

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.8322 Bailiff of common pleas court as bailiff of thirty-sixth district court; court officer; rotation of process; surety bond; powers; bearing of arms; term; vacancy; peace officer; record of financial transaction; audit; compensation; contributions to retirement system in which bailiff member; payment to Wayne county retirement system; review of retirement fund; copies of actuarial reports.

Sec. 8322. (1) An individual serving as a bailiff of the common pleas court of Detroit on August 31, 1981, under an appointment under section 23 of former 1929 PA 260, shall become a bailiff of the district court in the thirty-sixth district on September 1, 1981. A bailiff is considered a court officer under section 8321(1) for the exclusive purpose of serving civil process in a civil action commenced in the district court in the thirty-sixth district, except for process issued in a summary proceeding under chapter 57. All process issued by the district court in civil actions shall be rotated among the bailiffs under rules adopted by the court. A bailiff shall file with the clerk of the court a surety bond in the amount of \$100,000.00 with a surety company. The district control unit shall pay the premium on the surety bond. A bailiff has only the powers necessary to serve process issued by the court. A bailiff governed under this subsection may bear arms while in office and in the exercise of his or her duties as bailiff. A bailiff shall hold office until death, retirement, resignation, or removal from office by the court for inability to perform essential functions of the office or for misfeasance or malfeasance in office. A vacancy in the office of bailiff as established under this subsection shall not be filled.

(2) An individual serving as a bailiff of the common pleas court on August 31, 1981, under an appointment under section 31 of former 1929 PA 260, shall become a bailiff of the district court in the thirty-sixth district on September 1, 1981. A bailiff is considered a court officer under section 8321(1) for the exclusive purpose of serving civil process in summary proceedings commenced under chapter 57 in the district court in the thirty-sixth district. All process issued by the district court in summary proceedings shall be rotated among the bailiffs under rules adopted by the court, except that a writ of restitution must be issued to the bailiff to whom the summons was issued in the particular proceeding. A bailiff shall file with the clerk of the court a surety bond in an amount of \$100,000.00 with a surety company. The district control unit shall pay the premium on the surety bond. A bailiff governed under this subsection is considered a peace officer only for the purpose of receiving compensation provided by 1937 PA 329, MCL 419.101 to 419.104. A bailiff shall hold office until death, retirement, resignation, or removal from office by the court for inability to perform essential functions of the office or for misfeasance or malfeasance in office. A vacancy in the office of bailiff established under this subsection shall not be filled.

(3) A bailiff governed under this section shall keep a written record of the date, amount, and nature of each financial transaction conducted by the bailiff in the course of his or her service as bailiff. The district control unit shall annually conduct an audit of each bailiff's financial transactions and report the audit immediately to the judges of the district. If the audit prescribed by this subsection is not conducted by the district control unit before June 30 of any year, the judges of the court shall contract with a certified public accountant to perform the audit. If a certified public accountant is required to perform the audit, the district control unit shall pay the cost of the audit.

(4) Upon the existence of a vacancy in the office of bailiff established under this section, the chief judge of the district may appoint a court officer under section 8321(1).

(5) A bailiff serving civil process under subsection (1) or (2) shall be compensated by salary and the fees and mileage prescribed in section 8326. A full-time bailiff, as defined by the employer designated under section 8274(2) or (3), shall receive from the city of Detroit a \$20,000.00 annual salary. For each part-time bailiff, as defined by the employer designated under section 8274(2) or (3), the employer designated under section 8274(2) or (3) shall establish a salary that is a pro rata portion of \$20,000.00 based on that portion of a full-time bailiff's workload to be assigned to the bailiff. A bailiff described in this subsection is not entitled to any compensation from the city of Detroit other than that specifically authorized in this subsection.

(6) A bailiff serving civil process under subsection (1) or (2) shall not become a member of the state employees' retirement system created by the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69. Beginning September 1, 1981, the city of Detroit shall contribute to the retirement system in which the bailiff is a member on August 31, 1981, an amount equal to the amount that the state would have contributed to the state employees' retirement system under the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69, if the bailiff had become a member of the state employees' retirement system, based on the salary paid by the city of Detroit under subsection (5). Beginning September 1, 1981, each bailiff shall continue to contribute to the retirement system in which the bailiff is a member on August 31, 1981, as required by ordinance, based on salary and fees received under subsection (5), except mileage.

(7) From each filing fee collected under section 8371, the clerk of the court shall pay to the Wayne county retirement system \$1.00, to be credited to the retirement fund of the bailiffs of the district court in the thirty-sixth district serving civil process under subsection (1). The county of Wayne shall annually review the retirement fund and shall ensure that the fund is maintained in an actuarially sound condition. Copies of the actuarial reports shall be provided to the employer designated under section 8274(2) or (3) and to the chief judge of the thirty-sixth district.

(8) From each filing fee collected for filing a summary proceeding under section 5756, the clerk of the court shall pay to the Wayne county retirement system \$1.00 for each defendant served in the proceeding, to be credited to the retirement fund of the bailiffs of the district court in the thirty-sixth district serving civil process under subsection (2). However, the amount credited to the retirement fund under this subsection shall not exceed 1/2 of the fee collected in a proceeding. The county of Wayne shall annually review the retirement fund and shall ensure that the fund is maintained in an actuarially sound condition. Copies of the actuarial reports shall be provided to the employer designated under section 8274(2) or (3) and to the chief judge of the thirty-sixth district.

History: Add. 1980, Act 438, Eff. Sept. 1, 1981;—Am. 1981, Act 8, Eff. Sept. 1, 1981;—Am. 1996, Act 388, Eff. Oct. 1, 1996;—Am. 2005, Act 326, Imd. Eff. Dec. 27, 2005;—Am. 2015, Act 132, Eff. Dec. 29, 2015.

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.”

Section 2 of Act 8 of 1981 provides:

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

“(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.