

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

COURT OFFICERS

600.565 Judicial clerks; appointment, duties, salary.

Sec. 565. (1) Upon recommendation of the circuit judges of the county, the governor may

(a) appoint the indicated number of judicial clerks in the specified circuits and counties as follows:

(i) one clerk in counties having 2 or more judges,

(ii) three or more clerks in counties having more than 1,000,000 population;

(b) remove the judicial clerks and appoint successors.

(2) The judicial clerks shall

(a) perform such duties as the circuit judges prescribe in connection with the court's business;

(b) receive an annual salary from the county, payable in monthly installments,

(i) in accordance with the official salary plan of the county where the county has adopted civil service under Act No. 370 of the Public Acts of 1941, as amended, being sections 38.401 to 38.428, inclusive, of the Compiled Laws of 1948;

(ii) as fixed and determined by the board of supervisors for the county where the county has not adopted civil service. The board of supervisors may increase the judicial clerk's salary at any regular October session.

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

600.567 Repealed. 1996, Act 374, Eff. Oct. 1, 1996.

Compiler's note: The repealed section pertained to executive court administrator.

600.571 Circuit court clerks; duties, accounting.

Sec. 571. The county clerk of each county shall

(a) Be the clerk of the circuit court for the county.

(b) Attend the circuit court sessions.

(c) Appoint in counties with more than 1 circuit judge or having more than 100,000 population but less than 1,000,000 a deputy for each judge and approved by the judge to attend the court sessions. Each deputy shall receive a salary of at least \$6,500.00.

(d) On the first day of each court term render an accounting to the court of all funds, stocks or securities deposited with the court clerk pursuant to court order.

(e) Within 10 days after the beginning of each court term pay over to the county treasurer all fees belonging to the county received during the preceding court term together with an accounting thereof.

(f) Have the care and custody of all the records, seals, books and papers pertaining to the office of the clerk of such court, and filed or deposited therein, and shall provide such books for entering the proceedings in said court, as the judge thereof shall direct.

(g) Perform such duties as may be prescribed by court rule. Whenever in any statute of this state, the designation "register in chancery" occurs, it shall be deemed to apply to the clerk of the circuit court.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1965, Act 31, Imd. Eff. May 14, 1965;—Am. 1966, Act 343, Eff. Jan. 1, 1967.

600.572 Deposits with court; bond of clerk.

Sec. 572. The circuit judge in his discretion may

(a) make and file with the clerk of the court rules and regulations concerning funds, stocks, or securities deposited with the court pursuant to court order;

(b) require the court clerk to file a bond with the county treasurer conditioned that said clerk shall, in all respects comply with the requirements of law and the court rules in the handling and management of such funds, and to faithfully account for the same.

(3) Whenever the court directs by order that stocks and securities be deposited with a court officer, they shall be taken in the name of the court clerk. Upon the death, removal from office, or resignation of a court clerk, all bank accounts, stocks, or securities vested in him by virtue of his office shall vest in his successor.

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

600.573 Deposits with court; deposit in bank.

Sec. 573. All funds, stocks, or securities deposited with the court for or by any person and received by the court clerk shall be deposited in a bank or otherwise safeguarded in the manner directed by the court.

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

600.574 Deposits with court; certificate; securities, accounting.

Sec. 574. Any funds which the clerk deposits in a bank shall be evidenced by a certificate from the bank cashier except for stocks or securities deposited in a safety deposit box as directed by the court. The certificate shall state that the amount deposited is actually in the bank, is credited to the clerk's account, and is not mingled with any other account. Stocks or securities deposited in a safety deposit box shall be accounted for as directed by the court.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1970, Act 60, Imd. Eff. July 10, 1970.

600.575 Deposits with court; payment on court order.

Sec. 575. Funds which the clerk deposits in a bank to the credit of any officer of the court shall be paid out by the bank only upon presentation of a court order signed by the circuit judge.

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

600.576 Deposits with court; liability of payor.

Sec. 576. A person depositing funds, stocks, or securities with the court clerk pursuant to court order is discharged from all further liability to the extent of the deposit.

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

600.579 Deputy circuit court clerks; appointment, salary.

Sec. 579. (1) In counties having a population of more than 1,000,000 or that shall hereafter attain a population of more than 1,000,000 and that have adopted civil service under Act No. 370 of the Public Acts of 1941, as amended, being sections 38.401 to 38.428 of the Compiled Laws of 1948, the county clerk shall appoint or promote from the classified eligible list of the civil service a chief deputy circuit court clerk and at least 1 deputy circuit court clerk for each acting circuit judge in the county.

(2) In counties that may hereafter attain a population of more than 1,000,000 and that have not adopted civil service under Act No. 370 of the Public Acts of 1941, the county clerk shall appoint a chief deputy circuit court clerk and at least 1 deputy circuit court clerk for each acting circuit judge in the county.

(3) The salary of the deputy circuit court clerks shall be not less than \$10,750.00 per year; and shall be paid in the same manner and at the same time that other county employees are paid.

(4) The civil service commission, with the approval of the board of supervisors in counties of more than 1,000,000 population which have adopted civil service under Act No. 370 of the Public Acts of 1941, may, by resolution, provide for increase in the salaries of deputy circuit court clerks.

(5) The board of supervisors in counties that may hereafter attain a population of more than 1,000,000 and that have not adopted civil service under Act No. 370 of the Public Acts of 1941, may, by resolution, provide for increase in the salaries of deputy circuit court clerks.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1964, Act 103, Eff. Aug. 28, 1964;—Am. 1966, Act 343, Eff. Jan. 1, 1967.

Compiler's note: The bill was presented to the governor on September 12, 1966, at 11:16 a.m., and not having been returned by him to the house in which it originated became law on September 26, 1966, at 11:16 o'clock a.m., the legislature having continued in session. (See 1966 Senate Journal, p. 2472.)

600.581 Sheriff and deputy; attendance at court sessions.

Sec. 581. The sheriff of the county, or his deputy, shall attend the circuit court, probate court, and district court sessions, when requested by these courts, and the sessions of other courts as required by law. The judge in his discretion:

- (a) shall fix, determine, and regulate the attendance at court sessions of the sheriff and his deputies;
- (b) may fine the sheriff and his deputies for failure to attend.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

600.582 Sheriff and deputy; officers of court; powers; disobedience or default.

Sec. 582. The sheriff and his deputies:

- (a) are officers of the court for the purpose of executing the process of the court;
- (b) may execute all lawful orders and process of the court in any county of the state;
- (c) to whom process is directed may be punished for disobedience or default therein in the manner prescribed by law.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

600.584 Sheriff and deputy, coroner; aid in performing duties.

Sec. 584. The sheriff, his deputies, and any coroner or constable having the power to perform such duty may require suitable aid in

- (a) serving process in civil or criminal cases;
- (b) preserving the peace;
- (c) apprehending or securing any person for felony or breach of the peace.

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

600.585 Sheriff and deputy, coroner; power of the county.

Sec. 585. Whenever the sheriff, a deputy, coroner, or a constable encounters resistance in serving process or reasonably believes that resistance will be encountered, he may take the power of the county and proceed therewith to serve the process.

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

600.586 Sheriff, deputy sheriff, or county medical examiner licensed to practice law; prohibited conduct; exceptions; violation as civil infraction; penalty.

Sec. 586. (1) A sheriff, deputy sheriff, or county medical examiner licensed to practice law in this state shall not do either of the following:

- (a) Serve process in an action in which he or she acts as attorney or counsel for a party.
- (b) Appear in court as attorney or counsel for a criminal defendant, except in a criminal or civil contempt proceeding.

(2) This section does not prohibit either of the following:

- (a) A county from limiting or prohibiting the practice of law by a sheriff, deputy sheriff, or county medical examiner.
- (b) A sheriff from limiting or prohibiting the practice of law by a deputy sheriff.
- (3) A person who violates subsection (1) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1992, Act 255, Eff. Mar. 31, 1993;—Am. 1996, Act 177, Imd. Eff. Apr. 18, 1996.

600.587 Sheriff, constable, or other officer; wilful neglect to execute process; penalty.

Sec. 587. A sheriff, constable, or other officer who wilfully neglects to execute any:

- (a) attachment,
- (b) summons,
- (c) precept to summon a jury,
- (d) warrant to apprehend a witness or any other person, or
- (e) any other process authorized to be issued by any judge which is directed and delivered to him may be fined by the judge who issued the process in a sum not exceeding \$100.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

600.588 Sheriff and deputy, constable; attending jury.

Sec. 588. Any sheriff, constable, or other officer, who has summoned any jury as mentioned in section 587 above, shall attend the jury and take charge of them when required to do so by the officer issuing the summons. For any wilful neglect to obey the order to do so or for any misconduct while attending the jury, by which the rights or remedies of any party to the proceedings may be impaired or prejudiced, he shall be liable to be fined in a sum not exceeding \$100.00 by the officer before whom the jury appeared.

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

600.589 Fine; excuse, remission.

Sec. 589. Upon any fine being imposed in any of the cases hereinbefore specified, notice thereof shall be given to the person fined, to the end that he may, within a reasonable time, render any excuse to the officer imposing such fine, or show cause why such fine should be remitted.

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

600.591 Operation of circuit court; appropriation; employer; authority; collective bargaining; appointment, supervision, discipline, or dismissal of employees; transfer of employees; effect of existing collective bargaining agreement; control of employees; applicability of subsections (2) to (9) to third judicial circuit employees; chief judge as principal administrator; "county-paid employees of the circuit court" defined.

Sec. 591. (1) The county board of commissioners in each county shall annually appropriate, by line-item or lump-sum budget, funds for the operation of the circuit court in that county. However, before a county board of commissioners may appropriate a lump-sum budget, the chief judge of the judicial circuit shall submit to

the county board of commissioners a budget request in line-item form with appropriate detail. A court that receives a line-item budget shall not exceed a line-item appropriation or transfer funds between line items without the prior approval of the county board of commissioners. A court that receives a lump-sum budget shall not exceed that budget without the prior approval of the county board of commissioners.

(2) In a single-county circuit, the county is the employer of the county-paid employees of the circuit court in that county. In a multicounty circuit, the employer of the county-paid employees of the circuit court shall be as follows:

(a) As determined pursuant to a contract entered into by the counties within the circuit under Act No. 8 of the Public Acts of the Extra Session of 1967, being sections 124.531 to 124.536 of the Michigan Compiled Laws.

(b) If the counties within the circuit do not enter into an agreement described in subdivision (a), each county is the employer of the county-paid employees who serve in that county or who are designated by agreement of the counties within the circuit as being employed by that county.

(3) The employer of county-paid employees of the circuit court designated under subsection (2), in concurrence with the chief judge of the circuit court, has the following authority:

(a) To establish personnel policies and procedures, including, but not limited to, policies and procedures relating to compensation, fringe benefits, pensions, holidays, leave, work schedules, discipline, grievances, personnel records, probation, and hiring and termination practices.

(b) To make and enter into collective bargaining agreements with representatives of the county-paid employees of the circuit court in that county or in the counties covered by a contract entered into under subsection (2)(a).

(4) If the employer of the county-paid employees of the circuit court and the chief judge of the circuit court are not able to concur on the exercise of their authority as to any matter described in subsection (3)(a), that authority shall be exercised by either the employer or the chief judge as follows:

(a) The employer has the authority to establish policies and procedures relating to compensation, fringe benefits, pensions, holidays, and leave.

(b) The chief judge has authority to establish policies and procedures relating to work schedules, discipline, grievances, personnel records, probation, hiring and termination practices, and other personnel matters not included in subdivision (a).

(5) The employer of the county-paid employees of the circuit court designated under subsection (2) and the chief judge of the circuit court each may appoint an agent for collective bargaining conducted under subsections (3) and (4).

(6) The chief judge of the circuit court in the county may elect not to participate in the collective bargaining process for county-paid employees of the circuit court.

(7) Except as otherwise provided by law, the chief judge of the circuit court in each judicial circuit shall appoint, supervise, discipline, or dismiss the employees of the circuit court in that judicial circuit in accordance with personnel policies and procedures developed pursuant to subsection (3) or (4) and any applicable collective bargaining agreement. Compensation of the employees of the circuit court in each judicial circuit shall be paid by the county or counties comprising the judicial circuit.

(8) If the implementation of the 1996 amendatory act that amended this section requires a transfer of court employees or a change of employers, all employees of the former court employer shall be transferred to, and appointed as employees of, the appropriate employer designated under subsection (2) subject to all rights and benefits they held with the former court employer. An employee who is transferred shall not, by reason of the transfer, be placed in any worse position with respect to worker's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other terms and conditions of employment that the employee enjoyed as an employee of the former court employer. The rights and benefits protected by this subsection may be altered by a future collective bargaining agreement or, for employees not covered by collective bargaining agreements, by benefit plans as established and adopted by the employer designated under subsection (2). An employee who is transferred shall not be made subject to any residency requirements by the employer designated under subsection (2).

(9) The employer designated under subsection (2) shall assume and be bound by any existing collective bargaining agreement held by the former court employer and, except where the existing collective bargaining agreement may otherwise permit, shall retain the employees covered by that collective bargaining agreement. A transfer of court employees shall not adversely affect any existing rights and obligations contained in the existing collective bargaining agreement.

(10) When performing services in a courtroom, employees of the circuit court are subject to the control of the judge holding court in the courtroom.

(11) Subsections (2) to (9) shall not apply to the employees serving in the circuit court in the third judicial

circuit.

(12) The role of the chief judge under this section is that of the principal administrator of the officers and personnel of the court and is not that of a representative of a source of funding. The state is not a party to the contract. Except as otherwise provided by law, the state is not the employer of court officers or personnel and is not liable for claims arising out of the employment relationship of court officers or personnel or arising out of the conduct of court officers or personnel.

(13) As used in this section, "county-paid employees of the circuit court" means persons employed in the circuit court in a county who receive any compensation as a direct result of an annual budget appropriation approved by the county board of commissioners of that county, but does not include a judge of the circuit court.

History: Add. 1980, Act 438, Eff. Sept. 1, 1981;—Am. 1996, Act 374, Eff. Oct. 1, 1996;—Am. 1996, Act 388, Eff. Oct. 1, 1996.

Constitutionality: The Michigan Supreme Court held in Judicial Attorneys Association v Michigan, 459 Mich 291; 597 NW2d 113 (1999), that MCL 600.593a (3)-(10) and parallel provisions of MCL 600.591, 600.837, 600.8271, 600.8273, and 600.8274 violate the separation of powers clause of Const 1963, art 3, § 2 and are unconstitutional.

1996 PA 374 provided that a local council created pursuant to the act or Wayne County became the employer of the employees of the Third Circuit and Recorder's Courts. The Court ruled that because subsections (3)-(10) of MCL 600.593a are not a sufficiently limited exercise by one branch of another branch's power that they impermissibly interfere with the judiciary's inherent authority to manage its internal operations and, therefore, are unconstitutional because they violate the separation of powers clause of Const 1963, art 3, § 2.

Compiler's note: Sections 2 and 4 of Act 438 of 1980 provide:

"Conditional effective date; action constituting exercise of option; effect of exercising option.

"Section 2. (1) This amendatory act shall not take effect unless the city of Detroit and the county of Wayne, by resolutions adopted not later than May 1, 1981, by the governing bodies of the city and the county, respectively, agree to assume responsibility for any expenses required of the city or the county by this amendatory act, and the bills listed in enacting section 7 which are enacted and take effect.

"(2) If the city of Detroit and the county of Wayne, acting through their governing bodies, agree to assume responsibility for any expenses required of the city and the county by this amendatory act, and the bills listed in enacting section 7 which are enacted and take effect, that action constitutes an exercise of the city's and the county's option to provide a new activity or service or to increase the level of activity or service offered in the city of Detroit and the county of Wayne beyond that required by existing law, as the elements of that option are defined by Act No. 101 of the Public Acts of 1979, being sections 21.231 to 21.244 of the Michigan Compiled Laws, and a voluntary acceptance by the city and the county of all expenses and capital improvements which may result from establishment of the district court in the thirty-sixth district and the reorganization of the circuit court in the third judicial circuit and the recorder's court of the city of Detroit. However, the exercise of the option does not affect the state's obligation to pay the same portion of each district or circuit judge's salary which is paid by the state to the other district or circuit judges, or to appropriate and disburse funds to the district control units, city, or county, for the necessary costs of state requirements established by a state law, other than this amendatory act or the bills listed in enacting section 7 which becomes effective on or after December 23, 1978."

The resolutions referred to in Section 2 were adopted by the city council of the city of Detroit on April 29, 1981, and by the board of commissioners of the county of Wayne on April 30, 1981.

"Effective date of certain sections.

"Section 4. Sections 304, 555, 563, 564, 567, 591, 592, 593, 594, 595, 641, 821, 1114, 1123, 1168, 1302, 1303, 1306, 1417, 1471, 1481, 5706, 8202, 8271, 8272, 8273, 8275, 8281, 8283, 8302, 8314, 8322, 8501, 8521, 8525, 8535, 8621, 9924, 9944, and 9947 shall take effect September 1, 1981."

600.592 Repealed. 1996, Act 374, Eff. Oct. 1, 1996.

Compiler's note: The repealed section pertained to employees of state judicial council serving in circuit court in third judicial circuit.

600.593 Employee of circuit court in third judicial circuit as employee of Wayne county judicial council or of Wayne county.

Sec. 593. Effective October 1, 1996, each employee of the former state judicial council serving in the circuit court in the third judicial circuit shall become an employee of the Wayne county judicial council if that council is created pursuant to section 593a, or, if that council is not created, shall become an employee of the county of Wayne.

History: Add. 1980, Act 438, Eff. Sept. 1, 1981;—Am. 1996, Act 374, Eff. Oct. 1, 1996.

Constitutionality: The Michigan Supreme Court held in Judicial Attorneys Association v Michigan, 459 Mich 291; 597 NW2d 113 (1999), that MCL 600.593a (3)-(10) and parallel provisions of MCL 600.591, 600.837, 600.8271, 600.8273, and 600.8274 violate the separation of powers clause of Const 1963, art 3, § 2 and are unconstitutional.

1996 PA 374 provided that a local council created pursuant to the act or Wayne County became the employer of the employees of the Third Circuit and Recorder's Courts. The Court ruled that because subsections (3)-(10) of MCL 600.593a are not a sufficiently limited exercise by one branch of another branch's power that they impermissibly interfere with the judiciary's inherent authority to manage its internal operations and, therefore, are unconstitutional because they violate the separation of powers clause of Const 1963, art 3, § 2.

Compiler's note: Sections 2 and 4 of Act 438 of 1980 provide:

"Conditional effective date; action constituting exercise of option; effect of exercising option.

"Section 2. (1) This amendatory act shall not take effect unless the city of Detroit and the county of Wayne, by resolutions adopted not later than May 1, 1981, by the governing bodies of the city and the county, respectively, agree to assume responsibility for any expenses required of the city or the county by this amendatory act, and the bills listed in enacting section 7 which are enacted and take effect.

“(2) If the city of Detroit and the county of Wayne, acting through their governing bodies, agree to assume responsibility for any expenses required of the city and the county by this amendatory act, and the bills listed in enacting section 7 which are enacted and take effect, that action constitutes an exercise of the city's and the county's option to provide a new activity or service or to increase the level of activity or service offered in the city of Detroit and the county of Wayne beyond that required by existing law, as the elements of that option are defined by Act No. 101 of the Public Acts of 1979, being sections 21.231 to 21.244 of the Michigan Compiled Laws, and a voluntary acceptance by the city and the county of all expenses and capital improvements which may result from establishment of the district court in the thirty-sixth district and the reorganization of the circuit court in the third judicial circuit and the recorder's court of the city of Detroit. However, the exercise of the option does not affect the state's obligation to pay the same portion of each district or circuit judge's salary which is paid by the state to the other district or circuit judges, or to appropriate and disburse funds to the district control units, city, or county, for the necessary costs of state requirements established by a state law, other than this amendatory act or the bills listed in enacting section 7 which becomes effective on or after December 23, 1978.”

The resolutions referred to in Section 2 were adopted by the city council of the city of Detroit on April 29, 1981, and by the board of commissioners of the county of Wayne on April 30, 1981.

“Effective date of certain sections.

“Section 4. Sections 304, 555, 563, 564, 567, 591, 592, 593, 594, 595, 641, 821, 1114, 1123, 1168, 1302, 1303, 1306, 1417, 1471, 1481, 5706, 8202, 8271, 8272, 8273, 8275, 8281, 8283, 8302, 8314, 8322, 8501, 8521, 8525, 8535, 8621, 9924, 9944, and 9947 shall take effect September 1, 1981.”

600.593a Wayne county judicial council; creation; successor agency; composition; employees of former state judicial council serving in third judicial circuit court; authority of employer or chief judge; collective bargaining agent; election not to participate in collective bargaining process; appointment, supervision, discipline, or dismissal of employees; compensation; chief judge as principal administrator; transfer of employees; effect of existing collective bargaining agreement; annual leave; state employees' retirement system.

Sec. 593a. (1) The county board of commissioners of the county of Wayne, by resolution, may create the Wayne county judicial council. The council shall be created not later than September 30, 1996, and, if created, shall begin exercising its powers and duties effective October 1, 1996.

(2) The Wayne county judicial council, if created, shall be a successor agency to the state judicial council and, effective October 1, 1996, shall be the employer of those employees of the former state judicial council assigned to serve in the circuit court in the third judicial circuit and the recorder's court of the city of Detroit. The composition of the Wayne county judicial council and its powers and duties shall be as prescribed by resolution of the county board of commissioners of the county of Wayne.

(3) If the Wayne county judicial council is not created pursuant to subsection (1), the employees of the former state judicial council serving in the circuit court in the third judicial circuit or in the recorder's court of the city of Detroit shall become employees of the county of Wayne, effective October 1, 1996.

(4) The employer designated under subsection (2) or (3), in concurrence with the chief judge of the appropriate court, has the following authority:

(a) To establish personnel policies and procedures, including, but not limited to, policies and procedures relating to compensation, fringe benefits, pensions, holidays, leave, work schedules, discipline, grievances, personnel records, probation, and hiring and termination practices.

(b) To make and enter into collective bargaining agreements with representatives of those employees.

(5) If the employer designated under subsection (2) or (3) and the appropriate chief judge are not able to concur on the exercise of their authority as to any matter described in subsection (4)(a), that authority shall be exercised by either the employer or the chief judge as follows:

(a) The employer has the authority to establish policies and procedures relating to compensation, fringe benefits, pensions, holidays, and leave.

(b) The chief judge has authority to establish policies and procedures relating to work schedules, discipline, grievances, personnel records, probation, hiring and termination practices, and other personnel matters not included in subdivision (a).

(6) The employer and the chief judge each may appoint an agent for collective bargaining conducted under subsections (4) and (5).

(7) The chief judge of the circuit court in the third judicial circuit or of the recorder's court may elect not to participate in the collective bargaining process for the employees in that court.

(8) Except as otherwise provided by law, the chief judge of the circuit court in the third judicial circuit or of the recorder's court shall appoint, supervise, discipline, or dismiss the employees of that court in accordance with personnel policies and procedures developed pursuant to subsection (4) or (5) and any applicable collective bargaining agreement. Compensation of the employees serving in the circuit court in the third judicial circuit and serving in the recorder's court of the city of Detroit shall be paid by the county of Wayne.

(9) The role of the chief judge under this section is that of the principal administrator of the officers and

personnel of the court and is not that of a representative of a source of funding. The state is not a party to the contract. Except as otherwise provided by law, the state is not the employer of court officers or personnel and is not liable for claims arising out of the employment relationship of court officers or personnel or arising out of the conduct of court officers or personnel.

(10) All employees of the former state judicial council serving in the circuit court in the third judicial circuit or in the recorder's court shall be transferred to, and appointed as, employees of the appropriate employer designated under subsection (2) or (3), subject to all rights and benefits they held with the former court employer. An employee who is transferred shall not, by reason of the transfer, be placed in any worse position with respect to worker's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other terms and conditions of employment that the employee enjoyed as an employee of the former court employer. The rights and benefits protected by this subsection may be altered by a future collective bargaining agreement or, for employees not covered by collective bargaining agreements, by benefit plans as established and adopted by the employer designated under subsection (2) or (3). An employee who is transferred shall not be made subject to any residency requirements by the employer designated under subsection (2) or (3).

(11) The appropriate employer designated under subsection (2) or (3) shall assume and be bound by any existing collective bargaining agreement held by the former state judicial council and, except where the existing collective bargaining agreement may otherwise permit, shall retain the employees covered by that collective bargaining agreement. A transfer of court employees shall not adversely affect any existing rights and obligations contained in the existing collective bargaining agreement.

(12) Annual leave which an employee of the circuit court in the third judicial circuit or the recorder's court of the city of Detroit has accumulated before October 1, 1996, shall be transferred with the employee as a result of the employee becoming an employee of the employer designated under subsection (2) or (3). Before January 1, 1997, the state shall pay to the county of Wayne the value of annual leave accumulated before October 1, 1996 in excess of 160 hours for each state judicial council employee who becomes an employee of the employer designated under subsection (2) or (3). The value of accumulated annual leave that is paid to the county of Wayne shall include the annual payroll factor of 23.62% for FICA and retirement for the state fiscal year beginning October 1, 1995.

(13) The appropriate employer designated under subsection (2) or (3) shall pay to the state employees' retirement system, on a quarterly basis, an amount based upon the contribution rates determined under section 38 of the state employees' retirement act, Act No. 240 of the Public Acts of 1943, being section 38.38 of the Michigan Compiled Laws, in the manner prescribed by the state employees' retirement system.

History: Add. 1996, Act 374, Eff. Oct. 1, 1996;—Am. 1996, Act 388, Eff. Oct. 1, 1996.

Constitutionality: The Michigan Supreme Court held in Judicial Attorneys Association v Michigan, 459 Mich 291; 597 NW2d 113 (1999), that MCL 600.593a (3)-(10) and parallel provisions of MCL 600.591, 600.837, 600.8271, 600.8273, and 600.8274 violate the separation of powers clause of Const 1963, art 3, § 2 and are unconstitutional.

1996 PA 374 provided that a local council created pursuant to the act or Wayne County became the employer of the employees of the Third Circuit and Recorder's Courts. The Court ruled that because subsections (3)-(10) of MCL 600.593a are not a sufficiently limited exercise by one branch of another branch's power that they impermissibly interfere with the judiciary's inherent authority to manage its internal operations and, therefore, are unconstitutional because they violate the separation of powers clause of Const 1963, art 3, § 2.

600.594 Employee as member of state employees' retirement system.

Sec. 594. An employee of the former state judicial council serving in the circuit court in the third judicial circuit who becomes an employee of the Wayne county judicial council or the county of Wayne serving in the circuit court in the third judicial circuit on October 1, 1996 shall remain a member of the state employees' retirement system created by the state employees' retirement act, Act No. 240 of the Public Acts of 1943, being sections 38.1 to 38.49 of the Michigan Compiled Laws. An employee of the former state judicial council serving in the recorder's court of the city of Detroit who becomes an employee of the Wayne county judicial council or the county of Wayne serving in the recorder's court of the city of Detroit on October 1, 1996 shall remain a member of the state employees' retirement system created by the state employees' retirement act, Act No. 240 of the Public Acts of 1943, being sections 38.1 to 38.49 of the Michigan Compiled Laws. The employer of the employees described in this section shall submit the reports and contributions required under section 44a of the state employees retirement act, Act No. 240 of the Public Acts of 1943, being section 38.44a of the Michigan Compiled Laws.

History: Add. 1980, Act 438, Eff. Sept. 1, 1981;—Am. 1981, Act 14, Eff. May 1, 1981;—Am. 1984, Act 319, Eff. Feb. 8, 1985;—Am. 1996, Act 374, Eff. Oct. 1, 1996;—Am. 1996, Act 388, Eff. Oct. 1, 1996.

Compiler's note: Sections 2, 3, and 4 of Act 438 of 1980 provide:

“Conditional effective date; action constituting exercise of option; effect of exercising option.

“Section 2. (1) This amendatory act shall not take effect unless the city of Detroit and the county of Wayne, by resolutions adopted

not later than May 1, 1981, by the governing bodies of the city and the county, respectively, agree to assume responsibility for any expenses required of the city or the county by this amendatory act, and the bills listed in enacting section 7 which are enacted and take effect.

“(2) If the city of Detroit and the county of Wayne, acting through their governing bodies, agree to assume responsibility for any expenses required of the city and the county by this amendatory act, and the bills listed in enacting section 7 which are enacted and take effect, that action constitutes an exercise of the city's and the county's option to provide a new activity or service or to increase the level of activity or service offered in the city of Detroit and the county of Wayne beyond that required by existing law, as the elements of that option are defined by Act No. 101 of the Public Acts of 1979, being sections 21.231 to 21.244 of the Michigan Compiled Laws, and a voluntary acceptance by the city and the county of all expenses and capital improvements which may result from establishment of the district court in the thirty-sixth district and the reorganization of the circuit court in the third judicial circuit and the recorder's court of the city of Detroit. However, the exercise of the option does not affect the state's obligation to pay the same portion of each district or circuit judge's salary which is paid by the state to the other district or circuit judges, or to appropriate and disburse funds to the district control units, city, or county, for the necessary costs of state requirements established by a state law, other than this amendatory act or the bills listed in enacting section 7 which becomes effective on or after December 23, 1978.”

The resolutions referred to in Section 2 were adopted by the city council of the city of Detroit on April 29, 1981, and by the board of commissioners of the county of Wayne on April 30, 1981.

“Effective date of Chapter 91 and certain sections.

“Section 3. Chapter 91 and sections 224, 541, 549f, 594, 595, 8121a, 8275, 9941, 9943, 9945, and 9946 shall take effect May 1, 1981.”

“Effective date of certain sections.

“Section 4. Sections 304, 555, 563, 564, 567, 591, 592, 593, 594, 595, 641, 821, 1114, 1123, 1168, 1302, 1303, 1306, 1417, 1471, 1481, 5706, 8202, 8271, 8272, 8273, 8275, 8281, 8283, 8302, 8314, 8322, 8501, 8521, 8525, 8535, 8621, 9924, 9944, and 9947 shall take effect September 1, 1981.”

Section 2 of Act 14 of 1981 provides:

“Conditional effective date; action constituting exercise of option; effect of exercising option.

“Section 2. (1) This amendatory act shall not take effect unless the city of Detroit and the county of Wayne, by resolutions adopted not later than May 1, 1981, by the governing bodies of the city and the county, respectively, agree to assume responsibility for any expenses required of the city or the county by this amendatory act and Act Nos. 438, 439, 440, 441, 442, and 443 of the Public Acts of 1980.

“(2) If the city of Detroit and the county of Wayne, acting through their governing bodies, agree to assume responsibility for any expenses required of the city and the county by this amendatory act and Act Nos. 438, 439, 440, 441, 442, and 443 of the Public Acts of 1980, that action constitutes an exercise of the city's and the county's option to provide a new activity or service or to increase the level of activity or service offered in the city of Detroit and the county of Wayne beyond that required by existing law, as the elements of that option are defined by Act No. 101 of the Public Acts of 1979, being sections 21.231 to 21.244 of the Michigan Compiled Laws, and a voluntary acceptance by the city and the county of all expenses and capital improvements which may result from establishment of the district court in the thirty-sixth district and the reorganization of the circuit court in the third judicial circuit and the recorder's court of the city of Detroit. However, the exercise of the option does not affect the state's obligation to pay the same portion of each district or circuit judge's salary which is paid by the state to the other district or circuit judges, or to appropriate and disburse funds to the district control units, city, or county, for the necessary costs of state requirements established by a state law, other than this amendatory act or Act Nos. 438, 439, 440, 441, 442, and 443 of the Public Acts of 1980, which becomes effective on or after December 23, 1978.”

The resolutions referred to in Section 2 were adopted by the city council of the city of Detroit on April 29, 1981, and by the board of commissioners of the county of Wayne on April 30, 1981.

Sections 2 and 3 of Act 319 of 1984 provide:

“Applicability of changes effected in MCL 600.594(2) and 600.8275(2).

“Section 2. The changes effected in sections 594(2) and 8275(2) by this amendatory act shall apply as though the changes were in effect on September 1, 1981.

“Conditional effective date.

“Section 3. (1) This amendatory act shall not take effect unless the county of Wayne, by resolution adopted before the expiration of 45 days after the effective date of this amendatory act by the governing body of the county, agrees to assume responsibility for any expenses required of the county by this amendatory act and unless an authenticated copy is filed with the secretary of state not later than 4 p.m. on the forty-fifth day after the effective date of this amendatory act.

“(2) If the county of Wayne, acting through its governing body, agrees to assume responsibility for any expenses required of the county by this amendatory act, that action constitutes an exercise of the county's option to provide a new activity or service or to increase the level of activity or service offered in the county of Wayne beyond that required by existing law, as the elements of that option are defined by Act No. 101 of the Public Acts of 1979, being sections 21.231 to 21.244 of the Michigan Compiled Laws, and a voluntary acceptance by the county of all expenses which may result from this amendatory act.”

A resolution agreeing to assume responsibility for expenses, referred to in (1) immediately above, was adopted by the Wayne County Board of Commissioners on February 7, 1985, and was filed with the Secretary of State at 11:00 a.m. on February 8, 1985.

600.595 Circuit court in third judicial circuit; ownership and use of personal property; reimbursement for property removed from court.

Sec. 595. All personal property, including equipment and furniture, that was owned by the circuit court in the third judicial circuit on the effective date of the 1996 amendatory act that amended this section or that was owned and furnished by the state of Michigan to the circuit court in the third judicial circuit on the effective date of the 1996 amendatory act that amended this section and all personal property subsequently purchased by or furnished to that court, shall remain with the court until October 1, 1996, at which time the property shall become the property of the county of Wayne, and shall continue to be used to the benefit of the circuit court in the third judicial circuit. The state shall reimburse the county of Wayne for any property furnished by the state to the court which is removed from the court between June 27, 1996, and the effective date of the

1996 amendatory act that amended this section.

History: Add. 1980, Act 438, Eff. Sept. 1, 1981;—Am. 1996, Act 374, Eff. Oct. 1, 1996.

Compiler's note: Sections 2, 3, and 4 of Act 438 of 1980 provide:

“Conditional effective date; action constituting exercise of option; effect of exercising option.

“Section 2. (1) This amendatory act shall not take effect unless the city of Detroit and the county of Wayne, by resolutions adopted not later than May 1, 1981, by the governing bodies of the city and the county, respectively, agree to assume responsibility for any expenses required of the city or the county by this amendatory act, and the bills listed in enacting section 7 which are enacted and take effect.

“(2) If the city of Detroit and the county of Wayne, acting through their governing bodies, agree to assume responsibility for any expenses required of the city and the county by this amendatory act, and the bills listed in enacting section 7 which are enacted and take effect, that action constitutes an exercise of the city's and the county's option to provide a new activity or service or to increase the level of activity or service offered in the city of Detroit and the county of Wayne beyond that required by existing law, as the elements of that option are defined by Act No. 101 of the Public Acts of 1979, being sections 21.231 to 21.244 of the Michigan Compiled Laws, and a voluntary acceptance by the city and the county of all expenses and capital improvements which may result from establishment of the district court in the thirty-sixth district and the reorganization of the circuit court in the third judicial circuit and the recorder's court of the city of Detroit. However, the exercise of the option does not affect the state's obligation to pay the same portion of each district or circuit judge's salary which is paid by the state to the other district or circuit judges, or to appropriate and disburse funds to the district control units, city, or county, for the necessary costs of state requirements established by a state law, other than this amendatory act or the bills listed in enacting section 7 which becomes effective on or after December 23, 1978.”

The resolutions referred to in Section 2 were adopted by the city council of the city of Detroit on April 29, 1981, and by the board of commissioners of the county of Wayne on April 30, 1981.

“Effective date of Chapter 91 and certain sections.

“Section 3. Chapter 91 and sections 224, 541, 549f, 594, 595, 8121a, 8275, 9941, 9943, 9945, and 9946 shall take effect May 1, 1981.”

“Effective date of certain sections.

“Section 4. Sections 304, 555, 563, 564, 567, 591, 592, 593, 594, 595, 641, 821, 1114, 1123, 1168, 1302, 1303, 1306, 1417, 1471, 1481, 5706, 8202, 8271, 8272, 8273, 8275, 8281, 8283, 8302, 8314, 8322, 8501, 8521, 8525, 8535, 8621, 9924, 9944, and 9947 shall take effect September 1, 1981.”

600.596 Employees of Detroit recorder's court transferred to third judicial circuit court; rights and benefits; collective bargaining agreement.

Sec. 596. (1) The county-paid employees serving in the recorder's court of the city of Detroit as of September 30, 1997 shall become county-paid employees serving in the circuit court in the third judicial circuit on October 1, 1997.

(2) A county-paid employee serving in the recorder's court of the city of Detroit who becomes a county-paid employee serving in the circuit court in the third judicial circuit under subsection (1) shall not, by reason of the transfer, be placed in any worse position with respect to worker's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other terms and conditions of employment that the employee enjoyed as an employee of the former court employer. The rights and benefits protected by this section may be altered by a future collective bargaining agreement or, for employees not covered by collective bargaining agreements, by benefit plans as established and adopted by the employer designated under section 593a(2) or (3).

(3) The employer of county-paid employees serving in the circuit court in the third judicial circuit shall assume and be bound by any existing collective bargaining agreement held by the former employer of the employees serving in the recorder's court of the city of Detroit and, except where the existing collective bargaining agreement may otherwise permit, shall retain the employees covered by that collective bargaining agreement. A transfer of employees shall not adversely affect any existing rights and obligations contained in the existing collective bargaining agreement.

History: Add. 1996, Act 388, Eff. Oct. 1, 1997.