

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

CHAPTER 88

STATE CIVIL INFRACTIONS

600.8801 Applicability of chapter; definitions.

Sec. 8801. (1) This chapter applies only to a state civil infraction action involving a violation of state law that is designated as a state civil infraction.

(2) This chapter does not apply to a civil infraction action involving a traffic or parking violation.

(3) As used in this chapter:

(a) "Citation" means a written complaint or notice to appear in court upon which a law enforcement officer records the occurrence or existence of 1 or more state civil infractions by the person cited.

(b) "Civil infraction determination" means a determination that a defendant is responsible for a state civil infraction by 1 of the following:

(i) An admission of responsibility for the state civil infraction.

(ii) An admission of responsibility for the state civil infraction, "with explanation".

(iii) A preponderance of the evidence at an informal hearing or formal hearing on the question under section 8819 or 8821, respectively.

(iv) A default judgment, for failing to appear as directed by a citation or other notice, at a scheduled appearance under section 8815(3)(b) or (4), at an informal hearing under section 8819, or at a formal hearing under section 8821.

(c) "Law enforcement officer" means any of the following:

(i) A sheriff or deputy sheriff.

(ii) An officer of the police department of a city, village, or township, or the marshal of a city, village, or township.

(iii) An officer of the Michigan state police.

(iv) A conservation officer.

(v) A security employee employed by the state pursuant to section 6c of 1935 PA 59, MCL 28.6c.

(vi) A motor carrier officer appointed pursuant to section 6d of 1935 PA 59, MCL 28.6d.

(vii) A public safety officer employed by a university as authorized by either of the following:

(A) 1965 PA 278, MCL 390.711 to 390.717.

(B) 1990 PA 120, MCL 390.1511 to 390.1514.

(viii) If authorized by the governing body of a political subdivision, a constable of the political subdivision.

(ix) A park and recreation officer commissioned pursuant to section 1606 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.1606.

(x) A state forest officer commissioned pursuant to section 83107 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.83107.

(xi) An officer, employee, or agent of the department of agriculture enforcing, pursuant to authority granted by the director of agriculture, a statute administered, a rule promulgated, or an order issued by the department of agriculture or the director of agriculture.

History: Add. 1995, Act 54, Eff. Jan. 1, 1996;—Am. 1996, Act 211, Imd. Eff. May 23, 1996;—Am. 2000, Act 80, Eff. Mar. 28, 2001;—Am. 2005, Act 51, Imd. Eff. June 27, 2005.

600.8803 State civil infraction; commencement of action; state as plaintiff; jurisdiction; time; place; venue; rights of minor.

Sec. 8803. (1) A state civil infraction action is commenced upon the issuance of a citation as provided in section 8807. The plaintiff in a state civil infraction action is the state.

(2) The district court and any municipal court have exclusive jurisdiction over state civil infraction actions.

(3) The time specified in a citation for appearance shall be within a reasonable time after the citation is issued pursuant to section 8807.

(4) The place specified in the citation for appearance shall be the court referred to in subsection (2) that has territorial jurisdiction of the place where the state civil infraction occurred. Venue in the district court is governed by section 8312.

(5) If the person cited is a minor, that individual shall be permitted to appear in court or to admit responsibility for a state civil infraction without the necessity of appointment of a guardian or next friend. The courts listed in subsection (2) shall have jurisdiction over the minor and may proceed in the same manner and in all respects as if that individual were an adult.

History: Add. 1995, Act 54, Eff. Jan. 1, 1996.

600.8805 Citation; numbering; parts; modification; complaint treated as under oath.

Sec. 8805. (1) Each citation shall be numbered consecutively, be in a form as approved by the state court administrator, and consist of the following parts:

(a) The original, which is a complaint and notice to appear by the law enforcement officer and shall be filed with the court in which the appearance is to be made.

(b) The first copy, which shall be retained by the law enforcement agency.

(c) The second copy, which shall be issued to the alleged violator if the violation is a misdemeanor.

(d) The third copy, which shall be issued to the alleged violator if the violation is a state civil infraction.

(2) With the prior approval of the state court administrator, the citation may be modified as to content or number of copies to accommodate law enforcement and local court procedures and practices. Use of this citation for violations other than state civil infractions is optional.

(3) A complaint for a state civil infraction signed by a law enforcement officer shall be treated as made under oath if the complaint contains the following statement immediately above the date and signature of the officer: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief."

History: Add. 1995, Act 54, Eff. Jan. 1, 1996.

600.8807 Issuance of citation by law enforcement officer.

Sec. 8807. (1) A law enforcement officer who witnesses a person violating state law, the violation of which is a state civil infraction, may stop the person, detain the person temporarily for the purpose of issuing a citation, and prepare and subscribe, as soon as possible and as completely as possible, an original and 3 copies of a citation.

(2) A law enforcement officer may issue a citation to a person if, based upon personal investigation, the officer has reasonable cause to believe that the person is responsible for a state civil infraction in connection with an accident.

(3) Except as otherwise provided in subsection (2), a law enforcement officer may issue a citation to a person if, based upon the officer's personal investigation of a complaint by someone who witnessed the person violating state law, the violation of which is a state civil infraction, the officer has reasonable cause to believe that the person is responsible for a state civil infraction and if the prosecuting attorney approves in writing the issuance of the citation.

(4) The law enforcement officer shall personally serve the third copy of the citation upon the alleged violator.

History: Add. 1995, Act 54, Eff. Jan. 1, 1996.

600.8808 Citation issued to nonresident of state; leaving deposit with officer or court; failure to appear; default judgment.

Sec. 8808. (1) When a person who is not a resident of this state is issued a citation for a civil infraction under section 8807, the person may recognize to the law enforcement officer or to the court for his or her appearance by leaving with the officer or court a sum of money not to exceed \$100.00.

(2) The officer receiving a deposit of money under subsection (1) shall give a receipt to the person for the money deposited together with the written citation required under subsection (1).

(3) At or before the completion of his or her tour of duty, a law enforcement officer taking a deposit of money shall deliver the deposit of money and the citation either to the court named in the citation or to the agency chief or person authorized by the agency chief to receive deposits. The agency chief or person authorized shall deposit the money and the citation with the court in the same manner as prescribed for citations in section 8805. A failure to deliver the money deposited is embezzlement of public money.

(4) If the person who posts a deposit fails to appear as required in the citation or for a scheduled informal or formal hearing, the court having jurisdiction and venue over the civil infraction shall enter a default judgment against the person, and the money deposited shall be forfeited and applied to any civil fine or costs ordered under section 8827.

History: Add. 2005, Act 326, Imd. Eff. Dec. 27, 2005.

600.8809 Citation; contents.

Sec. 8809. (1) A citation issued pursuant to section 8807 shall name the state as the plaintiff and shall contain the name and address of the defendant, the state civil infraction alleged, the place where the defendant shall appear in court, the telephone number of the court, the time at or by which the appearance shall be made, and the additional information required by this section.

(2) The citation shall inform the defendant that he or she, at or by the time specified for appearance, may do 1 of the following:

(a) Admit responsibility for the state civil infraction in person, by representation, or by mail.

(b) Admit responsibility for the state civil infraction "with explanation" in person, by representation, or by mail.

(c) Deny responsibility for the state civil infraction by doing either of the following:

(i) Appearing in person for an informal hearing before a judge or a district court magistrate, without the opportunity of being represented by an attorney.

(ii) Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

(3) The citation shall inform the defendant that if the defendant desires to admit responsibility "with explanation" other than by mail or to have an informal hearing or a formal hearing, the defendant must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing. A hearing date may be specified on the citation.

(4) The citation shall contain a notice in boldfaced type that the failure of the defendant to appear within the time specified in the citation or at the time scheduled for a hearing or appearance will result in entry of a default judgment against the defendant on the state civil infraction and a refusal by the secretary of state to issue or renew an operator's or chauffeur's license for the defendant. Timely application to the court for a hearing, return of the citation with an admission of responsibility with explanation, or return of the citation with an admission of responsibility and with full payment of applicable civil fines and costs constitutes a timely appearance.

History: Add. 1995, Act 54, Eff. Jan. 1, 1996.

600.8811 Civil infraction; citation; necessity of sworn complaint.

Sec. 8811. If a law enforcement officer issues a citation under section 8807, the court may accept an admission with explanation or an admission or denial of responsibility upon the citation without the necessity of a sworn complaint. If the defendant denies responsibility for the state civil infraction, further proceedings shall not be had until a sworn complaint relating to the state civil infraction is filed with the court.

History: Add. 1995, Act 54, Eff. Jan. 1, 1996.

600.8813 Citation; materially false statement knowingly made by officer; felony; penalty.

Sec. 8813. A law enforcement officer who, knowing the statement is false, makes a materially false statement in a citation issued under section 8807 is guilty of perjury, a felony punishable by imprisonment for not more than 15 years, and in addition is in contempt of court.

History: Add. 1995, Act 54, Eff. Jan. 1, 1996.

600.8815 Citation; response to allegations.

Sec. 8815. (1) A person to whom a citation is issued under section 8807 shall appear by or at the time specified in the citation and may respond to the allegations in the citation as provided in this section.

(2) If the defendant wishes to admit responsibility for the state civil infraction, the defendant may do so by appearing in person, by representation, or by mail. If appearance is made by representation or mail, the court may accept the admission with the same effect as though the defendant personally appeared in court. Upon acceptance of the admission, the court may order any of the sanctions permitted under section 8827.

(3) If the defendant wishes to admit responsibility for the state civil infraction "with explanation", the defendant may do so in either of the following ways:

(a) By appearing by mail.

(b) By contacting the court in person, by mail, by telephone, or by representation to obtain from the court a scheduled date and time to appear, at which time the defendant shall appear in person or by representation.

(4) If a defendant admits responsibility for a state civil infraction "with explanation" under subsection (3), the court shall accept the admission as though the defendant has admitted responsibility under subsection (2) and may consider the defendant's explanation by way of mitigating any sanction that the court may order under section 8827. If appearance is made by representation or mail, the court may accept the admission with the same effect as though the defendant personally appeared in court, but the court may require the defendant to provide a further explanation or to appear in court.

(5) If the defendant wishes to deny responsibility for a state civil infraction, the defendant shall do so by appearing for an informal or formal hearing. If the hearing date is not specified on the citation, the defendant shall contact the court in person, by representation, by mail, or by telephone, and obtain a scheduled date and time to appear for an informal or formal hearing. If the hearing date is specified on the citation, the defendant

shall appear on that date for an informal hearing unless the defendant contacts the court at least 10 days before that date in person, by representation, by mail, or by telephone to request a formal hearing. The court shall schedule an informal hearing, unless the defendant expressly requests a formal hearing. If the defendant expressly requests a formal hearing, the court shall schedule a formal hearing. If an informal or formal hearing is scheduled by telephone, the court shall mail the defendant a confirming notice of that hearing by regular mail to the address appearing on the citation or to an address that is furnished by the defendant. An informal hearing shall be conducted pursuant to section 8819, and a formal hearing shall be conducted pursuant to section 8821.

History: Add. 1995, Act 54, Eff. Jan. 1, 1996.

600.8819 Informal hearing.

Sec. 8819. (1) An informal hearing shall be conducted by a district court magistrate, if authorized by the judge or judges of the district court district, or by a judge of the district court or a municipal court. A district court magistrate may administer oaths, examine witnesses, and make findings of fact and conclusions of law at an informal hearing. The judge or district court magistrate shall conduct the informal hearing in an informal manner so as to do substantial justice according to the rules of substantive law, but is not bound by the statutory provisions or rules of practice, procedure, pleading, or evidence, except provisions relating to privileged communications. There shall not be a jury at an informal hearing. A verbatim record of an informal hearing is not required.

(2) At an informal hearing, the defendant may not be represented by an attorney and the plaintiff may not be represented by the prosecuting attorney.

(3) Notice of a scheduled informal hearing shall be given to the plaintiff. The plaintiff and defendant may subpoena witnesses. Witness fees need not be paid in advance to a witness. Witness fees for a witness on behalf of the plaintiff are payable by the district control unit of the district court for the place where the hearing occurs.

(4) If the judge or district court magistrate determines by a preponderance of the evidence that the defendant is responsible for a state civil infraction, the judge or magistrate shall enter an order against the defendant as provided in section 8827. Otherwise, a judgment shall be entered for the defendant, but the defendant is not entitled to costs of the action.

(5) The plaintiff or defendant may appeal an adverse judgment entered at an informal hearing. An appeal from a municipal judge shall be a bench trial de novo in the circuit court. In other instances, an appeal shall be de novo in the form of a scheduled formal hearing as follows:

(a) The appeal from a judge of the district court shall be heard by a different judge of the district.

(b) The appeal from a district court magistrate shall be heard by a judge of the district.

History: Add. 1995, Act 54, Eff. Jan. 1, 1996.

600.8821 Formal hearing.

Sec. 8821. (1) A formal hearing shall be conducted only by a judge of the district court or a municipal court.

(2) In a formal hearing, the defendant may be represented by an attorney, but is not entitled to counsel appointed at public expense.

(3) Notice of a formal hearing shall be given to the prosecuting attorney. The prosecuting attorney shall appear in court for a formal hearing and is responsible for the issuance of a subpoena to each witness for the plaintiff. The defendant may also subpoena witnesses. Witness fees need not be paid in advance to a witness. Witness fees for a witness on behalf of the plaintiff are payable by the district control unit of the district court for the place where the hearing occurs.

(4) There shall not be a jury trial in a formal hearing.

(5) If the judge determines by a preponderance of the evidence that the defendant is responsible for a state civil infraction, the judge shall enter an order against the defendant as provided in section 8827. Otherwise, a judgment shall be entered for the defendant, but the defendant is not entitled to costs of the action.

History: Add. 1995, Act 54, Eff. Jan. 1, 1996.

600.8823 Failure of defendant to appear at scheduled appearance, informal hearing, or formal hearing; failure of officer to appear at informal hearing; failure of prosecutor to appear at formal hearing.

Sec. 8823. (1) If the defendant fails to appear as directed by the citation or other notice, at a scheduled appearance under section 8815(3)(b) or (4), at a scheduled informal hearing, or at a scheduled formal hearing, the court shall enter a default judgment against the defendant.

(2) Unless the court has granted an adjournment for good cause shown, the court shall enter a judgment for the defendant if the law enforcement officer who issued the citation for a state civil infraction fails to appear at a scheduled informal hearing or if the prosecuting attorney fails to appear or is unable to proceed at a scheduled formal hearing, but the defendant is not entitled to costs of the action.

History: Add. 1995, Act 54, Eff. Jan. 1, 1996.

600.8825 Acceptance of fee by law enforcement officer prohibited.

Sec. 8825. (1) A law enforcement officer issuing a citation under this chapter for a state civil infraction shall not accept a fee for issuing the citation.

(2) A law enforcement officer who violates this section is guilty of misconduct in office and subject to removal from office.

History: Add. 1995, Act 54, Eff. Jan. 1, 1996.

600.8827 Sanctions.

Sec. 8827. (1) A state civil infraction is not a lesser included offense of a criminal offense.

(2) If a defendant is determined to be responsible or responsible "with explanation" for a state civil infraction, the judge or district court magistrate may order the defendant to pay a civil fine as provided by law and costs as provided in subsection (3) and the justice system assessment provided in subsection (4). In the order of judgment, the judge or district court magistrate may grant a defendant permission to pay a civil fine, costs, and assessment within a specified period of time or in specified installments. Otherwise, the civil fine, costs, and assessment are payable immediately.

(3) If a defendant is ordered to pay a civil fine under subsection (2), the judge or district court magistrate shall summarily tax and determine the costs of the action, which are not limited to the costs taxable in ordinary civil actions and may include all expenses, direct and indirect, to which the plaintiff has been put in connection with the state civil infraction, up to the entry of judgment. Costs of not more than \$500.00 must be ordered. Until September 30, 2003, the amount of costs ordered must be not less than \$9.00. Costs in a state civil infraction action in the district court must be distributed as provided in sections 8379 and 8381. Beginning October 1, 2003, costs ordered in a state civil infraction action must be distributed as provided in section 8379. Costs in a state civil infraction action in a municipal court must be paid to the county.

(4) Effective October 1, 2003, in addition to any fine or cost ordered to be paid under subsection (2) or (3), the judge or district court magistrate shall order the defendant to pay a justice system assessment of \$10.00. Upon payment of the assessment, the clerk of the court shall transmit the assessment collected to the state treasurer for deposit in the justice system fund created in section 181.

(5) A district court magistrate shall impose the sanctions permitted under subsection (2) only to the extent expressly authorized by the chief judge or only judge of the district court district.

(6) Each district of the district court and each municipal court may establish a schedule of civil fines, costs, and assessments to be imposed for state civil infractions that occur within the district or city. If a schedule is established, it must be prominently posted and readily available for public inspection. A schedule need not include all violations that are designated by law as state civil infractions.

(7) A default in the payment of a civil fine, costs, or assessment ordered under subsection (2), (3), or (4) or an installment of the fine, costs, or assessment may be collected by a means authorized for the enforcement of a judgment under chapter 40 or chapter 60.

(8) A defendant who fails to comply with an order or judgment issued under this section is guilty of a misdemeanor.

History: Add. 1995, Act 54, Eff. Jan. 1, 1996;—Am. 2003, Act 95, Eff. Oct. 1, 2003;—Am. 2020, Act 387, Eff. Oct. 1, 2021.

600.8829 Default in payment of fines, costs, assessment, or installment.

Sec. 8829. (1) If a defendant defaults in the payment of a civil fine, costs, or assessment or of any installment, as ordered pursuant to section 8827, the court, upon the motion of the plaintiff or upon its own motion, may require the defendant to show cause why the default should not be treated as in civil contempt and may issue a summons, order to show cause, or a bench warrant of arrest for the defendant's appearance.

(2) If a corporation or an association is ordered to pay a civil fine, costs, or assessment, the individuals authorized to make disbursement shall pay the fine or costs, and their failure to do so shall be civil contempt unless they make the showing required in this section.

(3) Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good faith effort to obtain the funds required for payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the civil fine, costs, or assessment, or any combination of those

amounts, is paid.

(4) If it appears that the default in the payment of a fine, costs, or assessment does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment, or revoking the fine or costs.

(5) The term of imprisonment on civil contempt for nonpayment of a civil fine, costs, or assessment shall be specified in the order of commitment and shall not exceed 1 day for each \$30.00 of the fine and costs. A person committed for nonpayment of a civil fine or costs shall be given credit toward payment for each day of imprisonment and each day of detention in default of recognizance before judgment at the rate of \$30.00 per day.

(6) A defendant committed to imprisonment for civil contempt for nonpayment of a civil fine, costs, or assessment shall not be discharged from custody until 1 of the following occurs:

(a) The defendant is credited with the amount due pursuant to subsection (5).

(b) The amount due is collected through execution of process or otherwise.

(c) The amount due is satisfied pursuant to a combination of subdivisions (a) and (b).

(7) The civil contempt shall be purged upon discharge of the defendant pursuant to subsection (6).

History: Add. 1995, Act 54, Eff. Jan. 1, 1996;—Am. 2003, Act 95, Eff. Oct. 1, 2003.

600.8831 Fines ordered under MCL 600.8827; application to libraries.

Sec. 8831. (1) A civil fine which is ordered under section 8827 for a violation of state statute shall be exclusively applied to the support of public libraries and county law libraries in the same manner as is provided by law for penal fines assessed and collected for violation of a penal law of the state.

(2) Subsection (1) is intended to maintain a source of revenue for public libraries which previously received penal fines for misdemeanor violations of state statute which are now designated state civil infractions.

History: Add. 1995, Act 54, Eff. Jan. 1, 1996.

600.8835 Additional costs.

Sec. 8835. If the defendant in a state civil infraction action is determined responsible for a state civil infraction, the judge or district court magistrate, in addition to any fine, costs, and assessment imposed under section 8827, may assess additional costs incurred in compelling the appearance of the defendant, which additional costs shall be returned to the general fund of the unit of government incurring the costs.

History: Add. 1995, Act 54, Eff. Jan. 1, 1996;—Am. 2003, Act 95, Eff. Oct. 1, 2003.