

Act No. 138
Public Acts of 2003
Approved by the Governor
July 31, 2003
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**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2003**

Introduced by Rep. Lipsey

ENROLLED HOUSE BILL No. 4748

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," by amending sections 321, 880, 880a, 880b, 1027, 2529, 2538, 5756, 8371, and 8420 (MCL 600.321, 600.880, 600.880a, 600.880b, 600.1027, 600.2529, 600.2538, 600.5756, 600.8371, and 600.8420), section 321 as amended by 1997 PA 182, sections 880 and 880b as amended by 2000 PA 56, section 880a as added and sections 5756 and 8420 as amended by 1993 PA 189, section 1027 as added by 1996 PA 388, sections 2529 and 8371 as amended by 2002 PA 605, and section 2538 as amended by 1999 PA 151, and by adding sections 171 and 244.

The People of the State of Michigan enact:

Sec. 171. (1) The civil filing fee fund is created in the state treasury. The money in the fund shall be used as provided in this section.

(2) The state treasurer shall credit to the civil filing fee fund deposits of proceeds from the collection of revenue from court filing fees designated by law for deposit in the fund and shall credit all income from investment credited to the fund by the state treasurer. The state treasurer may invest money in the fund in any manner authorized by law for the investment of state money. However, an investment shall not interfere with any apportionment, allocation, or payment of money as required by this section. The unencumbered balance remaining in the fund at the end of a fiscal year shall remain in the fund and shall not revert to the general fund.

(3) In the state fiscal year beginning October 1, 2003 and in subsequent state fiscal years, the state treasurer shall distribute the proceeds of the fund monthly as follows:

(a) To the state court fund created in section 151a, 48.5% of the fund balance.

(b) To the court equity fund created in section 151b, 8.2% of the fund balance.

(c) To the judicial technology improvement fund created in section 175, 11.1% of the fund balance.

(d) To the community dispute resolution fund created by the community dispute resolution act, 1988 PA 260, MCL 691.1551 to 691.1564, 5.2% of the fund balance.

(e) To the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, 24% of the fund balance.

(f) To the secretary of the legislative retirement system for deposit with the state treasurer in the retirement fund created by the Michigan legislative retirement system act, 1957 PA 261, MCL 38.1001 to 38.1080, 1.5% of the fund balance.

(g) To the state general fund, 1.5% of the fund balance.

Sec. 244. (1) The following fees shall be paid to the supreme court clerk and may be taxed as costs when costs are allowed by the supreme court:

(a) The sum of \$375.00 for an application for leave to appeal.

(b) The sum of \$375.00 for an original proceeding.

(c) The sum of \$150.00 for a motion for immediate consideration or a motion to expedite appeal, except that a prosecuting attorney is exempt from paying a fee under this subdivision in an appeal arising out of a criminal proceeding, if the defendant is represented by a court-appointed lawyer.

(d) The sum of \$75.00 for all other motions.

(e) Fifty cents per page for a certified copy of a paper, from a public record.

(f) The sum of \$5.00 for certified docket entries.

(g) The sum of \$1.00 for certification of a copy presented to the clerk.

(h) Fifty cents per page for a copy of an opinion; however, 1 copy must be given without charge to the attorney for each party in the case.

(2) A person who is unable to pay a filing fee may ask the supreme court to waive the fee by filing a motion and an affidavit disclosing the reason for that inability.

Sec. 321. (1) The following fees shall be paid to the clerk of the court of appeals and may be taxed as costs where costs are allowed by order of the court:

(a) The sum of \$375.00 for an appeal as of right, for an application for leave to appeal, or for an original proceeding. This fee shall be paid only once for appeals that are taken by multiple parties from the same lower court order or judgment and can be consolidated.

(b) Upon the entry of any motion except a motion described in subdivision (c) upon the motion docket, the sum of \$100.00. Beginning October 1, 2005, the fee required under this subdivision is \$75.00.

(c) Upon the entry of a motion for immediate consideration or a motion to expedite appeal upon the motion docket, the sum of \$200.00. This fee shall be paid only once regardless of the number of lower court files involved in the appeal. A prosecuting attorney is exempt from paying a fee under this subdivision when filing a motion for immediate consideration or a motion to expedite appeal with regard to an appeal arising out of a criminal proceeding. Beginning October 1, 2005, the fee required under this subdivision is \$150.00.

(2) The clerk of the court of appeals shall be allowed the sum of 50 cents per page for certified copies of any entries or papers in any action or proceedings when required for any other purpose than one connected with the progress or disposition of such action or proceeding.

(3) The clerk shall charge the sum of 50 cents per page for all uncertified copies of opinions, excepting those sent to 1 counsel representing each party in the case, for which no charge shall be made.

(4) If a person is unable to pay the fees required by this section, the person, by motion, accompanied by the person's affidavit stating facts showing such inability, may ask the court to waive the fees and the court or a judge of the court may waive payment of the fees.

(5) Each month the clerk of the court of appeals shall deposit with the state treasurer all fees collected, securing and filing a receipt for the fees deposited.

(6) Costs shall be awarded in the discretion of the court.

(7) Upon appeal to the court of appeals, there shall be paid to the clerk of the trial court the sum of \$10.00 as an appeal fee.

Sec. 880. (1) Except as otherwise provided in this section and section 880a, at the time of commencing a civil action or proceeding in the probate court, the party commencing the civil action or proceeding shall pay a \$150.00 filing fee to the probate court register.

(2) At the time of commencing a proceeding under section 3982 of the estates and protected individuals code, 1998 PA 386, MCL 700.3982, the party commencing the proceeding shall pay a \$25.00 filing fee to the probate court register.

(3) Except as otherwise provided by law, a fee shall not be charged for commencing a proceeding in probate court under a provision of the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

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

(5) The probate register, on or before the fifth day of the month following the month in which fees are collected under this section, shall transmit to the county treasurer all fees collected under this section during the preceding month. Within 15 days after receiving the fees, the county treasurer shall transmit all fees collected under subsection (1) to the civil filing fee fund created in section 171 and all fees collected under subsection (2) to the state treasurer for deposit in the state court fund created by section 151a.

Sec. 880a. (1) Except as otherwise provided in this section and section 880, at the time of commencing a guardianship or limited guardianship proceeding in the probate court, the party commencing the proceeding shall pay a \$150.00 filing fee to the probate register.

(2) A party is not required to pay a fee under this section if the party is the attorney general, department of treasury, family independence agency, state public administrator, or administrator of veterans affairs of the United States veterans administration, or an agency of county government.

(3) The probate register, on or before the fifth day of the month following the month in which any fees are collected under this section, shall transmit to the county treasurer all fees collected under this section during the preceding month. Within 15 days after receiving the fees, the county treasurer shall transmit all fees collected to the state treasurer for deposit in the civil filing fee fund created by section 171.

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

(2) A fee shall not be charged under this section in a guardianship or limited guardianship proceeding if the moving party is the subject of the proceeding.

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

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

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

Sec. 1027. (1) At the time of commencing an ancillary guardianship or limited guardianship proceeding in the family division of circuit court, the party commencing the proceeding shall pay a \$150.00 filing fee to the family division of circuit court.

(2) A party is not required to pay a fee under this section if the party is the attorney general, department of treasury, family independence agency, state public administrator, or administrator of veterans affairs of the United States veterans administration, or an agency of county government.

(3) The clerk of the court, on or before the fifth day of the month following the month in which any fees are collected under this section, shall transmit to the county treasurer all fees collected under this section during the preceding month. Within 15 days after receiving the fees, the county treasurer shall transmit, for each fee collected, \$31.00 to the county treasurer and the balance of the fee to the state treasurer for deposit in the civil filing fee fund created in section 171.

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

(a) Before a civil action other than an action brought exclusively under section 2950, 2950a, or 2950h to 2950m is commenced, or before the filing of an application for superintending control or for an extraordinary writ, except the writ

of habeas corpus, the party bringing the action or filing the application shall pay the sum of \$150.00. The clerk at the end of each month shall transmit for each fee collected under this subdivision within the month \$31.00 to the county treasurer and the balance of the filing fee to the state treasurer for deposit in the civil filing fee fund created in section 171.

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

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

(d) Before entry of a final judgment in an action for divorce or separate maintenance in which minor children are involved, or the entry of a final judgment in a child custody dispute submitted to the circuit court as an original action, 1 of the following sums, which shall be deposited by the county treasurer as provided in section 2530:

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

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

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

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

(f) For services under the direction of the court that are not specifically provided for in this section relative to the receipt, safekeeping, or expending of money, or the purchasing, taking, or transferring of a security, or the collecting of interest on a security, the clerk shall receive the allowance and compensation from the parties as the court may consider just and shall direct by court order, after notice to the parties to be charged.

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

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

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

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

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

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

Sec. 2538. (1) For services provided that are not reimbursable under the provisions of part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 655, 656 to 660, and 663 to 669b, every person required to make payments of support or maintenance to be collected by the friend of the court or the state disbursement unit shall pay a fee of \$1.50 per month for every month or portion of a month that support or maintenance is required to be paid. The fee shall be paid monthly, quarterly, or semiannually as required by the friend of the court. The friend of the court shall provide notice of the fee required by this section to the person ordered to pay the support and that the fee shall be paid monthly or as otherwise determined by the friend of the court. The friend of the court or SDU shall transmit 25 cents of each fee collected under this section to the appropriate county treasurer for deposit into the general fund of the county, 25 cents to the state treasurer for deposit in the fund created in subsection (3), and the balance to the state treasurer for deposit in the state court fund created in section 151a.

(2) The department, the SDU, and each office of the friend of the court shall cooperate in the transition to the centralized receipt and disbursement of support and fees. An office of the friend of the court shall continue to receive and disburse support and fees through the transition, based on the schedule developed as required by section 6 of the office of child support act, 1971 PA 174, MCL 400.236, and modifications to that schedule as the department considers necessary.

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

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

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

(2) If a claim for a money judgment is joined with a claim for the recovery of possession of premises, the plaintiff shall pay a supplemental filing fee in the same amount as established by law for the filing of a claim for a money judgment in the same court.

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

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

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

Sec. 8371. (1) In the district court, the fees prescribed in this section shall be paid to the clerk of the court.

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

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

(4) Before a civil action is commenced in the district court, the party commencing the action shall pay to the clerk the sum of \$45.00 if the amount in controversy exceeds \$600.00 but does not exceed \$1,750.00. Beginning October 1, 2005, the fee required under this subsection is \$40.00. For each fee collected under this subsection, the clerk shall transmit \$17.00 to the treasurer of the district funding unit in which the action was commenced, of which not less than \$5.00 shall be used by the district funding unit to fund the operation of the district court; and shall transmit the balance to the state treasurer for deposit in the civil filing fee fund created by section 171. Beginning October 1, 2005, the amount of each fee that the clerk shall transmit to the treasurer of the district funding unit is reduced to \$12.00.

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

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

(7) Neither this state nor a political subdivision of this state shall be required to pay a filing fee in a civil infraction action.

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

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

(10) A sum of \$20.00 shall be assessed for all motions filed in a civil action. For each fee collected under this subsection, the clerk shall transmit \$10.00 to the state treasurer for deposit in the state court fund created in section 151a and the balance shall be transmitted to the treasurer of the district funding unit for the district court in the district in which the action was commenced.

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

Sec. 8420. (1) A fee of the following amount, as applicable, shall be charged and collected for the filing of the affidavit for the commencement of any action:

(a) \$25.00, if the amount in controversy does not exceed \$600.00. Beginning October 1, 2005, the fee required under this subdivision is \$20.00.

(b) \$45.00, if the amount in controversy exceeds \$600.00 but does not exceed \$1,750.00. Beginning October 1, 2005, the fee required under this subdivision is \$40.00.

(c) \$65.00, if the amount in controversy exceeds \$1,750.00. Beginning October 1, 2005, the fee required under this subdivision is \$60.00.

(2) A fee in an amount equal to the prevailing postal rate for the service provided shall be charged and collected for each defendant to whom a copy of the affidavit is mailed by the clerk. A fee of \$15.00 shall be charged and collected for the issuance of a writ of execution, attachment, or garnishment and for the issuance of a judgment debtor discovery subpoena. Except as otherwise provided in this chapter, a fee or charge shall not be collected by an officer for any service rendered under this chapter or for the taking of affidavits for use in connection with any action commenced under this chapter.

(3) Of each filing fee under subsection (1)(a) collected within the month, at the end of each month, the clerk shall transmit \$11.00 to the treasurer of the district funding unit in which the action was commenced, of which not less than \$5.00 shall be used by the district funding unit to fund the operation of the district court; and the balance to the state treasurer for deposit in the civil filing fee fund created in section 171. Beginning October 1, 2005, the amount of each fee that the clerk shall transmit to the treasurer of the district funding unit is reduced to \$6.00.

(4) Of each filing fee under subsection (1)(b) collected within the month, at the end of each month, the clerk shall transmit \$17.00 to the treasurer of the district funding unit in which the action was commenced, of which not less than \$5.00 shall be used by the district funding unit to fund the operation of the district court; and the balance to the state treasurer for deposit in the civil filing fee fund created in section 171. Beginning October 1, 2005, the amount of each fee that the clerk shall transmit to the treasurer of the district funding unit is reduced to \$12.00.

(5) Of each filing fee under subsection (1)(c) collected within the month, at the end of each month, the clerk shall transmit \$23.00 to the treasurer of the district funding unit in which the action was commenced, of which not less than \$5.00 shall be used by the district funding unit to fund the operation of the district court; and the balance to the state treasurer for deposit in the civil filing fee fund created in section 171. Beginning October 1, 2005, the amount of each fee that the clerk shall transmit to the treasurer of the district funding unit is reduced to \$18.00.

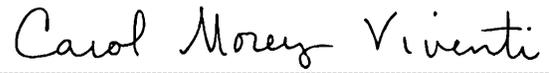
(6) If the affidavit and notice to appear and answer are served by personal service, the person serving the process is entitled to the same fee and mileage as for the service of a summons and complaint out of the district court.

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor