

Act No. 262
Public Acts of 2001
Approved by the Governor
January 9, 2002
Filed with the Secretary of State
January 9, 2002
EFFECTIVE DATE: January 9, 2002

**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2001**

**Introduced by Reps. Shulman, Patterson, Mead, Howell, Van Woerkom, DeVuyst, Pappageorge, DeRossett, Cassis, Birkholz, Kooiman, Meyer, Stewart, Bradstreet, Jelinek, Richardville, Pumford, Cameron Brown, Stamas, Woronchak, Bisbee, Bob Brown, Vander Roest, Julian, Caul, Newell, Richner, Hager, Allen, Ruth Johnson, Voorhees, Vander Veen, Toy, Bishop, Ehardt, DeWeese, Kuipers, Gosselin, Pestka, Minore, Switalski, Raczkowski and Neumann
Reps. Basham, Callahan, Faunce, Gilbert, Hardman, Jamnick, Koetje, Kolb, Lemmons, Lipsey, McConico, O'Neil, Phillips, Plakas, Rocca, Sanborn, Schermesser, Thomas and Wojno were named co-sponsors**

ENROLLED HOUSE BILL No. 4140

AN ACT to amend 1961 PA 236, entitled "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; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," (MCL 600.101 to 600.9948) by adding chapter 80.

The People of the State of Michigan enact:

CHAPTER 80.

THE CYBER COURT

Sec. 8001. (1) The cyber court is created and is a court of record.

(2) The purpose of the cyber court is to do all of the following:

- (a) Establish judicial structures that will help to strengthen and revitalize the economy of this state.
- (b) Allow disputes between business and commercial entities to be resolved with the expertise, technology, and efficiency required by the information age economy.
- (c) Assist the judiciary in responding to the rapid expansion of information technology in this state.
- (d) Establish a technology-rich system to serve the needs of a judicial system operating in a global economy.
- (e) Maintain the integrity of the judicial system while applying new technologies to judicial proceedings.
- (f) Supplement other state programs designed to make the state attractive to technology-driven companies.
- (g) Permit alternative dispute resolution mechanisms to benefit from the technology changes.
- (h) Establish virtual courtroom facilities, and allow the conducting of court proceedings electronically and the electronic filing of documents.

(3) The cyber court shall be located in 1 or more counties as determined by the supreme court. The cyber court shall sit in facilities designed to allow all hearings and proceedings to be conducted by means of electronic communications, including, but not limited to, video and audio conferencing and internet conferencing.

(4) The cyber court shall hold session and shall schedule hearings or other proceedings to accommodate parties or witnesses who are located outside of this state. A cyber court facility is open to the public to the same extent as a circuit court facility. When technologically feasible, and at the discretion of the judge, pursuant to the court rules, all proceedings of the cyber court shall be broadcast on the internet.

(5) The cyber court shall maintain its staff and support services at the seat of government.

(6) The cyber court shall be funded from annual appropriations to the supreme court.

Sec. 8003. (1) The supreme court shall assign to the cyber court persons who have been elected to and served as judges in this state and who have requested to be considered for that assignment. In making assignments to the cyber court, the supreme court shall consider a person's experience in presiding over commercial litigation and his or her experience and interest in the application of technology to the administration of justice. The supreme court shall endeavor to reflect the ethnic and racial diversity of the state population and the statewide judicial bench when making the assignments under this subsection.

(2) The total number of judges assigned to the cyber court shall reasonably reflect the caseload of the cyber court.

(3) The duration of a judge's assignment to the cyber court shall be at least 3 years.

(4) The supreme court shall appoint the clerk of the cyber court.

(5) The Michigan judicial institute shall provide appropriate training for judges who are assigned as judges of the cyber court.

Sec. 8005. (1) The cyber court has concurrent jurisdiction over business and commercial actions in which the amount in controversy exceeds \$25,000.00.

(2) For purposes of this section, "business and commercial actions" means disputes arising between business owners, associates, or competitors or between a business entity and its customers. Business and commercial actions include, but are not limited to, the following types of disputes:

(a) Those involving information technology, software, or website development, maintenance, or hosting.

(b) Those involving the internal organization of business entities and the rights or obligations of shareholders, partners, members, owners, officers, directors, or managers.

(c) Those arising out of contractual agreements or other business dealings, including licensing, trade secret, noncompete, nonsolicitation, and confidentiality agreements.

(d) Those arising out of commercial transactions, including commercial bank transactions.

(e) Those arising out of business or commercial insurance policies.

(f) Those involving commercial real property other than landlord/tenant disputes.

(3) Notwithstanding subsection (2), business and commercial actions expressly exclude the following types of disputes:

(a) Tort actions, including, but not limited to, personal injury, wrongful death, or medical malpractice matters.

(b) Landlord/tenant matters.

(c) Employee/employer disputes.

(d) Administrative agency, tax, zoning, and other appeals.

(e) Criminal matters.

(f) Proceedings to enforce judgments of any type.

Sec. 8007. (1) An action may be filed in the cyber court by filing a complaint with the clerk of the cyber court.

(2) Practice and procedure in the cyber court, the form and manner of pleadings, and the manner of service of process shall be in accordance with special rules for the cyber court adopted by the supreme court.

Sec. 8009. Before a civil action is filed in the cyber court, the party bringing the action shall pay a filing fee in the amount of \$200.00. Each month the clerk of the cyber court shall deposit with the state treasurer all fees collected, securing and filing a receipt for all the fees deposited.

Sec. 8011. (1) A defendant in an action filed in the cyber court may remove the action to the circuit court not later than 14 days after the deadline for filing an answer to the complaint. If the action is removed to the circuit court, the action shall be heard in the circuit court in a county in which venue would be proper.

(2) If the defendant removes the action to the circuit court as provided in subsection (1), the clerk of the cyber court shall forward to the circuit court, as a filing fee, a portion of the filing fee paid at the commencement of the action in the cyber court that is equal to the filing fee otherwise required in the circuit court.

Sec. 8013. Unless a party removes an action filed in the cyber court to the circuit court pursuant to section 8011, all parties to an action in the cyber court shall be considered to have waived the right to trial by jury.

Sec. 8015. All matters heard in the cyber court shall be heard by means of electronic communications, including, but not limited to, video and audio conferencing and internet conferencing among the judge and court personnel, parties, witnesses, and other persons necessary to the proceeding.

Sec. 8017. The cyber court has the same power to subpoena witnesses and require the production of books, papers, records, documents, electronic documents, and any other evidence and to punish for contempt as the circuit court has. The judge and clerk of the cyber court may administer oaths and affirmations and take acknowledgments of instruments by electronic means. An oath or affirmation taken from a person located outside of this state and pursuant to the laws of the jurisdiction in which the person is located shall be considered to be an oath or affirmation authorized by the laws of this state.

Sec. 8019. An action in the cyber court shall be heard by the judge without a jury. The court may grant a new trial upon the same terms and under the same conditions and for the same reasons as prevail in the case of the circuit court of this state, in a case heard by a judge without a jury.

Sec. 8021. (1) An appeal from the cyber court shall be to the court of appeals, as prescribed by supreme court rules.

(2) The clerk of the cyber court shall immediately furnish the parties to every action with an electronic notice of entry of any final order or judgment. The time within which an appeal as of right may be taken shall be governed by supreme court rules.

Sec. 8023. The supreme court shall provide by rule for an alternative dispute resolution for matters before the cyber court.

Sec. 8025. Not later than October 1, 2004, the state court administrator shall submit a written report to the legislature on the operation of the cyber court. The report shall include the state court administrator's recommendations, if any, for expanding the jurisdiction of the cyber court over other matters.

Sec. 8027. The supreme court shall adopt rules to implement this chapter.

Sec. 8029. (1) A legislative oversight committee on the cyber court is created. The committee shall consist of 3 members of the house of representatives appointed by the speaker of the house of representatives, 1 of whom shall not be a member of the majority party, and 3 members of the senate appointed by the majority leader of the senate, 1 of whom shall not be a member of the majority party. Members shall be appointed or removed in the same manner as members of standing committees are appointed or removed in each house. Vacancies shall be filled in the same manner as original appointments. Members of the committee may be reimbursed for expenses incurred in the administration of their duties.

(2) Annually the committee shall elect from its membership a chairperson and alternate chairperson, who shall be from different houses, with the first chairperson being from the house of representatives. The position of chairperson shall alternate between the senate and the house of representatives.

(3) The business that the committee performs shall be conducted at a public meeting of the committee held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by that act.

(4) Special meetings of the committee shall be held on call of the chairperson or a majority of the committee. The committee shall prescribe rules for its own procedure. A majority of the committee constitutes a quorum. Any recommendation of the committee requires the concurrence of a majority of its membership. As used in this subsection, "majority" means at least 2 of the 3 members appointed by the speaker of the house and at least 2 of the 3 members appointed by the majority leader of the senate.

(5) The committee shall do all of the following for the period beginning January 1, 2002 and ending December 31, 2004:

(a) Monitor the development of the cyber court.

(b) Consider and respond to court rules proposed or adopted by the supreme court under section 8027.

(c) In cooperation with the state court administrative office, determine if further legislation is needed to facilitate the implementation of the cyber court or to expand the jurisdiction of the cyber court.

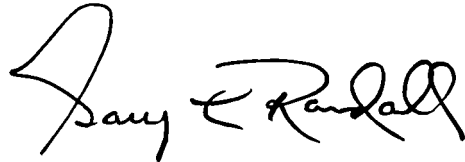
(6) The committee shall report, in writing, to the chairpersons of the standing committees of the senate and the house of representatives having jurisdiction over legislation pertaining to the judiciary, on the topics listed in subsection (5)(a) to (c), and may accompany the report with proposed bills to implement its recommendations.

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

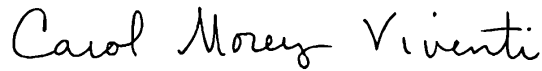
(a) Sections 8027 and 8029 of the revised judicature act of 1961, 1961 PA 236, as added by this amendatory act, take effect January 1, 2002.

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.