

SENATE SUBSTITUTE FOR

HOUSE BILL NO. 4737

(As amended on September 23, 2003)

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 880b, 2529, 2538, 4805, 5756, 8371, and 8731
(MCL 600.880b, 600.2529, 600.2538, 600.4805, 600.5756, 600.8371,
and 600.8731), sections 880b, 2529, 2538, 5756, and 8371 as
amended by 2003 PA 138 and section 8731 as amended by 2003 PA
95.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 880b. (1) Except as otherwise provided by law, after
2 the commencement of a civil action or proceeding in the probate
3 court, a party filing a motion, petition, account, objection,
4 << >> or claim shall pay a \$20.00 motion fee to the probate
5 register.

<<(2) The probate register shall charge and collect a \$15.00 service
fee for each writ of garnishment, attachment, or execution or for each
judgment debtor discovery subpoena issued.>>

6 <<(3)<2>>> A fee shall not be charged under this section in a
7 guardianship or limited guardianship proceeding if the moving

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1 party is the subject of the proceeding.

2 <<(4) (3)>> A fee shall not be charged under this section in a
3 conservatorship proceeding if the moving party is the subject of
4 the proceeding or, if the conservatorship is for a minor, for a
5 motion to release restricted funds.

6 <<(5) (4)>> A party is not required to pay a fee under this section
7 if the party is the attorney general, department of treasury,
8 family independence agency, state public administrator, or
9 administrator of veterans affairs of the United States veterans
10 administration, or an agency of county government.

11 <<(6) (5)>> The probate register, on or before the fifth day of the
12 month following the month in which fees are collected under this
13 section, shall transmit to the county treasurer all fees
14 collected under this section during the preceding month. Within
15 15 days after receiving the fees, the county treasurer shall
16 transmit 50% of each fee collected to the state treasurer for
17 deposit in the state court fund created by section 151a and shall
18 deposit the remaining 50% of each fee in the county general fund
19 for use exclusively for expenses of the probate court, to be
20 first applied toward expenses in adult guardianship proceedings
21 of the independent evaluations, legal counsel, and periodic
22 review mandated by article 5 of the estates and protected
23 individuals code, 1998 PA 386, MCL 700.5101 to 700.5520.

24 Sec. 2529. (1) In the circuit court, the following fees
25 shall be paid to the clerk of the court:

26 (a) Before a civil action other than an action brought
27 exclusively under section 2950, 2950a, or 2950h to 2950m is

1 commenced, or before the filing of an application for
2 superintending control or for an extraordinary writ, except the
3 writ of habeas corpus, the party bringing the action or filing
4 the application shall pay the sum of \$150.00. The clerk at the
5 end of each month shall transmit for each fee collected under
6 this subdivision within the month \$31.00 to the county treasurer
7 and the balance of the filing fee to the state treasurer for
8 deposit in the civil filing fee fund created in section 171.

9 (b) Before the filing of a claim of appeal or motion for
10 leave to appeal from the district court, probate court, a
11 municipal court, or an administrative tribunal or agency, the sum
12 of \$150.00. For each fee collected under this subdivision, the
13 clerk shall transmit \$31.00 to the county treasurer and the
14 balance of the fee to the state treasurer for deposit in the
15 civil filing fee fund created in section 171.

16 (c) If a trial by jury is demanded, the party making the
17 demand at the time shall pay the sum of \$85.00. Failure to pay
18 the fee at the time the demand is made constitutes a waiver of
19 the right to a jury trial. The sum shall be taxed in favor of
20 the party paying the fee, in case the party recovers a judgment
21 for costs. For each fee collected under this subdivision, the
22 clerk shall transmit \$25.00 to the state treasurer for deposit in
23 the juror compensation reimbursement fund created in section
24 151d.

25 (d) Before entry of a final judgment in an action for divorce
26 or separate maintenance in which minor children are involved, or
27 the entry of a final judgment in a child custody dispute

1 submitted to the circuit court as an original action, 1 of the
2 following sums, which shall be deposited by the county treasurer
3 as provided in section 2530:

4 (i) If the matter was contested or uncontested and was not
5 submitted to domestic relations mediation or investigation by the
6 friend of the court, \$30.00.

7 (ii) If the matter was contested or uncontested and was
8 submitted to domestic relations mediation, \$50.00.

9 (iii) If the matter was contested or uncontested and the
10 office of the friend of the court conducted an investigation and
11 made a recommendation to the court, \$70.00.

12 (e) Except as otherwise provided in this section, upon the
13 filing of a motion the sum of \$20.00. In conjunction with an
14 action brought under section 2950 or 2950a, a motion fee shall
15 not be collected for a motion to dismiss the petition, a motion
16 to modify, rescind, or terminate a personal protection order, or
17 a motion to show cause for a violation of a personal protection
18 order. A motion fee shall not be collected for a motion to
19 dismiss a proceeding to enforce a foreign protection order or a
20 motion to show cause for a violation of a foreign protection
21 order under sections 2950h to 2950m. For each fee collected
22 under this subdivision, the clerk shall transmit \$10.00 to the
23 state treasurer for deposit in the state court fund created by
24 section 151a.

25 (f) For services under the direction of the court that are
26 not specifically provided for in this section relative to the
27 receipt, safekeeping, or expending of money, or the purchasing,

1 taking, or transferring of a security, or the collecting of
2 interest on a security, the clerk shall receive the allowance and
3 compensation from the parties as the court may consider just and
4 shall direct by court order, after notice to the parties to be
5 charged.

6 (g) Upon appeal to the court of appeals or the supreme court,
7 the sum of \$25.00.

8 (h) The sum of \$15.00 as a service fee for each writ of
9 garnishment, attachment, execution, or judgment debtor discovery
10 subpoena issued.

11 (2) The sums paid as provided in this section shall be held
12 to be in full for all clerk, entry, and judgment fees in an
13 action from the commencement of the action to and including the
14 issuance and return of the execution or other final process, and
15 are taxable as costs.

16 (3) Except as otherwise provided in this section, the fees
17 shall be paid over to the county treasurer as required by law.

18 (4) The court shall order any of the fees prescribed in this
19 section waived or suspended, in whole or in part, upon a showing
20 by affidavit of indigency or inability to pay.

21 ~~(5) The clerk of the circuit court shall prepare and submit~~
22 ~~a court filing fee report to the executive secretary of the~~
23 ~~Michigan judges retirement system created by the judges~~
24 ~~retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, at~~
25 ~~the same time the clerk of the circuit court transmits the~~
26 ~~portion of the fees collected under this section to the executive~~
27 ~~secretary.~~

1 Sec. 2538. (1) For services provided that are not
2 reimbursable under the provisions of part D of title IV of the
3 social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to
4 655, 656 to 660, and 663 to 669b, every person required to make
5 payments of support or maintenance to be collected by the friend
6 of the court or the state disbursement unit shall pay a fee of
7 \$1.50 per month for every month or portion of a month that
8 support or maintenance is required to be paid. The fee shall be
9 paid monthly, quarterly, or semiannually as required by the
10 friend of the court. The friend of the court shall provide
11 notice of the fee required by this section to the person ordered
12 to pay the support and that the fee shall be paid monthly or as
13 otherwise determined by the friend of the court. The friend of
14 the court or SDU shall transmit ~~25 cents of~~ each fee collected
15 under this section **as follows:**

16 **(a) Twenty-five cents** to the appropriate county treasurer
17 for deposit into the general fund of the county. —

18 **(b) For fees assessed on or after October 1, 2003,** 25 cents
19 to the state treasurer for deposit in the fund created in
20 subsection (3). —, ~~and the balance~~

21 **(c) One dollar** to the state treasurer for deposit in the
22 state court fund created in section 151a.

23 (2) The department, the SDU, and each office of the friend of
24 the court shall cooperate in the transition to the centralized
25 receipt and disbursement of support and fees. An office of the
26 friend of the court shall continue to receive and disburse
27 support and fees through the transition, based on the schedule

1 developed as required by section 6 of the office of child support
2 act, 1971 PA 174, MCL 400.236, and modifications to that schedule
3 as the department considers necessary.

4 (3) An attorney general's operations fund is created within
5 the state treasury. The state treasurer may receive money or
6 other assets from any source for deposit into the fund. The
7 state treasurer shall direct the investment of the fund. The
8 state treasurer shall credit to the fund interest and earnings
9 from fund investments. Money in the fund at the close of the
10 fiscal year shall remain in the fund and shall not lapse to the
11 general fund. The department of attorney general shall expend
12 money from the fund, upon appropriation, for operational
13 purposes.

14 (4) As used in this section, "state disbursement unit" or
15 "SDU" means the entity established in section 6 of the office of
16 child support act, 1971 PA 174, MCL 400.236.

17 Sec. 4805. Unless otherwise specially provided for by law,
18 if a penalty, ~~is~~ **fee, or costs are** incurred by any person and
19 the act or omission for which the ~~same is~~ **penalty, fee, or**
20 **costs are** imposed is not also a misdemeanor, ~~such~~ **the** penalty,
21 **fee, or costs** may be recovered in ~~a civil action~~ **the same**
22 **manner as civil judgments for money in the same court.**

23 Sec. 5756. (1) If the complaint is for the recovery of
24 possession of premises only, the fee for filing a proceeding
25 under this chapter is \$45.00. Beginning October 1, 2005, the fee
26 required under this subsection is \$40.00.

27 (2) If a claim for a money judgment is joined with a claim

1 for the recovery of possession of premises, the plaintiff shall
2 pay a supplemental filing fee in the same amount as established
3 by law for the filing of a claim for a money judgment in the same
4 court.

5 (3) Of each filing fee collected under this section, at the
6 end of each month, the clerk of the district court shall transmit
7 \$17.00 to the treasurer of the district funding unit in which the
8 action was commenced, of which not less than \$5.00 shall be used
9 by the district funding unit to fund the operation of the
10 district court; and the balance to the state treasurer for
11 deposit in the civil filing fee fund created by section 171.
12 Beginning October 1, 2005, the amount of each fee that the clerk
13 shall transmit to the treasurer of the district funding unit is
14 reduced to \$12.00.

15 (4) At the end of each month, the clerk of the district court
16 shall transmit each supplemental filing fee collected under this
17 section in the same manner as a fee under section 8371 for the
18 filing of a claim for money judgment for the same amount is
19 transmitted.

20 ~~(5) The clerk of the district court shall prepare and submit~~
21 ~~a court filing fee report to the executive secretary of the~~
22 ~~Michigan judges retirement system created by the judges~~
23 ~~retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, at~~
24 ~~the same time the clerk of the district court transmits the~~
25 ~~portion of the fees collected under this section to the executive~~
26 ~~secretary.~~

27 Sec. 8371. (1) In the district court, the fees prescribed

1 in this section shall be paid to the clerk of the court.

2 (2) Before a civil action is commenced in the district court,
3 the party commencing the action shall pay to the clerk the sum of
4 \$150.00 if the amount in controversy exceeds \$10,000.00. For
5 each fee collected under this subsection, the clerk shall
6 transmit \$31.00 to the treasurer of the district funding unit in
7 which the action was commenced, and shall transmit the balance to
8 the state treasurer for deposit in the civil filing fee fund
9 created by section 171.

10 (3) Before a civil action is commenced in the district court,
11 the party commencing the action shall pay to the clerk the sum of
12 \$65.00 if the amount in controversy exceeds \$1,750.00 but does
13 not exceed \$10,000.00. Beginning October 1, 2005, the fee
14 required under this subsection is \$60.00. For each fee collected
15 under this subsection, the clerk shall transmit \$23.00 to the
16 treasurer of the district funding unit in which the action was
17 commenced, of which not less than \$5.00 shall be used by the
18 district funding unit to fund the operation of the district
19 court; and shall transmit the balance to the state treasurer for
20 deposit in the civil filing fee fund created by section 171.
21 Beginning October 1, 2005, the amount of each fee that the clerk
22 shall transmit to the treasurer of the district funding unit is
23 reduced to \$18.00.

24 (4) Before a civil action is commenced in the district court,
25 the party commencing the action shall pay to the clerk the sum of
26 \$45.00 if the amount in controversy exceeds \$600.00 but does not
27 exceed \$1,750.00. Beginning October 1, 2005, the fee required

1 under this subsection is \$40.00. For each fee collected under
2 this subsection, the clerk shall transmit \$17.00 to the treasurer
3 of the district funding unit in which the action was commenced,
4 of which not less than \$5.00 shall be used by the district
5 funding unit to fund the operation of the district court; and
6 shall transmit the balance to the state treasurer for deposit in
7 the civil filing fee fund created by section 171. Beginning
8 October 1, 2005, the amount of each fee that the clerk shall
9 transmit to the treasurer of the district funding unit is reduced
10 to \$12.00.

11 (5) Before a civil action is commenced in the district court,
12 the party commencing the action shall pay to the clerk the sum of
13 \$25.00 if the amount in controversy does not exceed \$600.00.
14 Beginning October 1, 2005, the fee required under this subsection
15 is \$20.00. For each fee collected under this subsection, the
16 clerk shall transmit \$11.00 to the treasurer of the district
17 funding unit in which the action was commenced, of which not less
18 than \$5.00 shall be used by the district funding unit to fund the
19 operation of the district court; and shall transmit the balance
20 to the state treasurer for deposit in the civil filing fee fund
21 created by section 171. Beginning October 1, 2005, the amount of
22 each fee that the clerk shall transmit to the treasurer of the
23 district funding unit is reduced to \$6.00.

24 (6) The judge shall order payment of any statutory fees
25 waived or suspended if the person subject to the fee is receiving
26 public assistance or is determined by the court to be indigent.

27 (7) Neither this state nor a political subdivision of this

1 state shall be required to pay a filing fee in a civil infraction
2 action.

3 (8) Except for civil actions filed for relief under chapter
4 43, 57, or 84, if a civil action is filed for relief other than
5 money damages, the filing fee shall be equal to the filing fee in
6 actions for money damages in excess of \$1,750.00 but not in
7 excess of \$10,000.00 as provided in subsection (3) and shall be
8 transmitted in the same manner as a fee under subsection (3) is
9 transmitted. If a claim for money damages is joined with a claim
10 for relief other than money damages, the plaintiff shall pay a
11 supplemental filing fee in the same amount as required under
12 subsections (2) to (5).

13 (9) If a trial by jury is demanded, the party making the
14 demand at the time shall pay the sum of \$50.00. Failure to pay
15 the fee at the time the demand is made constitutes a waiver of
16 the right to a jury trial. The sum shall be taxed in favor of
17 the party paying the fee, in case the party recovers a judgment
18 for costs. For each fee collected under this subsection, the
19 clerk shall transmit \$10.00 to the state treasurer for deposit in
20 the juror compensation reimbursement fund created in section
21 151d.

22 (10) A sum of \$20.00 shall be assessed for all motions filed
23 in a civil action. **A motion fee shall not be assessed in a civil**
24 **infraction action.** For each fee collected under this subsection,
25 the clerk shall transmit \$10.00 to the state treasurer for
26 deposit in the state court fund created in section 151a and the
27 balance shall be transmitted to the treasurer of the district

1 funding unit for the district court in the district in which the
2 action was commenced.

3 ~~(11) The clerk of the district court shall prepare and~~
4 ~~submit a court filing fee report to the executive secretary of~~
5 ~~the Michigan judges retirement system created by the judges~~
6 ~~retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, at~~
7 ~~the same time the clerk of the district court transmits the~~
8 ~~portion of the fees collected under this section to the executive~~
9 ~~secretary.~~

10 Sec. 8731. (1) If a defendant does not pay a civil fine,
11 costs, or assessment or an installment ordered under section 8727
12 within 30 days after the date on which payment is due under
13 section 8727 in a municipal civil infraction action brought for a
14 violation involving the use or occupation of land or a building
15 or other structure, the plaintiff may obtain a lien against the
16 land, building, or structure involved in the violation by
17 recording a copy of the court order requiring payment of the
18 fines, costs, and assessment with the register of deeds for the
19 county in which the land, building, or structure is located. The
20 court order shall not be recorded unless a legal description of
21 the property is incorporated in or attached to the court order.
22 The lien is effective immediately upon recording of the court
23 order with the register of deeds.

24 (2) The court order recorded with the register of deeds shall
25 constitute notice of the pendency of the lien. In addition, a
26 written notice of the lien shall be sent by the plaintiff by
27 first-class mail to the owner of record of the land, building, or

1 structure at the owner's last known address.

2 (3) The lien may be enforced and discharged by a county,
3 city, village, or township in the manner prescribed by its
4 charter, by the general property tax act, 1893 PA 206, MCL 211.1
5 to 211.157, or by an ordinance duly passed by the governing body
6 of the county, city, village, or township. However, property is
7 not subject to sale under ~~section 60 of~~ the general property
8 tax act, 1893 PA 206, ~~MCL 211.60~~ **MCL 211.1 to 211.157**, for
9 nonpayment of a civil fine, costs, or assessment or an
10 installment ordered under section 8727 unless the property is
11 also subject to sale under ~~section 60 of~~ the general property
12 tax act, 1893 PA 206, ~~MCL 211.60~~ **MCL 211.1 to 211.157**, for
13 delinquent property taxes.

14 (4) A lien created under this section has priority over any
15 other lien unless 1 or more of the following apply:

16 (a) The other lien is a lien for taxes or special
17 assessments.

18 (b) The other lien is created before May 1, 1994.

19 (c) Federal law provides that the other lien has priority.

20 (d) The other lien is recorded before the lien under this
21 section is recorded.

22 (5) A political subdivision may institute an action in a
23 court of competent jurisdiction for the collection of the
24 judgment imposed by a court order for a municipal civil
25 infraction. However, an attempt by a county, city, village, or
26 township to collect the judgment by any process does not
27 invalidate or waive the lien upon the land, building, or

1 structure.

2 (6) A lien provided for by this section shall not continue
3 for a period longer than 5 years after a copy of the court order
4 imposing a fine, costs, or assessment is recorded, unless within
5 that time an action to enforce the lien is commenced.

6 Enacting section 1. This amendatory act takes effect
7 October 1, 2003.