-
12 MITTEE REQUIRES THE CONCURRENCE OF A MAJORITY OF ITS MEMBERSHIP.
13 AS USED IN THIS SUBSECTION, "MAJORITY" MEANS AT LEAST 2 OF THE
14 3 MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE AND AT LEAST 2 OF
15 THE 3 MEMBERS APPOINTED BY THE MAJORITY LEADER OF THE SENATE.

16 (5) THE COMMITTEE SHALL DO ALL OF THE FOLLOWING FOR THE
17 PERIOD BEGINNING JANUARY 1, 2002 AND ENDING DECEMBER 31, 2004:

18 (A) MONITOR THE DEVELOPMENT OF THE CYBER COURT.

19 (B) CONSIDER AND RESPOND TO COURT RULES PROPOSED OR ADOPTED
20 BY THE SUPREME COURT UNDER SECTION 8027.

21 (C) IN COOPERATION WITH THE STATE COURT ADMINISTRATIVE
22 OFFICE, DETERMINE IF FURTHER LEGISLATION IS NEEDED TO FACILITATE
23 THE IMPLEMENTATION OF THE CYBER COURT OR TO EXPAND THE JURISDIC-
24 TION OF THE CYBER COURT.

25 (6) THE COMMITTEE SHALL REPORT, IN WRITING, TO THE CHAIR-
26 PERSONS OF THE STANDING COMMITTEES OF THE SENATE AND THE HOUSE OF
27 REPRESENTATIVES HAVING JURISDICTION OVER LEGISLATION PERTAINING

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1 TO THE JUDICIARY, ON THE TOPICS LISTED IN SUBSECTION (5)(A) TO
2 (C), AND MAY ACCOMPANY THE REPORT WITH PROPOSED BILLS TO IMPE-
3 MENT ITS RECOMMENDATIONS.

4 Enacting section 1. This amendatory act takes effect as
5 follows:

6 (a) Sections 8027 and 8029 of the revised judicature act of
7 1961, 1961 PA 236, as added by this amendatory act, take effect
8 January 1, 2002.

9 (b) Sections 8001 to 8025 of the revised judicature act of
10 1961, 1961 PA 236, as added by this amendatory act, take effect
11 October 1, 2002.