

Act No. 239
Public Acts of 2009
Approved by the Governor
January 8, 2010
Filed with the Secretary of State
January 8, 2010
EFFECTIVE DATE: January 8, 2010

**STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2009**

Introduced by Reps. Womack, Valentine, Liss, Kurtz and Byrnes

ENROLLED HOUSE BILL No. 5504

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 the courts, and of the judges and other officers of the courts; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in the courts; pleading, evidence, practice, and procedure in civil and criminal actions and proceedings in the courts; to provide for the powers and duties of certain state governmental officers and entities; 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 2137, 2529, and 2538 (MCL 600.2137, 600.2529, and 600.2538), section 2137 as amended by 2001 PA 76, section 2529 as amended by 2004 PA 205, and section 2538 as amended by 2003 PA 178.

The People of the State of Michigan enact:

Sec. 2137. (1) If a public officer reproduces court records kept by him or her pursuant to the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406, the officer may offer the original records to the department or state agency responsible for maintaining the state archives for placement in the state archives. If the department or state agency responsible for maintaining the state archives accepts the offer within 30 days, the court shall transfer the records to that department or state agency. If the department or state agency responsible for maintaining the state archives does not accept the offer within 30 days, the court may dispose of or destroy the records in the manner provided for state agencies under sections 285 and 287 of the management and budget act, 1984 PA 431, MCL 18.1285 and 18.1287, and section 5 of 1913 PA 271, MCL 399.5. The record of a court shall not be disposed of or destroyed until the record has been in the custody of the court for not less than 6 years.

(2) In a county or probate court district in which the county board or boards of commissioners pass a resolution or resolutions for reproducing records pursuant to the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406, the judge of probate may have the records of the probate court reproduced in accordance with the resolution or resolutions. The judge of probate shall have a copy or a duplicate kept in a building outside of the probate office and shall keep a copy available in the probate office with any suitable equipment necessary for displaying the record at not less than its original size or for preparing copies for persons entitled to copies. The judge of probate then may order a record destroyed. A reproduction in a medium pursuant to the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406, or a reproduction consisting of a printout or other output readable by sight from such a medium is admissible as evidence before a court, commission, or administrative body the same as the original. The original file of an estate proceeding shall not be destroyed until 6 years after the date the discharge of the fiduciary is filed or 10 years after the last document is filed, whichever occurs first.

(3) A court of record other than the district court may order the destruction of a court reporter or recorder note, tape, or recording 15 years after the date that the note, tape, or recording was made for a felony case and 10 years after the date that the note, tape, or recording was made for any other case. One year after a transcript of a note, tape, or recording is filed with the court, the court may order the destruction of the note, tape, or recording. If a transcript of a trial or other proceeding in a court of record other than the district court is ordered other than for filing in the case file, the court reporter or recorder also shall prepare and shall file a certified copy of the transcript in the case file at the expense of the person ordering the transcript unless a copy has been filed with the court or unless the chief judge of the court orders otherwise in an order filed in the case file. As used in this subsection, "felony case" does not include proceedings in a case that occur before arraignment on information or indictment or proceedings in a case in which the defendant is not convicted of a felony.

(4) Except as provided in subsection (3), a judicial circuit of the circuit court may order the destruction of its files and records in a case in which action has not been taken during the 25 years immediately preceding the order of destruction. All of the following procedures shall be followed before the issuance of an order of destruction of circuit court files and records:

(a) The judgment or decree, if any, shall be reproduced pursuant to the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406, or separated and retained, and the original or reproduction shall be made available for public inspection.

(b) The circuit court shall offer the files and records, subject to the order of destruction, to the Michigan historical commission established by section 1 of 1913 PA 271, MCL 399.1, or a historical commission created under section 2 of 1957 PA 213, MCL 399.172. If the historical commission accepts the offer within 30 days, the circuit court shall transfer the files and records to the historical commission. If the historical commission does not accept the offer within 30 days, the circuit court shall issue an order of destruction.

(5) A reproduction of a record in a medium pursuant to the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406, or a reproduction consisting of a printout or other output readable by sight from such a medium, made as provided by law, has the same force and effect as the original would have had and shall be treated as an original for the purpose of admissibility in evidence. A duly certified or authenticated copy of the reproduction shall be admitted into evidence equally with the original reproduction.

(6) Except for records described in subsection (3), this section only applies to records filed with the court and maintained by the court clerk or register.

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 a writ of habeas corpus, the party bringing the action or filing the application shall pay \$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 appellant or moving party shall pay \$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) At the time a trial by jury is demanded, the party making the demand shall pay \$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 fee paid shall be taxed in favor of the party paying it if 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 or order in an action in which the custody, support, or parenting time of minor children is determined or modified, the party submitting the judgment or order shall pay 1 of the following fees:

(i) In an action in which the custody or parenting time of minor children is determined, \$80.00.

(ii) In an action in which the support of minor children is determined or modified, \$40.00. This fee does not apply when a fee is paid under subparagraph (i).

(e) Except as otherwise provided in this section, upon the filing of a motion, the moving party shall pay \$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. A motion fee shall not be collected for a request for a hearing to contest income withholding under section 7 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.607. 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 related to receiving, safekeeping, or expending money, purchasing, taking, or transferring a security, or collecting interest on a security, a party shall pay the allowance and compensation that the court determines to be just as ordered by the court after notice to the parties.

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

(h) The applicant or requesting party shall pay \$15.00 as a service fee for each writ of garnishment, attachment, or execution and each judgment debtor discovery subpoena issued.

(2) The fees paid as provided in this section are payment 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 paid under this section shall be paid to the county treasurer as required by law.

(4) At the end of each month, each fee collected under subsection (1)(d)(i) shall be paid to the county treasurer and deposited by the county treasurer as provided under section 2530 to be used to fund services that are not title IV-D services. The fee collected under subsection (1)(d)(ii) shall be paid to the county treasurer and deposited by the county treasurer as provided under section 2530.

(5) 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.

(6) If the person filing an action described in subsection (1)(d) is a public officer acting in his or her official capacity, if the final judgment or order is submitted with the initial filing as a consent judgment or order, or other good cause is shown, the court shall order the fee under subsection (1)(d) waived or suspended. If a fee is waived or suspended and the action is contested, the court may require that 1 or more of the parties to the action pay the fee under subsection (1)(d).

(7) The court may order a party to pay the other party all or part of a fee paid by the other party under subsection (1)(d).

Sec. 2538. (1) For services provided that are not reimbursable under the provisions of part D of title IV of the social security act, 42 USC 651 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 \$3.50 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 each fee collected under this section as follows:

(a) Two dollars and twenty-five cents to the appropriate county treasurer for deposit into the general fund of the county to be used to fund the provision of services by the friend of the court that are not reimbursable under part D of title IV of the social security act, 42 USC 651 to 669b.

(b) For fees assessed on or after October 1, 2003, 25 cents to the state treasurer for deposit in the fund created in subsection (4).

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

(2) A court may hold a person who fails or refuses to pay a service fee ordered under subsection (1) in contempt.

(3) The SDU is responsible for the centralized receipt and disbursement of support. An office of the friend of the court may continue to receive support and fees.

(4) 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.

(5) 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.

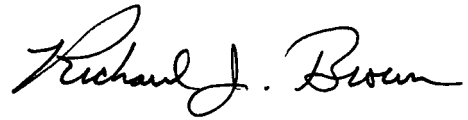
Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 95th Legislature are enacted into law:

(a) Senate Bill No. 105.


(b) Senate Bill No. 106.

(c) Senate Bill No. 107.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 105 was filed with the Secretary of State January 8, 2010, and became 2009 PA 234, Imd. Eff. Jan. 8, 2010.

Senate Bill No. 106 was filed with the Secretary of State January 8, 2010, and became 2009 PA 235, Imd. Eff. Jan. 8, 2010.

Senate Bill No. 107 was filed with the Secretary of State January 8, 2010, and became 2009 PA 236, Imd. Eff. Jan. 8, 2010.