

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

CHAPTER 18

PROCESS AND ARRESTS

600.1801 Process; service and return; service on sheriff or deputies.

Sec. 1801. (1) When any process or order, issued by any court of record, or any complaint or other paper, is delivered to any sheriff, under-sheriff or deputy to serve, such officer shall serve the same with all convenient speed, and shall return the same with his certificate endorsed thereon, of the time and manner of such service, either to the office of the clerk of the court in which such suit or proceeding is pending, or to the attorney whose name is endorsed on the process, order, complaint or paper.

(2) In any action where an under-sheriff or deputy sheriff is a party, any process may be served on such under-sheriff or deputy sheriff, by the sheriff in person, or by any under-sheriff or deputy sheriff who is not a party to such action.

(3) When the sheriff is a party or interested in any suit, any coroner within his county may serve and execute any process, order, or any other paper in the cause, and has the same powers, and is subject to the same liabilities as sheriffs in similar cases.

(4) If the sheriff is a party in interest in any suit, service of process not requiring arrest or seizure of property may be made upon him by any person of suitable age and discretion.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.1805 Process; expiration or vacancy in office of sheriff; effect.

Sec. 1805. Sheriffs, under-sheriffs, and deputy sheriffs, may execute all process in their hands at the expiration of the term for which such sheriffs were elected, the execution of which having been begun by him, and shall make due returns thereof in their own name. In case of a vacancy in the office of sheriff, every deputy in office under him may execute any writ or process in his hands or in the hands of such sheriff, at the time such vacancy happened, and has the same authority, and is under the same obligation to serve and execute and return the same, as if such sheriff had continued in office.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.1809 Process; amendment of return.

Sec. 1809. All returns made by any sheriff or other officer, or by any court or subordinate tribunal, to any court, may be amended in matter of form by the court to which such returns are made, in their discretion, both before and after judgment.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.1811 Process; appointment of substitute server.

Sec. 1811. (1) The judge of any circuit court of this state may in any suit or proceeding commenced or pending therein, on the application of any party thereto, appoint some disinterested person to serve any process or other papers, or to do any act therein which the sheriff by law might do in the cause, if the sheriff and coroners of the county are parties, or interested or incapacitated to act.

(2) The appointment shall be in writing, signed by the judge, and filed in the cause. The person so appointed has the same power conferred upon him, and shall proceed in the same manner prescribed for the sheriff in the performance of like duties. The fees payable to such person shall be the same as those payable to sheriffs by virtue of the provisions of law in that behalf for like services.

(3) The judge may, in his discretion, require the person so appointed, before acting under said appointment, to give a bond to the people of this state in such penal sum, and with such surety or sureties as the judge may approve, conditioned for the faithful performance and execution by such person of his duties in such case, without fraud, deceit or oppression, and for the payment of all moneys that may come into his hands by virtue of such appointment.

(4) The person so appointed is deemed a coroner of the county, and is liable in all respects to all the provisions of law respecting sheriffs, so far as the same may be applicable.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.1815 Capias ad respondendum; abolishment.

Sec. 1815. The writ of capias ad respondendum is abolished and no civil actions shall be started by arrest.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.1821 Arrest; exemptions.

Sec. 1821. (1) No officer of the senate or house of representatives is liable to arrest on civil process while in actual attendance upon the duties of his office.

(2) No female shall be imprisoned on any process in any civil action.

(3) No minor under 16 years of age shall be imprisoned on any process in any civil action.

(4) All parties, attorneys, and subpoenaed witnesses are exempt from arrest on civil process while going to, attending, and returning from the places they are required to attend.

(5) No person while he is within this state pursuant to any subpoena issued to compel his appearance in any criminal proceeding pending in this state shall be arrested or detained upon any criminal charge for any offense committed prior to his entry into this state pursuant to the subpoena.

(6) No person passing through this state while going to another state in obedience to a summons to attend and testify in a criminal proceeding in that state or while returning from that state shall be arrested, by either civil or criminal arrest, for any matter which arose before his entry into this state in obedience to that summons.

(7) No officer of any of the several courts of record, including jurors, shall be arrested on any civil process while going to, attending, or returning from any actual sitting of the court of which he is an officer. In other cases these officers are liable to arrest and may be held to bail in the same manner as other persons.

(8) Every civil arrest made contrary to the above provisions (1) through (7) is void and a contempt of court. The court or officer before whom any witness is subpoenaed to attend and every justice of the supreme court and every circuit judge has authority to discharge any person arrested contrary to those provisions (1) through (7).

(9) Every person making or procuring a civil arrest contrary to the above provisions (1) through (7) is guilty of contempt of court and is liable to the person arrested in double the amount of damages which a jury finds that he has sustained and also is liable in an action at the suit of any injured person for the loss, hindrance, and damage the injured person has sustained in consequence of the arrest. The officer or person causing the arrest shall not be guilty of contempt nor liable for damages if the person exempt from arrest has failed to mention that he is exempt or, after mentioning that he is exempt, refused the officer's request to sign an affidavit swearing that at the time of his arrest he was either:

(a) an officer of the senate or house of representatives in actual attendance upon the duties of his office, or

(b) a female, or

(c) a minor under 16 years of age, or

(d) a party, attorney, or subpoenaed witness going to, attending, or returning from a place he was required to attend, or

(e) a person who was passing through this state while going to or returning from another state to which he had been summoned to attend and testify in a criminal prosecution, or

(f) an officer of a court of record going to, attending, or returning from an actual sitting of the court.

Any civil arrest made contrary to the above provisions (1) through (7) is void.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.1825 Arrest; privileged persons.

Sec. 1825. (1) Every elector is privileged from arrest while going to, attending, and returning from elections in all cases except for treason, felony, or breach of the peace.

(2) Senators and representatives are privileged from arrest during sessions of the legislature and for 15 days next before the commencement and after the end of each session.

(3) All officers, warrant officers, and enlisted personnel who are in the actual service of this state or the United States are privileged from arrest and imprisonment during the time of their actual service except for treason, felony, or breach of the peace.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.1831 Civil process; exemptions.

Sec. 1831. (1) Civil process shall not be served on an elector entitled to vote at an election during the day that election is held. However, if sufficient cause is shown by affidavit to the satisfaction of a judge, that judge may issue a restraining order or authorize the issuance and service or execution of a writ on an election day, as on other days.

(2) Civil process shall not be served or executed on a person attending a worship meeting of a religious organization that has tax exempt status under section 501(c)(3) of the internal revenue code, 26 USC 501, on property where the organization normally conducts its worship, or going to or coming from such a meeting within 500 feet of that property. A judge may order service or execution of process notwithstanding this

subsection if, to the judge's satisfaction, sufficient cause is shown by affidavit.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1984, Act 29, Imd. Eff. Mar. 12, 1984;—Am. 2005, Act 201, Imd. Eff. Nov. 10, 2005.

600.1835 Civil process; privileged persons.

Sec. 1835. (1) All persons going to, attending, or returning from, any court proceedings in any action in which their presence is needed are privileged from service of process if service could not have been made on them had they not gone to, attended, or returned from the proceedings.

(2) Any person brought into this state by or after waiver of extradition based on a criminal charge is privileged against the service of personal process in civil actions arising out of the same facts as the criminal proceedings which he or she is returned to answer until he or she has been convicted in the criminal proceeding, or, if acquitted, until he or she has a reasonable opportunity to return to the state from which he or she came.

(3) A member of the legislature shall not be privileged from civil process except on a day on which there is a scheduled meeting of the house of which he or she is a member. However, a member of the legislature shall not be privileged from civil process on a day on which there is a scheduled meeting of the house of which he or she is a member, if such process is executed by certified mail, return receipt requested.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1984, Act 29, Imd. Eff. Mar. 12, 1984.

600.1841 Civil process; service on Great Lakes or border waters.

Sec. 1841. Civil process which may be served by law anywhere in the state may be served upon any of the waters of the Great Lakes on border waters lying within the state. Any civil process which is required to be served within any county may also be served upon any of the waters of the Great Lakes or border waters which adjoin that county and are included in an extension of the boundary lines of that county to be boundary lines of the state. In any county where the boundary lines are not capable of extension because irregular, process issued from that county may be served on the waters of the Great lakes at any point within 10 miles of the shore line of that county.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.1845 Confinement in jail; liability for release, penalty.

Sec. 1845. (1) All prisoners committed to any jail upon process for contempt or committed for misconduct in the cases prescribed by law, shall be actually confined and detained within the jail until they are discharged from the jail by due course of law or are removed to some other jail or place of confinement in the cases provided by law.

(2) If any sheriff or keeper of a jail permits or suffers any prisoner so committed to jail to go or be at large out of his prison, except by virtue of writ of habeas corpus or order of court or as otherwise provided by the law, he is liable for the damages sustained to the party aggrieved. And he is also guilty of a misdemeanor.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.1851 Repealed. 1967, Act 178, Eff. Nov. 2, 1967.

Compiler's note: The repealed section related to uniform foreign depositions act.

600.1852 Service of process outside this state; order.

Sec. 1852. Any court of record of this state in a county in which a person resides, is employed, transacts his or her business in person, or is found may order service upon the person of any document issued in connection with a proceeding in a tribunal outside this state. The order may be made upon application of any interested person or in response to a letter rogatory issued by a tribunal outside this state and shall direct the manner of service. Service in connection with a proceeding in a tribunal outside this state may be made within this state without an order of court. Service under this section does not, of itself, require the recognition or enforcement of an order, judgment or decree rendered outside this state.

History: Add. 1967, Act 178, Eff. Nov. 2, 1967;—Am. 2012, Act 362, Eff. Apr. 1, 2013.

600.1855 Service of process; public bodies, duties of officers.

Sec. 1855. Service of process on municipal and public corporations and other public bodies shall be made as prescribed by rule of the supreme court. The officer upon whom such service is made shall inform the public body of such service at or before its next meeting. The council, board, commission, corporation, or other public body may appear and answer or plead in such proceedings in such manner as it may direct.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.1861 Service of process; by service on public officer, copy to nongovernmental defendant.

Sec. 1861. When service is made on a non-governmental defendant by service on a public officer, the officer or his deputy shall forthwith forward by registered mail, postage prepaid, a copy of the summons and complaint, directed to the secretary or corresponding officer of the defendant, or other appropriate person.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.1865 Chapter and Mich. Const., Art. IV, § 11, inapplicable to issuance of service of citation pursuant to MCL 257.742.

Sec. 1865. This chapter and the privilege from civil process provided by section 11 of article IV of the state constitution of 1963 shall not apply to the issuance or service of a citation pursuant to section 742 of Act No. 300 of the Public Acts of 1949, as amended, being section 257.742 of the Michigan Compiled Laws.

History: Add. 1979, Act 67, Eff. Aug. 1, 1979;—Am. 1984, Act 29, Imd. Eff. Mar. 12, 1984.