

HOUSE BILL No. 5504

October 8, 2009, Introduced by Reps. Womack, Valentine, Liss, Kurtz and Byrnes and referred to the Committee on Families and Children's Services.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," 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:

1 Sec. 2137. (1) If a public officer reproduces court records
2 kept by him or her pursuant to the records ~~media~~**REPRODUCTION** act,
3 1992 PA 116, MCL 24.401 to ~~24.403~~**24.406**, the officer may offer the
4 original records to the department of history, arts, and libraries
5 for placement in the state archives. If the department of history,
6 arts, and libraries accepts the offer within 30 days, the court
7 shall transfer the records to ~~that~~**THE** department. If the
8 department of history, arts, and libraries does not accept the

1 offer within 30 days, the court may dispose of or destroy the
2 records in the manner provided for state agencies under sections
3 285 and 287 of the management and budget act, 1984 PA 431, MCL
4 18.1285 and 18.1287, and section 5 of 1913 PA 271, MCL 399.5. The
5 record of a court shall not be disposed of or destroyed until the
6 record has been in the custody of the court for not less than 6
7 years.

8 (2) In a county or probate court district in which the county
9 board or boards of commissioners pass a resolution or resolutions
10 for reproducing records pursuant to the records ~~media~~**REPRODUCTION**
11 act, 1992 PA 116, MCL 24.401 to ~~24.403~~**24.406**, the judge of probate
12 may ~~cause~~**HAVE** the records of the probate court ~~to be so~~ reproduced
13 **IN ACCORDANCE WITH THE RESOLUTION OR RESOLUTIONS**. The judge of
14 probate shall ~~cause~~**HAVE** a copy or a duplicate ~~to be~~ kept in a
15 building outside of the probate office and shall keep a copy
16 available in the probate office with any suitable equipment
17 necessary for displaying the record at not less than its original
18 size or for preparing copies for persons entitled to copies. The
19 judge of probate then may order a record destroyed. A reproduction
20 in a medium pursuant to the records ~~media~~**REPRODUCTION** act, 1992 PA
21 116, MCL 24.401 to ~~24.403~~**24.406**, or a reproduction consisting of a
22 printout or other output readable by sight from such a medium is
23 admissible as evidence before a court, commission, or
24 administrative body the same as the original. The original file of
25 an estate proceeding shall not be destroyed until 6 years ~~have~~
26 ~~elapsed from~~**AFTER** the date ~~of filing of~~ the discharge of the
27 fiduciary **IS FILED** or 10 years ~~have elapsed from the filing of~~

1 **AFTER** the last document **IS FILED**, whichever ~~date~~ occurs first.

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

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

26 (a) The judgment or decree, if any, shall be reproduced
27 pursuant to the records ~~media~~-**REPRODUCTION** act, 1992 PA 116, MCL

1 24.401 to ~~24.403~~ **24.406**, or separated and retained, and the
2 original or reproduction shall be made available for public
3 inspection.

4 (b) The circuit court shall offer the files and records,
5 subject to the order of destruction, to the Michigan historical
6 commission established by **SECTION 1 OF** 1913 PA 271, MCL 399.1, ~~to~~
7 ~~399.10~~, or a historical commission created ~~pursuant to~~ **UNDER**
8 **SECTION 2 OF** 1957 PA 213, MCL ~~399.171 to~~ 399.172. If the historical
9 commission accepts the offer within 30 days, the circuit court
10 shall transfer the files and records to the historical commission.
11 If the historical commission does not accept the offer within 30
12 days, the circuit court shall issue an order of destruction.

13 (5) A reproduction of a record in a medium pursuant to the
14 records ~~media~~ **REPRODUCTION** act, 1992 PA 116, MCL 24.401 to ~~24.403~~
15 **24.406**, or a reproduction consisting of a printout or other output
16 readable by sight from such a medium, made as provided by law, has
17 the same force and effect as the original would have had and shall
18 be treated as an original for the purpose of admissibility in
19 evidence. A duly certified or authenticated copy of the
20 reproduction shall be admitted into evidence equally with the
21 original reproduction.

22 (6) **EXCEPT FOR RECORDS DESCRIBED IN SUBSECTION (3), THIS**
23 **SECTION ONLY APPLIES TO RECORDS FILED WITH THE COURT AND MAINTAINED**
24 **BY THE COURT CLERK OR REGISTER.**

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

27 (a) Before a civil action other than an action brought

1 exclusively under section 2950, 2950a, or 2950h to 2950m is
2 commenced, or before the filing of an application for
3 superintending control or for an extraordinary writ, except ~~the A~~
4 writ of habeas corpus, the party bringing the action or filing the
5 application shall pay ~~the sum of~~ \$150.00. The clerk at the end of
6 each month shall transmit for each fee collected under this
7 subdivision within the month \$31.00 to the county treasurer and the
8 balance of the filing fee to the state treasurer for deposit in the
9 civil filing fee fund created in section 171.

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

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

26 (d) Before entry of a final judgment or order in an action in
27 which the custody, support, or parenting time of minor children is

1 determined or modified, the party submitting the judgment or order
2 shall pay 1 of the following fees: ~~which shall be deposited by~~
3 ~~the county treasurer as provided in section 2530.~~

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

6 (ii) In an action in which the support of minor children is
7 determined or modified, \$40.00. This fee does not apply when a fee
8 is paid under subparagraph (i). ~~The court may order a party to~~
9 ~~reimburse to the other party all or a portion of the fee paid by~~
10 ~~that other party.~~

11 (e) Except as otherwise provided in this section, upon the
12 filing of a motion, the ~~sum of~~ **MOVING PARTY SHALL PAY** \$20.00. In
13 conjunction with an action brought under section 2950 or 2950a, a
14 motion fee shall not be collected for a motion to dismiss the
15 petition, a motion to modify, rescind, or terminate a personal
16 protection order, or a motion to show cause for a violation of a
17 personal protection order. A motion fee shall not be collected for
18 a motion to dismiss a proceeding to enforce a foreign protection
19 order or a motion to show cause for a violation of a foreign
20 protection order under sections 2950h to 2950m. A motion fee shall
21 not be collected for a request for a hearing to contest income
22 withholding under section 7 of the support and parenting time
23 enforcement act, 1982 PA 295, MCL 552.607. For each fee collected
24 under this subdivision, the clerk shall transmit \$10.00 to the
25 state treasurer for deposit in the state court fund created by
26 section 151a.

27 (f) For services under the direction of the court that are not

specifically provided for in this section ~~relative to the receipt~~
~~RELATED TO RECEIVING~~, 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 a~~
PARTY SHALL PAY the allowance and compensation ~~from the parties as~~
THAT the court ~~may consider DETERMINES TO BE~~ just and shall direct
~~by court order, AS ORDERED BY THE COURT~~ after notice to the
parties. ~~to be charged.~~

(g) Upon appeal to the court of appeals or the supreme court,
the ~~sum of~~ **APPELLANT SHALL PAY** \$25.00.

(h) The ~~sum of~~ **APPLICANT OR REQUESTING PARTY SHALL PAY** \$15.00
as a service fee for each writ of garnishment, attachment, **OR**
execution, ~~or~~ **AND EACH** judgment debtor discovery subpoena issued.

(2) The ~~sums~~ **FEES** paid as provided in this section ~~shall be~~
~~held to be~~ **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 ~~over to~~ the county treasurer
as required by law.

(4) At the end of each month, ~~the clerk shall transmit for~~
each fee collected under ~~subsection (1)(d) \$10.00 to the state~~
~~treasurer for deposit in the fund created by section 6a of the~~
~~office of child support act, 1971 PA 174, MCL 400.236a. The balance~~
~~of the fee collected under subsection (1)(d)(i) shall be paid to the~~
county treasurer and deposited by the county treasurer as provided

1 under section 2530 to be used to fund services that are not title
 2 IV-D services. The ~~balance of the fee~~ collected under subsection
 3 (1)(d)(ii) shall be paid to the county treasurer and deposited by
 4 the county treasurer as provided under section 2530.

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

8 (6) If the person filing an action ~~under~~ **DESCRIBED IN**
 9 subsection (1)(d) is a public officer acting in his or her official
 10 capacity, if the **FINAL JUDGMENT OR** order is submitted with the
 11 initial filing as a consent **JUDGMENT OR** order, or other good cause
 12 is shown, the court shall order the fee under subsection (1)(d)
 13 waived or suspended. If a fee is waived or suspended and the action
 14 is contested, the court may require that 1 or more of the parties
 15 to the action pay the fee under subsection (1)(d).

16 (7) **THE COURT MAY ORDER A PARTY TO PAY THE OTHER PARTY ALL OR**
 17 **PART OF A FEE PAID BY THE OTHER PARTY UNDER SUBSECTION (1)(D).**

18 Sec. 2538. (1) For services provided that are not reimbursable
 19 under the provisions of part D of title IV of the social security
 20 act, ~~chapter 531, 49 Stat. 620, 42 U.S.C. 42 USC 651 to 655, 656 to~~
 21 ~~660, and 663 to 669b~~, every person required to make payments of
 22 support or maintenance to be collected by the friend of the court
 23 or the state disbursement unit shall pay a fee of ~~\$1.50~~ **\$3.50** per
 24 month for every month or portion of a month that support or
 25 maintenance is required to be paid. The fee shall be paid monthly,
 26 quarterly, or semiannually as required by the friend of the court.
 27 The friend of the court shall provide notice of the fee required by

1 this section to the person ordered to pay the support and that the
 2 fee shall be paid monthly or as otherwise determined by the friend
 3 of the court. The friend of the court or SDU shall transmit each
 4 fee collected under this section as follows:

5 (a) ~~Twenty-five~~ **TWO DOLLARS AND TWENTY-FIVE** cents to the
 6 appropriate county treasurer for deposit into the general fund of
 7 the county **TO BE USED TO FUND THE PROVISION OF SERVICES BY THE**
 8 **FRIEND OF THE COURT THAT ARE NOT REIMBURSABLE UNDER PART D OF TITLE**
 9 **IV OF THE SOCIAL SECURITY ACT, 42 USC 651 TO 669B.**

10 (b) For fees assessed on or after October 1, 2003, 25 cents to
 11 the state treasurer for deposit in the fund created in subsection
 12 ~~(3)~~ **(4)**.

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

15 **(2) A COURT MAY HOLD A PERSON WHO FAILS OR REFUSES TO PAY A**
 16 **SERVICE FEE ORDERED UNDER SUBSECTION (1) IN CONTEMPT.**

17 ~~(3) (2) The department, the SDU, and each office of the friend~~
 18 ~~of the court shall cooperate in the transition to~~ **THE SDU IS**
 19 **RESPONSIBLE FOR** the centralized receipt and disbursement of
 20 support. ~~and fees. An office of the friend of the court shall~~ **MAY**
 21 continue to receive ~~and disburse~~ support and fees. ~~through the~~
 22 ~~transition, based on the schedule developed as required by section~~
 23 ~~6 of the office of child support act, 1971 PA 174, MCL 400.236, and~~
 24 ~~modifications to that schedule as the department considers~~
 25 ~~necessary.~~

26 ~~(4) (3)~~ An attorney general's operations fund is created
 27 within the state treasury. The state treasurer may receive money or

1 other assets from any source for deposit into the fund. The state
2 treasurer shall direct the investment of the fund. The state
3 treasurer shall credit to the fund interest and earnings from fund
4 investments. Money in the fund at the close of the fiscal year
5 shall remain in the fund and shall not lapse to the general fund.
6 The department of attorney general shall expend money from the
7 fund, upon appropriation, for operational purposes.

8 (5) ~~(4)~~—As used in this section, "state disbursement unit" or
9 "SDU" means the entity established in section 6 of the office of
10 child support act, 1971 PA 174, MCL 400.236.

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

14 (a) Senate Bill No. 105 or House Bill No.____ (request no.
15 01072'09).

16 (b) Senate Bill No. 106 or House Bill No.____ (request no.
17 01073'09).

18 (c) Senate Bill No. 107 or House Bill No.____ (request no.
19 01074'09).