CHAPTER 600. REVISED JUDICATURE ACT OF 1961

REVISED JUDICATURE ACT OF 1961
Act 236 of 1961

AN ACT to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of the courts, and of the judges and other officers of the courts; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in the courts; pleading, evidence, practice, and procedure in civil and criminal actions and proceedings in the courts; to provide for the powers and duties of certain state governmental officers and entities; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 52, Imd. Eff. Mar. 26, 1974;—Am. 1999, Act 239, Imd. Eff. Dec. 28, 1999;—Am. 2009, Act 29, Eff. July 5, 2009.

The People of the State of Michigan enact:

CHAPTER 1
SHORT TITLE AND CONSTRUCTION

600.101 Revised judicature act of 1961; short title.

Sec. 101. This act shall be known and may be cited as the "revised judicature act of 1961." RJA may be used as an abbreviation for the revised judicature act.

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

Compiler's note: Former MCL 600.1 to 681.3, deriving from Act 314 of 1915 and entitled "The Judicature Act of 1915," were repealed by Act 236 of 1961.

600.102 Construction of act.

Sec. 102. This act is remedial in character, and shall be liberally construed to effectuate the intents and purposes thereof.

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

600.103 Repealed. 1980, Act 438, Eff. Sept. 1, 1981.

Compiler's note: The repealed section pertained to inapplicability of act to common pleas court.
See Compiler's note to MCL 600.224.

600.111 Counter claim; definition.

Sec. 111. The term "counterclaim," as used in this act, includes setoff and recoupment.

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

600.112 Judgment; definition.

Sec. 112. The term "judgment," as used in this act, includes decree.

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

600.113 Definitions; provisions governing traffic or parking violation or municipal civil infraction action; determination by preponderance of evidence.

Sec. 113. (1) As used in this act:

(a) "Civil infraction" means an act or omission that is prohibited by a law and is not a crime under that law or that is prohibited by an ordinance and is not a crime under that ordinance, and for which civil sanctions may be ordered. Civil infraction includes, but is not limited to, the following:

(*i*) A violation of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws, designated as a civil infraction.

(*ii*) A violation of a city, township, or village ordinance substantially corresponding to a provision of Act No. 300 of the Public Acts of 1949, if the ordinance designates the violation as a civil infraction.

(*iii*) A violation of an ordinance adopted pursuant to Act No. 235 of the Public Acts of 1969, being sections 257.941 to 257.943 of the Michigan Compiled Laws.

(*iv*) A violation of a city, township, or village ordinance adopting the uniform traffic code promulgated under Act No. 62 of the Public Acts of 1956, being sections 257.951 to 257.954 of the Michigan Compiled Laws, if the uniform traffic code designates the violation as a civil infraction.

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(*v*) A violation of an ordinance adopted by the governing board of a state university or college pursuant to Act No. 291 of the Public Acts of 1967, being sections 390.891 to 390.893 of the Michigan Compiled Laws, if the ordinance designates the violation as a civil infraction.

(*vi*) A violation of regulations adopted by a county board of commissioners pursuant to Act No. 58 of the Public Acts of 1945, being section 46.201 of the Michigan Compiled Laws.

(*vii*) A municipal civil infraction.

(*viii*) A state civil infraction.

(*ix*) A violation of the pupil transportation act, Act No. 187 of the Public Acts of 1990, being sections 257.1801 to 257.1877 of the Michigan Compiled Laws, designated as a civil infraction.

(b) "Civil infraction action" means a civil action in which the defendant is alleged to be responsible for a civil infraction.

(c) "Municipal civil infraction" means a civil infraction involving a violation of an ordinance. Municipal civil infraction includes, but is not limited to, a trailway municipal civil infraction. Municipal civil infraction does not include a violation described in subdivision (a)(*i*) to (*vi*) or (*ix*) or any act or omission that constitutes a crime under any of the following:

(*i*) Article 7 or section 17766a of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7101 to 333.7545 and 333.17766a of the Michigan Compiled Laws.

(*ii*) The Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.1 to 750.568 of the Michigan Compiled Laws.

(*iii*) Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.

(*iv*) The Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being sections 436.1 to 436.58 of the Michigan Compiled Laws.

(*v*) Part 801 (marine safety) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.80101 to 324.80199 of the Michigan Compiled Laws.

(*vi*) The aeronautics code of the state of Michigan, Act No. 327 of the Public Acts of 1945, being sections 259.1 to 259.208 of the Michigan Compiled Laws.

(*vii*) Part 821 (snowmobiles) of Act No. 451 of the Public Acts of 1994, being sections 324.82101 to 324.82159 of the Michigan Compiled Laws.

(*viii*) Part 811 (off-road recreation vehicles) of Act No. 451 of the Public Acts of 1994, being sections 324.81101 to 324.81150 of the Michigan Compiled Laws.

(*ix*) The railroad code of 1993, Act No. 354 of the Public Acts of 1993, being sections 462.101 to 462.451 of the Michigan Compiled Laws.

(*x*) Any law of this state under which the act or omission is punishable by imprisonment for more than 90 days.

(d) "Municipal civil infraction action" means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction. Municipal civil infraction action includes, but is not limited to, a trailway municipal civil infraction action.

(e) "State civil infraction" means a civil infraction involving either of the following:

(*i*) A violation of state law that is designated by statute as a state civil infraction.

(*ii*) A violation of a city, township, village, or county ordinance that is designated by statute as a state civil infraction.

(f) "State civil infraction action" means a civil action in which the defendant is alleged to be responsible for a state civil infraction.

(g) "Trailway municipal civil infraction" means a municipal civil infraction involving the operation of a vehicle on a recreational trailway at a time, in a place, or in a manner prohibited by ordinance.

(h) "Trailway municipal civil infraction action" means a civil infraction action in which the defendant is alleged to be responsible for a trailway municipal civil infraction.

(2) Except as otherwise provided in this act:

(a) A civil infraction action involving a traffic or parking violation is governed by Act No. 300 of the Public Acts of 1949.

(b) A municipal civil infraction action is governed by chapter 87.

(c) A state civil infraction action is governed by chapter 88.

(3) A determination that a defendant is responsible for a civil infraction and thus subject to civil sanctions shall be by a preponderance of the evidence.

History: Add. 1978, Act 511, Eff. Aug. 1, 1979;—Am. 1994, Act 12, Eff. May 1, 1994;—Am. 1995, Act 54, Eff. Jan. 1, 1996;—Am. 1996, Act 79, Imd. Eff. Feb. 27, 1996.

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600.151 Judicial power of state; vesting in courts.

Sec. 151. The judicial power of the state is vested exclusively in 1 court of justice which shall be divided into 1 supreme court, 1 court of appeals, 1 trial court of general jurisdiction known as the circuit court, 1 probate court, and courts of limited jurisdiction created by the legislature.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, 2nd Ex. Sess., Act 18, Eff. Mar. 24, 1964.

600.151a State court fund; creation; use; crediting deposits and income from investments; unencumbered balance remaining in fund; distribution of proceeds.

Sec. 151a. (1) The state court fund is created in the state treasury. The money in the fund shall be used as provided in this section.

(2) The state treasurer shall credit to the state court fund deposits of proceeds from the collection of revenue from court fees as provided in this act, and shall credit all income from investment credited to the fund by the state treasurer. The state treasurer may invest money in the fund in any manner authorized by law for the investment of state money. However, an investment shall not interfere with any apportionment, allocation, or payment of money as required by this section. The state treasurer shall credit to the fund all income earned as a result of an investment of money in the fund. The unencumbered balance remaining in the fund at the end of a fiscal year shall remain in the fund and shall not revert to the general fund.

(3) In the state fiscal year beginning October 1, 1993, the state treasurer shall distribute proceeds of the fund as follows:

(a) To the state court administrator for the operational expenses of trial courts in counties other than the counties of the trial courts described in subdivision (c), $1,600,000.00, with the balance of the fund being distributed according to subdivisions (b) to (e).

(b) To the state court administrator for the operational expenses of trial courts in counties other than the counties of the trial courts described in subdivision (c), 44% of the balance of the fund.

(c) To the state court administrator for the operational expenses of trial courts that receive appropriations to implement sections 563, 564, 592, 593, 594, 595, 8272, 8273, 8275, 9104, and 9943, 28% of the balance of the fund.

(d) For indigent civil legal assistance to be distributed under section 1485, and to the state court administrator for the operation of the court of appeals to alleviate the backlog in that court's caseload, 23% of the balance of the fund. Of the amount allocated under this subdivision, $2,000,000.00 shall be allocated for the court of appeals and the remainder of the amount shall be allocated for indigent civil legal assistance.

(e) To the state court administrator for oversight, data collection, and court management assistance by the state court administrative office, 5% of the balance of the fund.

(4) In the state fiscal year beginning October 1, 1994, the state treasurer shall distribute proceeds of the fund as follows:

(a) To the state court administrator for the operational expenses of trial courts in counties other than the counties of the trial courts described in subdivision (c), $1,600,000.00, with the balance of the fund being distributed according to subdivisions (b) to (e).

(b) To the state court administrator for the operational expenses of trial courts in counties other than the counties of the trial courts described in subdivision (c), 46% of the balance of the fund.

(c) To the state court administrator for the operational expenses of trial courts that receive appropriations to implement sections 563, 564, 592, 593, 594, 595, 8272, 8273, 8275, 9104, and 9943, 26% of the balance of the fund.

(d) For indigent civil legal assistance to be distributed under section 1485, and to the state court administrator for the operation of the court of appeals to alleviate the backlog in that court's caseload, 23% of the balance of the fund. Of the amount allocated under this subdivision, $2,000,000.00 shall be allocated for the court of appeals and the remainder of the amount shall be allocated for indigent civil legal assistance.

(e) To the state court administrator for oversight, data collection, and court management assistance by the state court administrative office, 5% of the balance of the fund.

(5) In the state fiscal year beginning October 1, 1995, the state treasurer shall distribute proceeds of the fund as follows:

(a) To the state court administrator for the operational expenses of trial courts in counties other than the counties of the trial courts described in subdivision (c), $1,600,000.00, with the balance of the fund being distributed according to subdivisions (b) to (e).

(b) To the state court administrator for the operational expenses of trial courts in counties other than the

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counties of the trial courts described in subdivision (c), 47% of the balance of the fund.

(c) To the state court administrator for the operational expenses of trial courts that receive appropriations to implement sections 563, 564, 592, 593, 594, 595, 8272, 8273, 8275, 9104, and 9943, 25% of the balance of the fund.

(d) For indigent civil legal assistance to be distributed under section 1485, and to the state court administrator for the operation of the court of appeals to alleviate the backlog in that court's caseload, 23% of the balance of the fund. Of the amount allocated under this subdivision, $2,000,000.00 shall be allocated for the court of appeals and the remainder of the amount shall be allocated for indigent civil legal assistance.

(e) To the state court administrator for oversight, data collection, and court management assistance by the state court administrative office, 5% of the balance of the fund.

(6) In the state fiscal year beginning October 1, 1996, the state treasurer shall distribute proceeds of the fund as follows:

(a) To the state court administrator for the operational expenses of trial courts as provided in section 151b, $1,600,000.00 with the balance of the fund being distributed according to subdivisions (b) to (d).

(b) To the state court administrator for the operational expenses of trial courts as provided in section 151b, 76% of the balance of the fund.

(c) For indigent civil legal assistance to be distributed under section 1485, and to the state court administrator for the operation of the court of appeals to alleviate the backlog in that court's caseload, 23% of the balance of the fund. Of the amount allocated under this subdivision, $2,000,000.00 shall be allocated for the court of appeals and the remainder of the amount shall be allocated for indigent civil legal assistance.

(d) To the state court administrator for oversight, data collection, and court management assistance by the state court administrative office, 1% of the balance of the fund.

(7) In the state fiscal year beginning October 1, 1997, and for each subsequent state fiscal year, the state treasurer shall distribute proceeds of the fund as follows:

(a) To the state court administrator for the operational expenses of trial courts as provided in section 151b, $1,600,000.00 with the balance of the fund being distributed according to subdivisions (b) to (d).

(b) To the state court administrator for the operational expenses of trial courts as provided in section 151b, 76% of the balance of the fund.

(c) For indigent civil legal assistance to be distributed under section 1485, 23% of the balance of the fund.

(d) To the state court administrator for oversight, data collection, and court management assistance by the state court administrative office, 1% of the balance of the fund.

(8) Distributions of funds under this section shall be made every 3 months.

History: Add. 1993, Act 189, Imd. Eff. Oct. 8, 1993;—Am. 1996, Act 374, Eff. Oct. 1, 1996.

Constitutionality: The Supreme Court in Judicial Attorneys Association v State of Michigan, 460 Mich 590; 597 NW2d 113 (1999), ruled that 1996 PA 374 did not violate Const 1963, art 9 § 29 (Headlee amendment) because Act 374 of 1996 neither imposed new activities nor increased the level of activities on local units.

1996 PA 374 merged the Recorder's Court into the Third Circuit Court. In adopting a narrow interpretation of Const 1963, art 9, § 29, the Court held that the second sentence of § 29 is only triggered by a mandate that requires local units to perform an activity that the state previously did not require local units to perform or at an increased level from that previously required of local units and that the act did not trigger § 29 and did not violate the Headlee amendment.

600.151b Court equity fund; creation; duties of state court administrative office; hold harmless fund; payments; reduced shares; retention of balance in work project account; formula; distributions; definitions.

Sec. 151b. (1) The court equity fund is created in the state treasury. For each state fiscal year beginning on or after October 1, 1996, each county shall receive funds pursuant to this section from the court equity fund, which consists of the following:

(a) The portion of the state court fund set aside for the operational expenses of trial courts under section 151a(6)(a) and (b) and (7)(a) and (b).

(b) The proceeds of the $4.25 portion of costs assessed by the district court as provided in section 8381.

(c) Excess court fees transmitted by the state treasurer pursuant to section 217 of the judges retirement act of 1992, Act No. 234 of the Public Acts of 1992, being section 38.2217 of the Michigan Compiled Laws.

(d) State general funds in an amount as follows:

(*i*) For the state fiscal year beginning October 1, 1996, $18,436,700.00.

(*ii*) For the state fiscal year beginning October 1, 1997, $25,796,400.00.

(*iii*) For the state fiscal year beginning October 1, 1998, $29,796,400.00.

(*iv*) For the state fiscal year beginning October 1, 1999, $33,796,400.00.

(*v*) For the state fiscal year beginning October 1, 2000, $37,796,400.00.

(*vi*) For the state fiscal year beginning October 1, 2001 and each subsequent state fiscal year,

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$41,796,400.00.

(2) For each state fiscal year, the state court administrative office shall do all of the following:

(a) Determine the relative caseload of each county and multiply that percentage by the total amount available for distribution from the court equity fund described in subsection (1) for that fiscal year.

(b) Determine the number of circuit, recorder's court, probate, and district judges for each county and the ratio of that sum to the total number of the circuit, recorder's court, probate, and district court judges statewide. If a judge serves more than 1 county, the county shall be credited for that judge only for the fraction of the judicial salary standardization payment the state reimburses that county.

(c) Multiply the amount determined under subdivision (a) for each county by the sum of 1 and the ratio of judges for that county determined under subdivision (b).

(d) Total the results for all counties determined under subdivision (c).

(e) Divide the amount determined under subdivision (c) for each county by the total determined under subdivision (d) and multiply the amount by the total amount available for distribution for the court equity fund described in subsection (1) for that fiscal year. This represents the funds a county shall receive from the court equity fund.

(3) A hold harmless fund is created in the state treasury through September 30, 2001 and shall consist of state general funds as follows:

(a) For the state fiscal year beginning October 1, 1996, $20,000,000.00.

(b) For the state fiscal year beginning October 1, 1997, $16,000,000.00.

(c) For the state fiscal year beginning October 1, 1998, $12,000,000.00.

(d) For the state fiscal year beginning October 1, 1999, $8,000,000.00.

(e) For the state fiscal year beginning October 1, 2000, $4,000,000.00.

(4) The following shall receive funds from the hold harmless fund in a state fiscal year beginning on or after October 1, 1996 as provided in this subsection and subsection (5):

(a) If a county receives a smaller amount under the formula in subsection (2) in a fiscal year than the amount that it received from the state court fund for the state fiscal year beginning October 1, 1995 plus the amount it received for reimbursement of compensation paid to jurors under Act No. 149 of the Public Acts of 1995, the county shall receive the difference.

(b) If a city received an amount from the state court fund under section 9947 for the state fiscal year beginning October 1, 1995, the city shall receive that amount.

(c) The county of Wayne shall receive the difference of the amount determined under subparagraph (*i*) minus the amount determined under subparagraph (*ii*):

(*i*) The total of the following:

(A) The amount of general fund/general purpose funds paid for the third judicial circuit, recorder's court, and Wayne county clerk services by the supreme court under Act No. 149 of the Public Acts of 1995 for the state fiscal year beginning October 1, 1995.

(B) The amount of the state court fund paid for the third judicial circuit, recorder's court, and Wayne county clerk services by the supreme court under Act No. 149 of the Public Acts of 1995 for the state fiscal year beginning October 1, 1995.

(C) The amount distributed under sections 217 and 304 of the judges retirement act of 1992, Act No. 234 of the Public Acts of 1992, being sections 38.2217 and 38.2304 of the Michigan Compiled Laws, for the third judicial circuit for the state fiscal year beginning October 1, 1995.

(D) $1,438,900.00 received by the county of Wayne for reimbursement of compensation paid to jurors under Act No. 149 of the Public Acts of 1995.

(E) Two percent of the expenditures for salaries, wages, and social security and medicare taxes for employees of the 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 for the state fiscal year beginning October 1, 1995.

(*ii*) The sum of the amount the county of Wayne receives under the formula in subsection (2) in that state fiscal year and the amount the county of Wayne receives under section 18a of the social welfare act, Act No. 280 of the Public Acts of 1939, being section 400.18a of the Michigan Compiled Laws, in that state fiscal year.

(d) The city of Detroit shall receive the difference of the amount determined under subparagraph (*i*) minus the amount determined under subparagraph (*ii*):

(*i*) The total of the following:

(A) The expenses for the district court in the thirty-sixth district for which the state was responsible and that the state paid out of appropriations under Act No. 149 of the Public Acts of 1995 for the state fiscal year beginning October 1, 1995.

(B) $387,000.00 for full-year funding for 12 promotions and 8 new hires after August 1, 1996.

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(C) Two percent of the expenditures for salaries, wages, and social security and medicare taxes for employees of the state judicial council assigned to serve in the district court in the thirty-sixth district for the state fiscal year beginning October 1, 1995 and 2% of the amount described in sub-subparagraph (B).

(*ii*) The total of the following:

(A) Federal drug funds allocated by the supreme court for the state fiscal year beginning October 1, 1995 to offset operational expenses of the district court in the thirty-sixth district.

(B) $7,150,000.00 payable by the city of Detroit to the state under section 9945.

(C) The revenue due to the state from the Detroit parking violation bureau under section 9945(8) for the state fiscal year beginning October 1, 1995, as determined by the audit of the auditor general.

(D) All court revenues received by the district court in the thirty-sixth district for the state fiscal year beginning October 1, 1995 and payable to the state under section 9945.

(E) Any funds from private sources.

(5) If the total amount payable under subsection (4) for a state fiscal year exceeds the amount available in the hold harmless fund, the amount paid to each recipient shall be reduced to a pro rata share of the funds available.

(6) If the total amount available in the hold harmless fund exceeds the amount payable under subsection (4) for a state fiscal year, the balance shall be retained in a work project account at the end of the state fiscal year to be added to the amount otherwise available in the hold harmless fund in the next state fiscal year.

(7) The formula in subsection (2) does not include, for purposes of applying the formula, the caseload of the district court in any district or any municipal court.

(8) Distributions of funds under this section from the court equity fund and the hold harmless fund shall be made every 3 months.

(9) As used in this section:

(a) “Qualifying period” means the following:

(*i*) For the state fiscal year beginning October 1, 1996, calendar year 1995.

(*ii*) For the state fiscal year beginning October 1, 1997, the last 2 calendar years for which reasonably complete trial court caseload statistics are available.

(*iii*) For the state fiscal year beginning October 1, 1998 and each subsequent state fiscal year, the last 3 calendar years for which reasonably complete trial court caseload statistics are available.

(b) “Relative caseload” means, for each county, the percentage derived by dividing the sum of the amounts determined under the following subparagraphs (*i*) and (*ii*) by the sum of the caseloads of all judicial circuits statewide, the caseload of the recorder's court of the city of Detroit, and the caseloads of the probate court statewide for the qualifying period:

(*i*) The portion of the caseload of a judicial circuit attributable to that county for the qualifying period. For the county of Wayne, that portion shall also include the caseload of the recorder's court of the city of Detroit for the qualifying period.

(*ii*) One of the following:

(A) The caseload of the probate court in that county for the qualifying period if only that county funds the probate court.

(B) The portion of the caseload of the probate district attributable to that county for the qualifying period if the county is in a probate district.

History: Add. 1996, Act 374, Eff. Oct. 1, 1996;—Am. 1996, Act 388, Eff. Oct. 1, 1996;—Am. 1996, Act 524, Imd. Eff. Jan. 13, 1997.

600.151c Local court management council; creation; resolution; delivery of court services.

Sec. 151c. A county or a group of counties may by resolution create a local court management council pursuant to 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. A council created under this section may be given the responsibility for coordinating the delivery of court services within that county or those counties.

History: Add. 1996, Act 374, Eff. Oct. 1, 1996.

600.151d Juror compensation reimbursement fund; creation; use; deposits; investments; disposition of unencumbered balance; transfer to general fund; transfer to court equity fund.

Sec. 151d. (1) The juror compensation reimbursement fund is created in the state treasury. The money in the fund shall be used as provided in section 151e.

(2) The state treasurer shall credit to the juror compensation reimbursement fund deposits of proceeds from the collection of driver license clearance fees as provided in section 321a(11) of the Michigan vehicle code,

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1949 PA 300, MCL 257.321a, and deposits of proceeds from the collection of jury demand fees as provided in sections 2529(1)(c) and 8371(9), and shall credit all income from investment credited to the fund by the state treasurer. The state treasurer may invest money in the fund in any manner authorized by law for the investment of state money. However, an investment shall not interfere with any apportionment, allocation, or payment of money as required by section 151e. The state treasurer shall credit to the fund all income earned as a result of an investment of money in the fund. Except as provided in subsections (3), (4), and (5), the unencumbered balance remaining in the fund at the end of a fiscal year shall remain in the fund and shall not revert to the general fund.

(3) For the state fiscal year ending September 30, 2005 only, $4,000,000.00 of the unencumbered balance remaining in the fund at the end of that fiscal year shall be transferred by the state treasurer to the general fund.

(4) For the state fiscal year ending September 30, 2008 only, $2,250,000.00 of the unencumbered balance remaining in the fund at the end of that fiscal year shall be transferred by the state treasurer to the general fund.

(5) For the state fiscal year ending September 30, 2010 only, $1,352,100.00 of the unencumbered balance remaining in the fund at the end of that fiscal year shall be transferred by the state treasurer to the court equity fund created in section 151b.

History: Add. 2002, Act 740, Eff. Jan. 1, 2003;—Am. 2004, Act 465, Imd. Eff. Dec. 28, 2004;—Am. 2008, Act 197, Imd. Eff. July 11, 2008;—Am. 2009, Act 151, Imd. Eff. Nov. 19, 2009.

600.151e Juror compensation reimbursement fund; distribution; report; conditions for reimbursement; payments; "court funding unit" defined.

Sec. 151e. (1) The money in the juror compensation reimbursement fund shall be distributed each year as provided in this section.

(2) Each court funding unit shall submit a report semiannually to the state court administrator, for each court for which it is a funding unit, giving the total amount of the expense incurred during the fiscal year by that funding unit due to the increase in the statutory minimum compensation rate for jurors that took effect October 1, 2003, pursuant to section 1344. If any of the juror compensation payments made by that court funding unit were in excess of the statutory minimum amount prescribed in section 1344, the report also shall include the total amount paid to jurors in excess of that statutory minimum.

(3) Each year, the state court administrator, at the direction of the supreme court and upon confirmation by the state treasurer of the total amount available in the fund, shall distribute from the fund the amount prescribed in subsection (4). However, reimbursements under this subsection are subject to both of the following:

(a) For fiscal years beginning after September 30, 2004, the state court administrator shall be reimbursed semiannually from the fund for reasonable costs associated with the administration of this section, not to exceed an annual total of $40,000.00.

(b) If the amount available in the fund in any fiscal year is more than the amount needed to pay the entire reimbursement required for all court funding units under subsection (4), subject to section 151d(3) for the fiscal year ending September 30, 2005, the unencumbered balance shall be carried forward to the next fiscal year and shall not revert to the general fund.

(4) Each court funding unit is entitled to receive reimbursement from the fund for the expense amount reported under subsection (2) for the preceding 6 months, excluding any juror compensation in excess of the statutory minimum.

(5) Payments from the fund shall be made every 6 months. Reimbursement for each 6-month period beginning with the quarter that ends March 31, 2004 shall be made from the fund not later than 2 months after the end of the 6-month period.

(6) In addition to the amounts to be paid out under subsection (5) for the 6-month period ending March 31, 2004 and for the 6-month period ending September 30, 2004, the state court administrator shall pay an additional sum equal to 14% of the payment due under subsection (5) to each court funding unit. These 2 extra payments are intended to offset expenses incurred by court funding units for costs in adapting to the changes in the statutory minimum rate for juror compensation as implemented by 2002 PA 739.

(7) As used in this section, "court funding unit" means 1 of the following, as applicable:

(a) For circuit or probate court, the county.

(b) For district court, the district funding unit as that term is defined in section 8104.

(c) For a municipal court, the city in which the municipal court is located.

History: Add. 2002, Act 742, Eff. Oct. 1, 2003;—Am. 2004, Act 465, Imd. Eff. Dec. 28, 2004.

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600.152 Chief justice; head of judicial system.

Sec. 152. The chief justice of the supreme court is the head of the judicial system.

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

600.171 Civil filing fee fund; creation; use; deposits; investment; distribution of proceeds.

Sec. 171. (1) The civil filing fee fund is created in the state treasury. The money in the fund shall be used as provided in this section.

(2) The state treasurer shall credit to the civil filing fee fund deposits of proceeds from the collection of revenue from court filing fees designated by law for deposit in the fund and shall credit all income from investment credited to the fund by the state treasurer. The state treasurer may invest money in the fund in any manner authorized by law for the investment of state money. However, an investment shall not interfere with any apportionment, allocation, or payment of money as required by this section. The unencumbered balance remaining in the fund at the end of a fiscal year shall remain in the fund and shall not revert to the general fund.

(3) In the state fiscal year beginning October 1, 2003 and in subsequent state fiscal years, the state treasurer shall distribute the proceeds of the fund monthly as follows:

(a) To the state court fund created in section 151a, 48.5% of the fund balance.

(b) To the court equity fund created in section 151b, 8.2% of the fund balance.

(c) To the judicial technology improvement fund created in section 175, 11.1% of the fund balance.

(d) To the community dispute resolution fund created by the community dispute resolution act, 1988 PA 260, MCL 691.1551 to 691.1564, 5.2% of the fund balance.

(e) To the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, 24% of the fund balance.

(f) To the secretary of the legislative retirement system for deposit with the state treasurer in the retirement fund created by the Michigan legislative retirement system act, 1957 PA 261, MCL 38.1001 to 38.1080, 1.5% of the fund balance.

(g) To the state general fund, 1.5% of the fund balance.

History: Add. 2003, Act 138, Eff. Oct. 1, 2003.

600.175 Judicial technology improvement fund; creation; use; disposition; investment; transfer of balance to general fund; administration; expenditure; reimbursement to state court administrative office.

Sec. 175. (1) The judicial technology improvement fund is created in the state treasury. The money in the fund shall be used as provided in this section.

(2) The state treasurer shall credit to the judicial technology improvement fund deposits of proceeds from the collection of revenue from court fees as provided in this act and shall credit all income from investment credited to the fund by the state treasurer. The state treasurer may invest money in the fund in any manner authorized by law for the investment of state money. However, an investment shall not interfere with any apportionment, allocation, or payment of money as required by this section. The state treasurer shall credit to the fund all income earned as a result of an investment of money in the fund. Except as provided in subsection (3), the unencumbered balance remaining in the fund at the end of a fiscal year shall remain in the fund and shall not revert to the general fund.

(3) For the state fiscal year ending September 30, 2005 only, $1,500,000.00 of the unencumbered balance remaining in the fund at the end of that fiscal year shall be transferred by the state treasurer to the general fund.

(4) The state court administrative office shall administer the judicial technology improvement fund. Money from the fund shall be expended for the development and ongoing support of a statewide judicial information system. The supreme court and the state court administrative office, working with the departments of state police, corrections, information technology, and secretary of state and with the prosecuting attorneys association of Michigan, will develop a statewide telecommunications infrastructure to integrate criminal justice information systems. The judicial technology improvement fund shall also be used to pursue technology innovations that will result in enhanced public service and access to local trial courts. These innovations will include, but not be limited to, electronic filing, on-line payments of fines and fees, data warehousing, and web-based instructions for completion of court documents.

(5) The state court administrative office shall be reimbursed annually from the judicial technology improvement fund for all reasonable costs associated with the administration of this section, including judicial and staff training, on-site management assistance, and software development and conversion.

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History: Add. 2003, Act 78, Eff. Oct. 1, 2003;—Am. 2004, Act 466, Imd. Eff. Dec. 28, 2004.

600.181 Justice system fund; creation; use; disposition; investment; distributions.

Sec. 181. (1) The justice system fund is created in the state treasury. The money in the fund shall be used as provided in this section.

(2) The state treasurer shall credit to the justice system fund deposits of proceeds from the collection of revenue from court assessments and costs designated by law for deposit in the fund and shall credit all income from investment credited to the fund by the state treasurer. The state treasurer may invest money in the fund in any manner authorized by law for the investment of state money. However, an investment shall not interfere with any apportionment, allocation, or payment of money as required by this section. The unencumbered balance remaining in the fund at the end of a fiscal year shall remain in the fund and shall not revert to the general fund.

(3) Each fiscal year, the state treasurer shall distribute the proceeds of the fund monthly as follows:

(a) To the secondary road patrol and training fund created in section 629e of the Michigan vehicle code, 1949 PA 300, MCL 257.629e, an amount equal to $10.00 multiplied by the number of civil infraction actions on which assessments are collected each month under section 629e or 907 of the Michigan vehicle code, 1949 PA 300, MCL 257.629e and 257.907.

(b) The balance of the fund remaining after the allocation in subdivision (a) shall be distributed as follows:

(*i*) To the highway safety fund created in section 629e of the Michigan vehicle code, 1949 PA 300, MCL 257.629e, 23.66% of the fund balance.

(*ii*) To the jail reimbursement program fund created in section 629e of the Michigan vehicle code, 1949 PA 300, MCL 257.629e, 11.84% of the fund balance.

(*iii*) To the Michigan justice training fund created in section 5 of 1982 PA 302, MCL 18.425, 11.84% of the fund balance.

(*iv*) To the secretary of the legislative retirement system for deposit with the state treasurer in the retirement fund created in the Michigan legislative retirement system act, 1957 PA 261, MCL 38.1001 to 38.1080, 1.10% of the fund balance.

(*v*) To the drug treatment courts fund created in section 185, 2.73% of the fund balance.

(*vi*) To the state forensic lab fund created in section 3 of the forensic laboratory funding act, 1994 PA 35, MCL 12.203, 5.35% of the fund balance.

(*vii*) To the state court fund created in section 151a, 12.69% of the fund balance.

(*viii*) To the court equity fund created in section 151b, 24.33% of the fund balance.

(*ix*) To the state treasurer for monitoring of collection and distribution of fund receipts, 0.98% of the fund balance.

(*x*) To the state court administrative office for management assistance and audit of trial court collections, 0.98% of the fund balance.

(*xi*) To the sexual assault victims' medical forensic intervention and treatment fund, 2.65% of the fund balance.

(*xii*) To the children's advocacy center fund created in section 3 of the children's advocacy center act, 1.85% of the fund balance.

History: Add. 2003, Act 97, Eff. Oct. 1, 2003;—Am. 2008, Act 545, Eff. Apr. 1, 2009.

600.185 Drug treatment court fund; creation; use; disposition; investment; administration; eligibility conditions; reimbursement to state court administrative office.

Sec. 185. (1) The drug treatment court fund is created in the state treasury. The money in the fund shall be used as provided in this section.

(2) The state treasurer shall credit to the drug treatment court fund deposits of proceeds from the collection of revenue from court assessments and costs directed to the fund by law and shall credit all income from investment credited to the fund by the state treasurer. The state treasurer may invest money in the fund in any manner authorized by law for the investment of state money. However, an investment shall not interfere with any apportionment, allocation, or payment of money as required by this section. The unencumbered balance remaining in the fund at the end of a fiscal year shall remain in the fund and shall not revert to the general fund.

(3) The fund shall be administered by the state court administrative office for the administration of, and awarding of grants for, drug treatment court programs throughout the state.

(4) To be eligible for funding, a drug treatment court shall meet both of the following conditions:

(a) The court shall be responsible for handling cases involving nonviolent substance abuse offenders through comprehensive supervision, testing, treatment services, and immediate sanctions and incentives.

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(b) The court shall use all available local and state personnel involved in the disposition of cases, including, but not limited to, parole and probation agents, prosecuting attorneys, defense attorneys, and community corrections providers.

(5) Money from the fund may be used in connection with other state, federal, and local funding sources. The state court administrative office shall be reimbursed annually from the drug treatment court fund for all reasonable costs associated with the administration of this section.

History: Add. 2003, Act 72, Eff. Oct. 1, 2003.

CHAPTER 2
SUPREME COURT: ORGANIZATION AND POWERS

600.201 Repealed. 1963, 2nd Ex. Sess., Act 18, Eff. Mar. 24, 1964.

Compiler's note: The repealed section provided that the supreme court should consist of a chief justice and 7 associate justices.

600.202 Chief justice; selection, resignation.

Sec. 202. A chief justice shall be chosen by the supreme court justices from their own number as provided by the rules of the court. The chief justice may resign without resigning from his office as justice.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, 2nd Ex. Sess., Act 18, Eff. Mar. 24, 1964.

600.203 Justices; election.

Sec. 203. Justices of the supreme court shall be elected in the manner provided by the constitution and the election laws of the state.

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

600.204 Repealed. 1963, 2nd Ex. Sess., Act 18, Eff. Mar. 24, 1964.

Compiler's note: The repealed section provided for filling vacancies in the office of supreme court justice.

600.205 Justices; availability.

Sec. 205. At least 1 justice shall at all times be at the seat of government.

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

600.206 Justices; oath.

Sec. 206. The supreme court justices shall take and subscribe the oath required by the constitution before entering upon the discharge of their duties.

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

600.207 Justices; practice of law prohibited.

Sec. 207. The supreme court justices shall not practice as attorneys or counselors in any court of the state, nor shall they engage in the practice of law for compensation.

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

600.208 Judges; salary and expenses.

Sec. 208. (1) Each supreme court justice shall receive an annual salary of $35,000.00, payable out of the moneys appropriated by the legislature.

(2) The justices shall not receive any allowance for traveling expenses between their residences and the seat of government.

(3) The justices who attend judicial meetings called by the court administrator shall be reimbursed from the state treasury, upon the warrant of the state treasurer, for their actual and necessary expenses.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 305, Eff. Jan. 1, 1967.

600.211 Terms of court; quorum.

Sec. 211. (1) There shall be 4 terms of court annually, held at times designated by the court. The court in its discretion may hold special or adjourned terms.

(2) Court sessions shall be held at the supreme court room at the seat of government.

(3) A majority of the justices shall constitute a quorum for hearing cases and transacting business.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, 2nd Ex. Sess., Act 18, Eff. Mar. 24, 1964.

600.212 Powers and jurisdiction; source.

Sec. 212. The supreme court has all the powers and jurisdiction conferred upon it by the constitution and laws of this state.

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

600.215 Jurisdiction and power.

Sec. 215. The supreme court has jurisdiction and power over:

(1) any matter brought before it by any appropriate writ to any inferior court, magistrate, or other officer;

(2) any question of law brought before it in accordance with court rules, by certification by any trial judge of any cause pending or tried before him;

(3) any case brought before it for review in accordance with the court rules promulgated by the supreme court.

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

600.217 Jurisdiction and power as to writs.

Sec. 217. The supreme court has jurisdiction and power to issue, hear, and determine writs of:

(1) error,

(2) habeas corpus,

(3) mandamus,

(4) quo warranto,

(5) procedendo, and other original and remedial writs.

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

600.219 Superintending control over inferior courts.

Sec. 219. The supreme court has a general superintending control over all inferior courts and tribunals. The supreme court has authority to issue any writs, directives, and mandates that it judges necessary and expedient to effectuate its determinations, and to take any action it deems proper to facilitate the proper administration of justice.

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

600.221 Reports relative to administration of justice; opinions.

Sec. 221. The supreme court has authority to publish any reports relative to the administration of justice that it deems proper to facilitate the proper administration of justice as well as the authority to publish the majority, concurring, and dissenting opinions of the court.

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

600.222 Repealed. 1998, Act 298, Eff. Jan. 1, 1999.

Compiler's note: The repealed section pertained to creation of trial court assessment commission.

600.223 Rule-making power.

Sec. 223. The supreme court has authority to promulgate and amend general rules governing practices and procedure in the supreme court and all other courts of record, including but not limited to authority:

(1) to prescribe the forms of all process to be issued by courts of record,

(2) to prescribe the practices and procedure in the supreme court and other courts of record concerning:

(a) methods of review,

(b) special verdicts,

(c) the granting of new trials,

(d) motions in arrest of judgment,

(e) taxation of costs,

(f) giving notice of special motions and other proceedings,

(g) the staying of proceedings,

(h) hearing of motions,

(i) imposing of terms on motions granted,

(j) discovery procedure, and

(k) other matters at its discretion,

(3) to prescribe in which cases the circuit court may grant orders to stay proceedings in matters pending in the circuit courts or another inferior court and to prescribe the terms and conditions upon which the orders shall be granted and the effect the orders will have,

(4) to abolish, as far as practicable, distinctions between law and equity.

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

600.224 Meetings regarding court rules or administrative orders open to public; procedures;

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"court" defined.

Sec. 224. (1) The supreme court shall adopt procedures to ensure that, when a majority of the justices of the supreme court or of the judges of a multi-judge court meet to discuss or decide upon court rules or administrative orders, the meeting shall be open to the public.

(2) As used in subsection (1), "court" means the court of appeals, a judicial circuit of the circuit court, the probate court of a county or probate court district, a district of the district court, or any statutory court.

History: Add. 1980, Act 438, Eff. May 1, 1981.

Compiler's note: Sections 2 and 3 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."

600.225 Assignment of judges to serve in other courts.

Sec. 225. (1) The supreme court may assign an elected judge of any court to serve as a judge in any other court in this state, except as provided in subsection (3). The assignment of a judge under this subsection shall be for a limited period or specific assignment.

(2) The authority granted by this section may be exercised by the supreme court at its discretion through its direct order, or through the court administrator. The court should particularly consider those cases where the chief judge of a court has asked that another judge be sent to that court and has properly shown any of the following:

(a) That the business of that court has increased beyond the capacity of the judge or judges to properly dispose of.

(b) That a vacancy exists in the office of the judge of the court.

(c) That a judge is unable to discharge the duties of his or her office.

(d) Any other sufficient reason.

(3) All assignments and reassignments of cases filed in any court in a county shall be made among the judges of that county, unless no trial court judge in that county is qualified and able to undertake a particular case. A judge of 1 county shall not be assigned to serve as a judge in another county unless no other trial court judge in the county needing assistance is able to render that assistance.

(4) Judges assigned pursuant to subsection (1) shall hold court and fulfill the duties of the office just as they would had they been elected in the respective court for the time they were assigned to serve.

(5) The county or district funding unit responsible for the maintenance and operation of the court shall provide suitable places where judges shall hold court.

(6) A judge who is assigned as provided in this section shall receive as salary for each day he or she serves in the court 1/250 of the amount by which the total annual salary of a judge of the court to which he or she is assigned exceeds his or her total annual salary. The salary provided in this subsection is payable by the county or district control unit or units that have provided an additional salary for the judicial office to which the judge is assigned. In addition to that salary, a judge assigned as provided in this section shall be entitled to receive actual and necessary expenses for travel, meals, and lodging from the county or district funding unit or units that are responsible for the maintenance and operation of the trial court to which the judge is assigned. The salary and expenses shall be payable at the same time and in the same manner as provided for the judicial office to which the judge is assigned. As used in this section, "court" means the various circuits of the circuit court, the recorder's court of the city of Detroit, the various counties and probate court districts of the probate court, and the various districts of the district court.

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(7) A municipal judge who is assigned as provided in this section shall be compensated as provided in section 225a.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 10, Imd. Eff. Mar. 23, 1966;—Am. 1969, Act 263, Imd. Eff. Aug. 11, 1969;—Am. 1990, Act 185, Eff. Oct. 1, 1990;—Am. 1996, Act 374, Imd. Eff. July 17, 1996;—Am. 1996, Act 388, Eff. Oct. 1, 1996.

600.225a Municipal judges transferred to other courts; compensation and expenses.

Sec. 225a. Municipal judges transferred from one court to another as provided in section 225 shall receive the same salary as the judge to whose court he is assigned, in addition to travel and living expenses and an additional sum of not to exceed $20.00 per day, if approved by the governing body of the political unit where the court is located and to which he is assigned, payable at the same time and from the same source as provided for the judicial office to which the judge is transferred. The salary for each day in which the judge serves as authorized shall be 1/250 of the annual salary for the vacant judicial office. In all cases where the transferred judge is receiving a salary from the municipality where he is appointed or elected, he shall be paid only the difference, if any, between his home salary and the salary of the judgeship to which he has been transferred, and the amount of his home salary shall be returned by the governmental unit to which he is transferred to the governmental unit from which he is appointed or elected.

History: Add. 1966, Act 11, Imd. Eff. Mar. 23, 1966.

600.226 Retired judges; authorization to perform judicial duties; compensation; applicability of section.

Sec. 226. (1) The supreme court may authorize any retired judge from any court to perform judicial duties in any court in the state. The authorization may be for a period or periods as the supreme court shall designate with the consent of the retired judge.

(2) Any retired judge assigned to any period of active judicial service pursuant to section 23 of article VI of the state constitution of 1963 and pursuant to the laws of the state relating to judicial service shall be compensated as follows:

(a) The judge shall receive a salary payable at the same times and from the same sources as provided for the judicial office in which the judge is authorized to perform judicial duties.

(b) The performance of the authorized judicial duties shall be without prejudice to all other rights of the judge under the retirement systems.

(c) The salary for each day in which the judge serves as authorized shall be the greater of the following:

(*i*) One hundred dollars per diem for each day or part of a day spent in the discharge of his or her duties.

(*ii*) The difference between 1/250th of the annual salary paid for the judicial office during the time the retired judge serves in the office and 1/250th of the state retirement allowance paid to the retired judge during the time the retired judge serves in the office.

(d) Necessary expenses incidental to the performance of duties required by the assignment, including travel, meals, and lodging, shall be paid by the state in accordance with the established provisions and procedures for state officials and upon the approval of the court administrator.

(3) This section does not apply to the performance of judicial duties by a senior judge under sections 557, 557a, and 557b.

History: Add. 1964, Act 81, Imd. Eff. May 12, 1964;—Am. 1987, Act 225, Imd. Eff. Dec. 28, 1987;—Am. 1990, Act 185, Eff. Oct. 1, 1990.

600.227 Process; style, seal, evidence.

Sec. 227. All writs and process issuing out of the supreme court shall be styled: “In the Name of the People of the State of Michigan,” and shall run into and be executed in any county of the state. The seal of the supreme court affixed to, or impressed upon, any writ or process in any action or proceeding shall be conclusive evidence that the writ or process was issued by the supreme court in all cases where such writ or process may be lawfully issued.

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

600.229 Decisions; contents, dissents, copies.

Sec. 229. Decisions of the supreme court, including all cases of mandamus, quo warranto, and certiorari, shall be in writing, with a concise statement of the facts and reasons for the decisions; and shall be signed by the justices concurring in the opinion. Any justice dissenting from a decision shall give the reasons for his dissent in writing under his signature. All opinions and dissents shall be filed in the office of the clerk of the supreme court, and copies of them shall be delivered to the supreme court reporter at the same time.

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

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600.230 Equally divided court; affirmance of judgment.

Sec. 230. When the justices of the supreme court are equally divided as to the ultimate decision of any case properly before the court on review, the judgment of the court below shall be affirmed.

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

600.232 Appeals to supreme court.

Sec. 232. Appeals to the supreme court may be by right or by leave as provided by the rules of the supreme court, except as otherwise provided by statute.

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

600.235 Appointment of chief judge for each county; appointment of chief judge of circuit, probate, and district court; procedures for assignment of cases and judges.

Sec. 235. (1) The supreme court shall appoint a chief judge for each county that is not part of a multicounty judicial circuit. The chief judge of a county shall then appoint a chief judge of the circuit court in that county, a chief judge of the probate court in that county, and a chief judge of the district court in each district in that county.

(2) The chief judge of the county shall adopt procedures for the assignment of cases and for the reassignment of cases, and procedures for the assignment of judges between courts, trial divisions, and districts in that county, subject to section 225(3).

History: Add. 1996, Act 374, Imd. Eff. July 17, 1996.

Compiler's note: Former MCL 600.235, which pertained to appointment and qualifications of court clerk, reporter, court administrator, and crier, was repealed by Act 55 of 1963, 2nd Ex. Sess., Imd. Eff. Dec. 27, 1963.

600.238 Judicial performance commission; creation; evaluation of judges; performance standards.

Sec. 238. (1) The supreme court shall create a judicial performance commission. The commission shall develop standards for evaluating the performance of all judges in this state. The results of the evaluation of judges according to the standards shall be made available to the public on an annual basis, beginning June 1, 1999.

(2) Beginning on January 1, 2000, unless the standards described in subsection (1) are developed and implemented, the trial court performance standards published by the national center for state courts shall be implemented, with each judge making public an annual report on how that judge has complied with each standard.

History: Add. 1996, Act 374, Imd. Eff. July 17, 1996.

600.241 Operation of judicial branch; line-item appropriation.

Sec. 241. The legislature shall annually appropriate, by line-item and not lump-sum budget, funds for the operation of the judicial branch.

History: Add. 1996, Act 374, Imd. Eff. July 17, 1996.

600.242 Repealed. 1963, 2nd Ex. Sess., Act 55, Imd. Eff. Dec. 27, 1963.

Compiler's note: The repealed section pertained to qualifications, term, and duties of research law clerks.

600.244 Filing fees to supreme court; waiver; costs.

Sec. 244. (1) The following fees shall be paid to the supreme court clerk and may be taxed as costs when costs are allowed by the supreme court:

(a) The sum of $375.00 for an application for leave to appeal.

(b) The sum of $375.00 for an original proceeding.

(c) The sum of $150.00 for a motion for immediate consideration or a motion to expedite appeal, except that a prosecuting attorney is exempt from paying a fee under this subdivision in an appeal arising out of a criminal proceeding, if the defendant is represented by a court-appointed lawyer.

(d) The sum of $75.00 for all other motions.

(e) Fifty cents per page for a certified copy of a paper, from a public record.

(f) The sum of $5.00 for certified docket entries.

(g) The sum of $1.00 for certification of a copy presented to the clerk.

(h) Fifty cents per page for a copy of an opinion; however, 1 copy must be given without charge to the attorney for each party in the case.

(2) A person who is unable to pay a filing fee may ask the supreme court to waive the fee by filing a

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motion and an affidavit disclosing the reason for that inability.

History: Add. 2003, Act 138, Eff. Oct. 1, 2003.

600.245 Repealed. 1963, 2nd Ex. Sess., Act 55, Imd. Eff. Dec. 27, 1963.

Compiler's note: The repealed section pertained to secretarial personnel.

600.247 Repealed. 1963, 2nd Ex. Sess., Act 55, Imd. Eff. Dec. 27, 1963.

Compiler's note: The repealed section pertained to salaries of officers.

600.250 Repealed. 1963, 2nd Ex. Sess., Act 55, Imd. Eff. Dec. 27, 1963.

Compiler's note: The repealed section pertained to expenses of officers.

600.251 Staff; budget, expenditures, fees and prerequisites.

Sec. 251. The supreme court may appoint, remove and shall have general supervision of its staff. It shall have control of the preparation of its budget recommendations and expenditures of moneys appropriated for any purpose by the legislature pertaining to the operation of the court or the performance of the activities of its staff. All fees and perquisites collected by the court staff shall be transmitted to the state treasury and credited to the general fund.

History: Add. 1963, 2nd Ex. Sess., Act 55, Imd. Eff. Dec. 27, 1963.

CHAPTER 3
COURT OF APPEALS: ORGANIZATION AND POWERS

600.301 Court of appeals as court of record; number of judges.

Sec. 301. The court of appeals consists of 28 judges and is a court of record.

History: Add. 1964, Act 281, Imd. Eff. June 11, 1964;—Am. 1968, Act 127, Imd. Eff. June 11, 1968;—Am. 1974, Act 144, Imd. Eff. June 5, 1974;—Am. 1986, Act 279, Eff. Mar. 31, 1987;—Am. 1993, Act 190, Eff. Oct. 13, 1993.

Compiler's note: Section 2 of Act 144 of 1974 provides:

"Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/4 of 1% nor more than 1% of the total number of votes cast in that appellate court district for secretary of state at the last preceding general November election in which a secretary of state was elected."

600.302 Judicial districts for election of judges of court of appeals.

Sec. 302. The state is divided into 4 judicial districts for the election of judges of the court of appeals. Each district is entitled to 7 judges. The districts are constituted and numbered as follows:

(a) District 1 consists of the counties of Calhoun, Hillsdale, Lenawee, Monroe, and Wayne.

(b) District 2 consists of the counties of Genesee, Macomb, Oakland, and Shiawassee.

(c) District 3 consists of the counties of Allegan, Barry, Berrien, Branch, Cass, Eaton, Ionia, Jackson, Kalamazoo, Kent, Muskegon, Newaygo, Ottawa, St. Joseph, Van Buren, and Washtenaw.

(d) District 4 consists of the counties of Alcona, Alger, Alpena, Antrim, Arenac, Baraga, Bay, Benzie, Charlevoix, Cheboygan, Chippewa, Clare, Clinton, Crawford, Delta, Dickinson, Emmet, Gladwin, Gogebic, Grand Traverse, Gratiot, Houghton, Huron, Ingham, Iosco, Iron, Isabella, Kalkaska, Keweenaw, Lake, Lapeer, Leelanau, Livingston, Luce, Mackinac, Manistee, Marquette, Mason, Mecosta, Menominee, Midland, Missaukee, Montcalm, Montmorency, Oceana, Ogemaw, Ontonagon, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Saginaw, Sanilac, Schoolcraft, St. Clair, Tuscola, and Wexford.

History: Add. 1964, Act 281, Imd. Eff. June 11, 1964;—Am. 1968, Act 127, Imd. Eff. June 11, 1968;—Am. 1972, Act 157, Imd. Eff. June 5, 1972;—Am. 1974, Act 144, Imd. Eff. June 5, 1974;—Am. 1986, Act 279, Eff. Mar. 31, 1987;—Am. 1993, Act 190, Eff. Oct. 13, 1993;—Am. 2001, Act 117, Eff. Mar. 22, 2002.

Compiler's note: Section 2 of Act 144 of 1974 provides:

"Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/4 of 1% nor more than 1% of the total number of votes cast in that appellate court district for secretary of state at the last preceding general November election in which a secretary of state was elected."

600.302a Judicial district; county lines; preparation of map by secretary of state.

Sec. 302a. Each judicial district described in section 302 shall be drawn on county lines. The secretary of state shall prepare a map of each district constituted under section 302 that shows the counties that comprise that district and convey the map of each district to the legislature and the governor.

History: Add. 2001, Act 117, Eff. Mar. 22, 2002.

600.303 Judges; terms; oath of office.

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Sec. 303. (1) Judges of the court of appeals shall be elected at the general November elections and shall take office on the succeeding January 1 in accordance with the constitution and election laws of the state.

(2) Judges of the first court of appeals shall be elected in the general November election of 1964.

(3) In the general November election of 1964, the 3 candidates for the office of judge of the court of appeals in each district receiving the highest number of votes shall be deemed elected. Of these candidates elected, the candidate receiving the highest number of votes cast shall be elected for a 10-year term, the candidate receiving the next highest number of votes cast shall be elected for an 8-year term and the candidate receiving the third highest number of votes shall be elected for a 6-year term. Thereafter in each general November election in which judges are to be elected for a 6-year term, the office shall be filled under the general election laws of this state.

(4) Judges of the court of appeals shall take and subscribe the oath of office required by the constitution before entering upon the discharge of their duties.

History: Add. 1964, Act 281, Imd. Eff. June 11, 1964.

600.303a Repealed. 1982, Act 149, Imd. Eff. May 6, 1982.

Compiler's note: The repealed section pertained to nominating petitions for new or existing judgeships.

600.303b Nomination, election, and terms of candidates for new judgeships.

Sec. 303b. In the primary election of 1974, the 4 candidates for the new judgeships, authorized in each court of appeals district pursuant to sections 301 and 302, who receive the greatest number of votes in the respective district in that primary election are nominated to run in the 1974 general election in that district. The candidate for the new judgeships receiving the greatest number of votes in the 1974 general election in each court of appeals district is elected for a term of 10 years commencing January 1, 1975. The candidate for the new judgeships receiving the second highest number of votes in the general election in each court of appeals district is elected for a term of 8 years commencing January 1, 1975.

History: Add. 1974, Act 144, Imd. Eff. June 5, 1974.

Compiler's note: Section 2 of Act 144 of 1974 provides:

"Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/4 of 1% nor more than 1% of the total number of votes cast in that appellate court district for secretary of state at the last preceding general November election in which a secretary of state was elected."

600.303c Election of candidates for new judgeships; terms.

Sec. 303c. In the general November election of 1988, the 2 candidates for the new judgeships authorized in each court of appeals district pursuant to sections 301 and 302, as amended by the 1986 amendatory act that adds this section, receiving the highest number of votes shall be elected. Of these candidates who are elected, the candidate for the new judgeships receiving the greatest number of votes in each court of appeals district is elected for a term of 8 years commencing January 1, 1989. The candidate for the new judgeships receiving the second highest number of votes in each court of appeals district is elected for a term of 6 years commencing January 1, 1989.

History: Add. 1986, Act 279, Eff. Mar. 31, 1987.

600.303d Transition from 3 judicial districts to 4 judicial districts; provisions; offices.

Sec. 303d. (1) To effectuate the transition from 3 districts having a total of 24 judges to 4 districts having a total of 28 judges, the following special provisions apply:

(a) The judgeship in district 1 filled on October 13, 1993 by an incumbent whose term expires January 1, 1995 and who is not eligible to seek reelection shall terminate January 1, 1995 and shall not be filled by election in 1994.

(b) To provide 7 judges in districts 3 and 4:

(*i*) In district 3, 4 new judgeships shall be filled by election in 1994. The candidate receiving the highest number of votes is elected for a term of 10 years, the candidates receiving the second and third highest number of votes are elected for terms of 8 years each, and the candidate receiving the fourth highest number of votes is elected for a term of 6 years.

(*ii*) In district 4, 1 new judgeship shall be filled by election in 1994. The candidate receiving the highest number of votes is elected for a term of 6 years.

(2) A judge of the court of appeals who is elected or appointed to a first term that begins on or after January 1, 1994 shall maintain offices only in the principal court of appeals offices in the district in which he or she was elected or appointed or in another office located in the municipality where the principal court of appeals facilities are located.

History: Add. 1993, Act 190, Eff. Oct. 13, 1993;—Am. 2004, Act 448, Imd. Eff. Dec. 27, 2004;—Am. 2005, Act 326, Imd. Eff. Dec.

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27, 2005.

600.304 Court of appeals judge; annual salary.

Sec. 304. (1) Effective January 1, 1997, and subject to subsection (2), each judge of the court of appeals shall receive an annual salary equal to the greater of the following:

(a) 92% of the annual salary of a justice of the supreme court of this state.

(b) $114,007.00.

(2) An increase in the amount of salary payable to a judge of the court of appeals caused by an increase in the salary of a justice of the supreme court resulting from the operation of Act No. 357 of the Public Acts of 1968, being sections 15.211 to 15.218 of the Michigan Compiled Laws, shall not be effective until February 1 of the year in which the increase in the salary of a justice of the supreme court becomes effective. If an increase in salary becomes effective on February 1 of a year in which an increase in the salary of a justice of the supreme court becomes effective, the increase shall be retroactive to January 1 of that year.

(3) The judges shall be reimbursed for their actual and necessary expenses from the state treasury, upon the warrant of the state treasurer.

(4) A judge of the court of appeals shall be eligible to participate in the state contributory insurance programs on the same basis as a justice of the supreme court.

History: Add. 1964, Act 281, Imd. Eff. June 11, 1964;—Am. 1966, Act 306, Imd. Eff. July 14, 1966;—Am. 1970, Act 248, Imd. Eff. July 1, 1971;—Am. 1980, Act 438, Eff. Sept. 1, 1981;—Am. 1995, Act 259, Imd. Eff. Jan. 5, 1996;—Am. 1996, Act 374, Eff. Jan. 1, 1997.

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."

600.305 Administration of court; rules of practice.

Sec. 305. The administration of the court of appeals shall be under the control of the supreme court. The court of appeals has authority to promulgate and amend general rules of practice and procedure before the court of appeals subject to the rule making powers of the supreme court.

History: Add. 1964, Act 281, Imd. Eff. June 11, 1964.

600.306 Temporary judges.

Sec. 306. The supreme court may transfer judges from the circuit court or probate court or may assign judges pursuant to section 23 of article VI of the state constitution of 1963 to the court of appeals to act as temporary judges. The transfer may be made to replace disabled or disqualified judges, or to enlarge the court of appeals temporarily to not more than 48 judges if the business of the court of appeals is considered by the supreme court to warrant it. If the court of appeals sits in panels, the temporary judges may be assigned to any panel. Not more than 1 temporary judge shall be assigned to hear a case. A temporary judge is disqualified from hearing, in the court of appeals, cases tried before him or her in the trial court.

History: Add. 1964, Act 281, Imd. Eff. June 11, 1964;—Am. 1968, Act 127, Imd. Eff. June 11, 1968;—Am. 1974, Act 144, Imd. Eff. June 5, 1974;—Am. 1976, Act 283, Imd. Eff. Oct. 14, 1976;—Am. 1986, Act 279, Eff. Mar. 31, 1987;—Am. 1993, Act 190, Eff. Oct. 13, 1993.

Compiler's note: Section 2 of Act 144 of 1974 provides:

"Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not

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less than 1/4 of 1% nor more than 1% of the total number of votes cast in that appellate court district for secretary of state at the last preceding general November election in which a secretary of state was elected."

600.307 Judges; practice of law prohibited.

Sec. 307. The judges of the court of appeals shall not practice as attorneys or counselors in any court of the state, nor shall they engage in the practice of law for compensation.

History: Add. 1964, Act 281, Imd. Eff. June 11, 1964.

600.308 Jurisdiction on appeals from orders and judgments.

Sec. 308. (1) The court of appeals has jurisdiction on appeals from the following orders and judgments which shall be appealable as a matter of right:

(a) All final judgments from the circuit court, court of claims, and recorder's court, except judgments on ordinance violations in the traffic and ordinance division of recorder's court and final judgments and orders described in subsection (2).

(b) Those orders of the probate court from which an appeal as of right may be taken under section 861.

(2) The court of appeals has jurisdiction on appeal from the following orders and judgments which shall be reviewable only upon application for leave to appeal granted by the court of appeals:

(a) A final judgment or order made by the circuit court under any of the following circumstances:

(*i*) In an appeal from an order, sentence, or judgment of the probate court under section 863(1) and (2).

(*ii*) In an appeal from a final judgment or order of the district court appealed to the circuit court under section 8342.

(*iii*) An appeal from a final judgment or order of a municipal court.

(*iv*) In an appeal from an ordinance violation conviction in the traffic and ordinance division of recorder's court of the city of Detroit if the conviction occurred before September 1, 1981.

(b) An order, sentence, or judgment of the probate court if the probate court certifies the issue or issues under section 863(3).

(c) A final judgment or order made by the recorder's court of the city of Detroit in an appeal from the district court in the thirty-sixth district pursuant to section 8342(2).

(d) A final order or judgment from the circuit court or recorder's court for the city of Detroit based upon a defendant's plea of guilty or nolo contendere.

(e) Any other judgment or interlocutory order as determined by court rule.

History: Add. 1964, Act 281, Imd. Eff. June 11, 1964;—Am. 1968, Act 116, Imd. Eff. June 11, 1968;—Am. 1981, Act 206, Eff. Jan. 1, 1982;—Am. 1994, Act 375, Imd. Eff. Dec. 27, 1994.

600.308a Action under Const. 1963, Art. 9, § 32; commencement; jurisdiction; limitations; governmental unit as defendant; officer as party; continuation of action against governmental unit and officer's successor; referral of action; findings of fact; costs.

Sec. 308a. (1) An action under section 32 of article 9 of the state constitution of 1963 may be commenced in the court of appeals, or in the circuit court in the county in which venue is proper, at the option of the party commencing the action.

(2) The jurisdiction of the court of appeals shall be invoked by filing an action by a taxpayer as plaintiff according to the court rules governing procedure in the court of appeals.

(3) A taxpayer shall not bring or maintain an action under this section unless the action is commenced within 1 year after the cause of action accrued.

(4) The unit of government shall be named as defendant. An officer of any governmental unit shall be sued in his or her official capacity only and shall be described as a party by his or her official title and not by name. If an officer dies, resigns, or otherwise ceases to hold office during the pendency of the action, the action shall continue against the governmental unit and the officer's successor in office.

(5) The court of appeals may refer an action to the circuit court or to the tax tribunal to determine and report its findings of fact if substantial fact finding is necessary to decide the action.

(6) A plaintiff who prevails in an action commenced under this section shall receive from the defendant the costs incurred by the plaintiff in maintaining the action.

History: Add. 1980, Act 110, Imd. Eff. May 13, 1980.

600.309 Appeals as of right; appeals by leave of court.

Sec. 309. Except as provided in section 308, all appeals to the court of appeals from final judgments or decisions permitted by this act shall be a matter of right. All other appeals from other judgments or orders to the court of appeals permitted by statute or supreme court rule shall be by right or by leave as provided by the statute or the rules promulgated by the supreme court.

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History: Add. 1964, Act 281, Imd. Eff. June 11, 1964;—Am. 1994, Act 375, Imd. Eff. Dec. 27, 1994.

600.310 Original jurisdiction; writs, directives and mandates.

Sec. 310. The court of appeals has original jurisdiction to issue prerogative and remedial writs or orders as provided by rules of the supreme court, and has authority to issue any writs, directives and mandates that it judges necessary and expedient to effectuate its determination of cases brought before it.

History: Add. 1964, Act 281, Imd. Eff. June 11, 1964;—Am. 1967, Act 65, Imd. Eff. June 20, 1967.

600.311 Panels; quorum; rotation; assignment of judges and cases.

Sec. 311. (1) Unless otherwise provided by supreme court rule, the court of appeals shall sit in panels consisting of not less than 3 judges.

(2) A majority of the judges assigned to a panel shall constitute a quorum for hearing cases and transacting business before the panel.

(3) The rotation of panels and the assignment of judges and cases shall be in accordance with rules of the supreme court.

History: Add. 1964, Act 281, Imd. Eff. June 11, 1964;—Am. 1974, Act 144, Imd. Eff. June 5, 1974.

Compiler's note: Section 2 of Act 144 of 1974 provides:

"Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/4 of 1% nor more than 1% of the total number of votes cast in that appellate court district for secretary of state at the last preceding general November election in which a secretary of state was elected."

600.312 Sessions of court; office space.

Sec. 312. (1) The court of appeals shall hold such sessions as are necessary to dispose of the matters before it.

(2) The court of appeals shall hold court sessions at such places as the supreme court shall direct.

(3) Except as otherwise provided by law or by supreme court rule, the offices of the court of appeals shall be located in the city of Lansing.

(4) The department of administration shall furnish the court with suitable space and equipment in the city of Lansing, and at such other locations as the court shall hold court sessions.

History: Add. 1964, Act 281, Imd. Eff. June 11, 1964.

600.313 Decisions to be in writing; delivery and printing of opinions; effect of equally divided court.

Sec. 313. (1) Decisions of the court of appeals shall be in writing. Copies of written opinions of the court of appeals shall be delivered to the supreme court reporter not later than when they are filed with the clerk of the court of appeals. The reporter shall cause the opinions to be printed pursuant to rules of the supreme court.

(2) When the judges of a panel of the court of appeals hearing a case are equally divided as to the ultimate decision of any case properly before the court on review, the judgment of the court below shall be affirmed.

History: Add. 1964, Act 281, Imd. Eff. June 11, 1964;—Am. 1974, Act 144, Imd. Eff. June 5, 1974.

Compiler's note: Section 2 of Act 144 of 1974 provides:

"Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/4 of 1% nor more than 1% of the total number of votes cast in that appellate court district for secretary of state at the last preceding general November election in which a secretary of state was elected."

600.314 Finality of decisions; superintending control of supreme court.

Sec. 314. (1) The decisions on appeal of the court of appeals are final, except as reviewed by the supreme court as provided by supreme court rule.

(2) The court of appeals is subject to the superintending control power of the supreme court, and this section does not affect the exercise of that power, nor the issuance of writs by the supreme court pursuant to its constitutional powers.

History: Add. 1964, Act 281, Imd. Eff. June 11, 1964.

600.315 Process; style, execution, seal.

Sec. 315. (1) All writs and process issuing out of the court of appeals shall be styled: "In the name of the people of the state of Michigan," and shall run into and be executed in any county of the state.

(2) The seal of the court of appeals affixed to, or impressed upon, any writ or process in any action or proceeding shall be conclusive evidence that the writ or process was issued by the court of appeals in all cases where such writ or process may be lawfully issued.

History: Add. 1964, Act 281, Imd. Eff. June 11, 1964.

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600.316 Process; service.

Sec. 316. Process issued by the court may be served by any member of the Michigan state police as well as any other officer or person authorized to serve process issued out of a circuit court.

History: Add. 1964, Act 281, Imd. Eff. June 11, 1964.

600.317 Chief clerk; deputy clerks; personnel; duties; qualifications; bond; court officers.

Sec. 317. (1) There shall be 1 chief clerk who shall be appointed and may be removed by the court of appeals. The office of the chief clerk shall be located in the city of Lansing.

(2) Deputy clerks as are necessary shall be appointed by the chief clerk with the approval of the court of appeals. Deputy clerks shall be assigned by the chief clerk to locations approved by the court of appeals. The chief clerk and deputy clerks shall engage necessary personnel with the approval of the court of appeals and maintain such records under such standards as the court of appeals directs. Action taken in accordance with this subsection is subject to the superintendence of the supreme court and the court administrator.

(3) The chief clerk shall do all of the following:

(a) Take and subscribe the oath required by the constitution before taking office.

(b) Perform those duties as may be provided by law, or as prescribed by the court of appeals.

(4) The chief clerk and all deputy clerks shall each furnish a bond before taking office. The bond shall be all of the following:

(a) In favor of the people of the state.

(b) In the penal sum of $10,000.00.

(c) Approved by the chief judge of the court of appeals.

(d) Filed with the secretary of state.

(e) Paid from the general fund in the state treasury on vouchers approved by the chief judge of the court of appeals.

(f) Conditioned on the faithful performance of his or her official duties with impartiality and correctness.

(5) The judges of the court of appeals shall appoint court officers as deemed necessary by the court of appeals.

History: Add. 1964, Act 281, Imd. Eff. June 11, 1964;—Am. 1991, Act 71, Imd. Eff. July 11, 1991.

600.318 Research law clerk; employment; qualifications.

Sec. 318. (1) Each judge of the court of appeals may employ a research law clerk to assist the judge in connection with the work of his or her office.

(2) A clerk shall be a Michigan resident and a graduate of a law school approved and accredited by the council of legal education of the American bar association.

(3) A clerk shall be employed for a maximum of 5 years.

(4) A clerk shall perform those duties prescribed by the court of appeals.

History: Add. 1964, Act 281, Imd. Eff. June 11, 1964;—Am. 1992, Act 17, Imd. Eff. Mar. 16, 1992.

600.319 Secretarial personnel; employment.

Sec. 319. Each judge of the court of appeals may employ secretarial personnel to the extent he deems expedient to assist him in connection with the work of his office.

History: Add. 1964, Act 281, Imd. Eff. June 11, 1964.

600.320 Salaries and expenses; payment.

Sec. 320. All salaries and expenses of the court and its employees shall be paid out of appropriations made therefor in accordance with the accounting laws of the state.

History: Add. 1964, Act 281, Imd. Eff. June 11, 1964.

600.321 Fees to court of appeals; charge; waiver; deposit; costs.

Sec. 321. (1) The following fees shall be paid to the clerk of the court of appeals and may be taxed as costs if costs are allowed by order of the court:

(a) For an appeal as of right, for an application for leave to appeal, or for an original proceeding, $375.00. This fee shall be paid only once for appeals that are taken by multiple parties from the same lower court order or judgment and can be consolidated.

(b) Upon the entry of any motion except a motion described in subdivision (c) upon the motion docket, $100.00. Beginning October 1, 2012, the fee required under this subdivision is $75.00.

(c) Upon the entry of a motion for immediate consideration or a motion to expedite appeal upon the motion docket, $200.00. This fee shall be paid only once regardless of the number of lower court files involved in the

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appeal. A prosecuting attorney is exempt from paying a fee under this subdivision with regard to an appeal arising out of a criminal proceeding. Beginning October 1, 2012, the fee required under this subdivision is $150.00.

(2) The clerk of the court of appeals shall charge 50 cents per page for certified copies of entries or papers in any action or proceedings when required for any other purpose than one connected with the progress or disposition of the action or proceeding.

(3) The clerk shall charge 50 cents per page for all uncertified copies of opinions, except those sent to 1 counsel representing each party in the case, for which no charge shall be made.

(4) If a person is unable to pay the fees required by this section, the person, by motion, accompanied by the person's affidavit stating facts showing that inability, may ask the court to waive the fees and the court or a judge of the court may waive payment of the fees.

(5) Each month the clerk of the court of appeals shall deposit with the state treasurer all fees collected and obtain and file a receipt for the fees deposited.

(6) Costs shall be awarded in the discretion of the court.

History: Add. 1964, Act 281, Imd. Eff. June 11, 1964;—Am. 1970, Act 248, Imd. Eff. Jan. 1, 1971;—Am. 1986, Act 274, Eff. Mar. 31, 1987;—Am. 1990, Act 277, Eff. Mar. 28, 1991;—Am. 1997, Act 182, Eff. Jan. 1, 1998;—Am. 2003, Act 138, Eff. Oct. 1, 2003;—Am. 2005, Act 151, Imd. Eff. Sept. 30, 2005;—Am. 2005, Act 326, Imd. Eff. Dec. 27, 2005;—Am. 2007, Act 64, Imd. Eff. Sept. 28, 2007.

CHAPTER 4
TRIAL COURT CONCURRENT JURISDICTION

600.401 Plan of concurrent jurisdiction.

Sec. 401. (1) Within a county or judicial circuit, subject to approval by the state supreme court and subject to the limitations contained in sections 410, 601, 841, and 8304, a plan of concurrent jurisdiction may be adopted by a majority vote of each of the following groups of judges for the participating trial courts in that county or judicial circuit:

(a) The circuit judges, the probate judges, and the district judges.

(b) The circuit judges and the probate judges.

(c) The circuit judges and the district judges.

(d) The probate judges and the district judges.

(2) A plan of concurrent jurisdiction may provide for 1 or more of the following:

(a) The circuit court and 1 or more circuit judges may exercise the power and jurisdiction of the probate court.

(b) The circuit court and 1 or more circuit judges may exercise the power and jurisdiction of the district court.

(c) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the circuit court.

(d) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the district court.

(e) The district court and 1 or more district judges may exercise the power and jurisdiction of the circuit court.

(f) The district court and 1 or more district judges may exercise the power and jurisdiction of the probate court.

(3) A plan of concurrent jurisdiction shall provide for the transfer or assignment of cases between the trial courts affected by the plan and to individual judges of those courts as necessary to implement the plan and to fairly distribute the workload among those judges.

(4) A plan of concurrent jurisdiction shall become effective on the first day of the month at least 90 days after the approval of the plan by the supreme court.

(5) This section does not apply to the counties of Genesee, Ingham, Kent, Macomb, Oakland, Washtenaw, and Wayne, which have district court districts of the third class.

History: Add. 2002, Act 678, Eff. Apr. 1, 2003.

600.405 Plan of concurrent jurisdiction; adoption; options.

Sec. 405. Sections 406, 407, and 408 provide options for adoption of a plan of concurrent jurisdiction in the counties of Genesee, Ingham, Kent, Macomb, Oakland, Washtenaw, and Wayne, which have district court districts of the third class.

History: Add. 2002, Act 678, Eff. Apr. 1, 2003.

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600.406 Circuit court and probate court; Genesee, Ingham, Kent, Macomb, Oakland, Washtenaw, and Wayne counties; adoption of plan of concurrent jurisdiction.

Sec. 406. (1) Within the counties of Genesee, Ingham, Kent, Macomb, Oakland, Washtenaw, and Wayne, the circuit judges and the probate judges, subject to approval by the state supreme court and subject to the limitations contained in sections 410, 601, 841, and 8304, by a majority vote of each group of judges, may adopt 1 or more plans of concurrent jurisdiction for the circuit court and probate court in that county.

(2) A plan of concurrent jurisdiction under this section may provide for 1 or more of the following:

(a) The circuit court and 1 or more circuit judges may exercise the power and jurisdiction of the probate court.

(b) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the circuit court.

(3) A plan of concurrent jurisdiction shall provide for the transfer or assignment of cases between the trial courts affected by the plan and to individual judges of those courts as necessary to implement the plan and to fairly distribute the workload among those judges.

(4) A plan of concurrent jurisdiction shall become effective on the first day of the month at least 90 days after the approval of the plan by the supreme court.

History: Add. 2002, Act 678, Eff. Apr. 1, 2003.

600.407 Trial courts; Genesee, Ingham, Kent, Macomb, Oakland, and Washtenaw counties; adoption of plan of concurrent jurisdiction.

Sec. 407. (1) Within the counties of Genesee, Ingham, Kent, Macomb, Oakland, and Washtenaw, the circuit judges, the probate judges, and the district judges in the county-funded district court district, subject to approval by the state supreme court and subject to the limitations contained in sections 410, 601, 841, and 8304, by a majority vote of each group of judges, may adopt 1 or more plans of concurrent jurisdiction for the participating trial courts in that county.

(2) A plan of concurrent jurisdiction under this section may provide for 1 or more of the following:

(a) The circuit court and 1 or more circuit judges may exercise the power and jurisdiction of the probate court.

(b) The circuit court and 1 or more circuit judges may exercise the power and jurisdiction of the district court within the county-funded district court district.

(c) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the circuit court.

(d) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the district court within the county-funded district court district.

(e) The district court and 1 or more district judges in the county-funded district court district within the county may exercise the power and jurisdiction of the circuit court.

(f) The district court and 1 or more district judges in the county-funded district court district within the county may exercise the power and jurisdiction of the probate court.

(3) A plan of concurrent jurisdiction shall provide for the transfer or assignment of cases between the trial courts affected by the plan and to individual judges of those courts as necessary to implement the plan and to fairly distribute the workload among those judges.

(4) A plan of concurrent jurisdiction shall become effective on the first day of the month at least 90 days after the approval of the plan by the supreme court.

History: Add. 2002, Act 678, Eff. Apr. 1, 2003.

600.408 Trial courts; Genesee, Ingham, Kent, Macomb, Oakland, Washtenaw, and Wayne counties; adoption of plans of concurrent jurisdiction.

Sec. 408. (1) Within the counties of Genesee, Ingham, Kent, Macomb, Oakland, Washtenaw, and Wayne, the circuit judges, the probate judges, and the district judges in 1 or more district court districts within the county, subject to approval by the state supreme court and subject to the limitations contained in sections 410, 601, 841, and 8304, by a majority vote of each group of judges, may adopt 1 or more plans of concurrent jurisdiction for the participating trial courts in that county.

(2) A plan of concurrent jurisdiction under this section may provide for 1 or more of the following:

(a) The circuit court and 1 or more circuit judges may exercise the power and jurisdiction of the probate court.

(b) The circuit court and 1 or more circuit judges may exercise the power and jurisdiction of the district court within the participating district court districts within the county.

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(c) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the circuit court.

(d) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the district court within the participating district court districts within the county.

(e) The district court and 1 or more district judges in the participating district court districts within the county may exercise the power and jurisdiction of the circuit court.

(f) The district court and 1 or more district judges in the participating district court districts within the county may exercise the power and jurisdiction of the probate court.

(3) A plan of concurrent jurisdiction shall provide for the transfer or assignment of cases between the trial courts affected by the plan and to individual judges of those courts as necessary to implement the plan and to fairly distribute the workload among those judges.

(4) A plan of concurrent jurisdiction involving district court districts of the third class may include an agreement as to the allocation of court revenue, other than revenue payable by statute to libraries or state funds, and court expenses. This agreement is subject to approval by the county board of commissioners and by each local funding unit of each participating district of the third class.

(5) A plan of concurrent jurisdiction shall become effective on the first day of the month at least 90 days after the approval of the plan by the supreme court.

History: Add. 2002, Act 678, Eff. Apr. 1, 2003.

600.410 Plan of concurrent jurisdiction; delegation; prohibition.

Sec. 410. A plan of concurrent jurisdiction adopted under this chapter shall not include a delegation of any of the following:

(a) A power of appointment to a public office delegated by constitution or statute to the circuit court or a circuit judge.

(b) A power of appointment to a public office delegated by constitution or statute to the probate court or a probate judge.

(c) Except as provided in section 411, a power of appointment to a public office delegated by constitution or statute to the district court or a district judge.

History: Add. 2002, Act 678, Eff. Apr. 1, 2003;—Am. 2005, Act 326, Imd. Eff. Dec. 27, 2005.

600.411 Plan of concurrent jurisdiction; probate judge; jurisdiction, powers, and duties.

Sec. 411. A plan of concurrent jurisdiction may provide that a probate judge of a county described in section 810a has the jurisdiction, powers, and duties of a district judge within that county, including jurisdiction over small claims and civil infraction actions and the power of appointment to a public office delegated by constitution or statute to the district judge.

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

600.415 Family court plan.

Sec. 415. A plan of concurrent jurisdiction may include a family court plan as provided in chapter 10.

History: Add. 2002, Act 678, Eff. Apr. 1, 2003.

600.420 Record maintenance.

Sec. 420. Unless an alternate method of record maintenance is approved by the county clerk as part of a plan of concurrent jurisdiction, the records of the circuit court, probate court, and district court shall continue to be maintained by that respective county clerk, probate register, or district court clerk in the same manner as the method employed for record management before the plan of concurrent jurisdiction is adopted.

History: Add. 2002, Act 678, Eff. Apr. 1, 2003.

600.425 Approval of plan by local funding units.

Sec. 425. Not later than 30 days before a proposed plan of concurrent jurisdiction under this chapter is submitted to the supreme court for approval, the plan shall be submitted to the local funding unit or units for their review of the plan's financial implications. Consistent with article VII, section 8 of the state constitution of 1963, the cost of implementing a plan of concurrent jurisdiction is subject to approval by the funding unit or units through the funding units' budgeting process.

History: Add. 2002, Act 678, Eff. Apr. 1, 2003.

CHAPTER 5
CIRCUIT COURTS: ORGANIZATION AND POWERS

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600.501 Judicial circuits.

Sec. 501. The state is divided into judicial circuits as provided in this chapter.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 145, Imd. Eff. June 7, 1974.

Compiler's note: Sections 2 to 7 of Act 145 of 1974 provide:

"Effective date of changes.

"Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

"Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating petitions; incumbent judges.

"Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

"Nominating petitions.

"Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

"Nomination, election, and terms of candidates for new circuit judgeships.

"Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10 years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

"Terms of additional circuit judges.

"Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

"Terms of additional district judges in certain districts.

"Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years."

600.502 First judicial circuit.

Sec. 502. The first judicial circuit consists of the county of Hillsdale and has 1 judge.

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

600.503 Second judicial circuit.

Sec. 503. The second judicial circuit consists of the county of Berrien and has 4 judges.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1968, Act 127, Imd. Eff. June 11, 1968;—Am. 1976, Act 125, Imd. Eff. May 21, 1976.

600.504 Third judicial circuit.

Sec. 504. (1) The third judicial circuit consists of the county of Wayne and has the following number of judges:

(a) Until 12 noon, January 1, 2003, 64 judges.

(b) Beginning 12 noon, January 1, 2003, 63 judges; however, if, after 12 noon, January 1, 2003, a vacancy occurs in a judgeship held by an incumbent judge of this circuit who would be ineligible to seek reelection to that office in 2004, that judgeship is eliminated unless the total number of judgeships in this circuit has been reduced to 61 before that vacancy occurred.

(c) Beginning 12 noon, January 1, 2005, 61 judges.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, Act 172, Eff. Sept. 6, 1963;—Am. 1965, Act 284, Imd. Eff. July 22, 1965;—Am. 1972, Act 169, Imd. Eff. June 15, 1972;—Am. 1974, Act 145, Imd. Eff. June 7, 1974;—Am. 1978, Act 164, Imd. Eff. May 25, 1978;—Am. 1980, Act 129, Imd. Eff. May 22, 1980;—Am. 1996, Act 388, Eff. Oct. 1, 1997;—Am. 2001, Act 254, Eff. Mar. 22, 2002;—Am. 2002, Act 715, Eff. Mar. 31, 2003.

Compiler's note: Sections 2 to 7 of Act 145 of 1974 provide:

"Effective date of changes.

"Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

"Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating

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petitions; incumbent judges.

"Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

"Nominating petitions.

"Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

"Nomination, election, and terms of candidates for new circuit judgeships.

"Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10 years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

"Terms of additional circuit judges.

"Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

"Terms of additional district judges in certain districts.

"Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years."

Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8

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years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Sections 2 to 5 of Act 129 of 1980 provide:

"New circuit and district judgeships; appearance on ballot; duty of candidate; petitions; filing fee.

"Section 2. The new circuit and district judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit, county, or district, a candidate for a new judgeship authorized in that circuit, county, or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in 1980. Petitions for a new judgeship created pursuant to this amendatory act shall bear signatures affixed to the petition after the date by which all counties in the circuit, all district control units in the district, or, in the case of a probate judgeship, the county, have adopted the resolutions required by law to create that office. Notwithstanding any other provision of law, a nonreturnable filing fee of $250.00 may be paid up to 4 p.m. on June 3, 1980 in lieu of petitions for new judgeships authorized by this 1980 amendatory act which are to be filled by election in 1980.

"Additional circuit judgeship for third judicial circuit; terms.

"Section 3. If the additional circuit judgeship permitted by this amendatory act for the third judicial circuit is created pursuant to law, the candidate receiving the highest number of votes in the 1980 general election shall be elected for a term of 8 years, and the candidate receiving the second highest number of votes shall be elected for a term of 6 years.

"Additional circuit judgeship for sixteenth judicial circuit; term.

"Section 4. If the additional circuit judgeship permitted by this amendatory act for the sixteenth judicial circuit is created pursuant to law, the first term of that judgeship shall be 8 years.

"Change in composition of affected judicial circuits; effective date.

"Section 5. If a new judicial circuit of the circuit court is created pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1981. If the fifty-fourth judicial circuit is created pursuant to this act, the incumbent circuit judge of the fortieth judicial circuit who resides in Tuscola county shall become the judge of the fifty-fourth judicial circuit on January 1, 1981, and shall serve until the term for which he was elected in the fortieth judicial circuit expires."

600.505 Fourth judicial circuit.

Sec. 505. The fourth judicial circuit consists of the county of Jackson and has 4 judges.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 22, Imd. Eff. Apr. 20, 1966;—Am. 1974, Act 145, Imd. Eff. June 7, 1974.

Compiler's note: Sections 2 to 7 of Act 145 of 1974 provide:

"Effective date of changes.

"Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

"Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating petitions; incumbent judges.

"Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

"Nominating petitions.

"Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

"Nomination, election, and terms of candidates for new circuit judgeships.

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"Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10 years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

"Terms of additional circuit judges.

"Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

"Terms of additional district judges in certain districts.

"Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years."

600.506 Fifth judicial circuit.

Sec. 506. (1) except as provided in subsection (2), the fifth judicial circuit consists of the counties of Barry and Eaton and has 2 judges.

(2) If the county of Barry approves the reformation of the fifth judicial circuit pursuant to law and the county of Eaton approves the creation of the fifty-sixth judicial circuit pursuant to law, the fifth judicial circuit consists of the county of Barry and has 1 judge effective January 1, 1991.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1970, Act 30, Imd. Eff. June 11, 1970;—Am. 1988, Act 134, Imd. Eff. May 27, 1988;—Am. 1990, Act 54, Imd. Eff. Apr. 11, 1990.

Compiler's note: Section 2 of Act 134 of 1988 provides:"Any additional circuit judgeship to be added by election in 1988 shall not be authorized to be filled by election unless each county in the circuit, by resolution adopted by the county board of commissioners, approves the creation of the judgeship and unless the clerk of each county adopting such a resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the tenth Tuesday preceding the August primary for the election to fill the additional circuit judgeship."

Section 2 of Act 54 of 1990 provides:

"If a new judicial circuit of the circuit court is created under this amendatory act pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1991. If the fifty-sixth judicial circuit is created pursuant to this amendatory act, the incumbent judge of the fifth judicial circuit who resides in Eaton county shall become the judge of the fifty-sixth judicial circuit on January 1, 1991, and shall serve until the term for which he or she was elected in the fifth judicial circuit expires."

In subsection (1), the phrase "except as provided" evidently should read "Except as provided."

600.507 Sixth judicial circuit; county; number of judges.

Sec. 507. (1) The sixth judicial circuit consists of the county of Oakland and, except as provided in subsection (2), has 19 judges.

(2) Subject to section 550, this circuit shall have 18 judges during the period beginning 12 noon, January 1, 2011 and ending 12 noon, January 1, 2015. The judgeship temporarily eliminated from this circuit during the period of January 1, 2011 to January 1, 2015 shall be the judgeship of a judge who is not eligible to run for reelection due to constitutional limitation on the effective date of the amendatory act that added this subsection. In the 2014 election, the initial term of office of the judgeship being restored shall be 8 years.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, Act 179, Eff. Sept. 6, 1963;—Am. 1965, Act 284, Imd. Eff. July 22, 1965;—Am. 1966, Act 22, Imd. Eff. Apr. 20, 1966;—Am. 1970, Act 30, Imd. Eff. June 11, 1970;—Am. 1974, Act 145, Imd. Eff. June 7, 1974;—Am. 1978, Act 164, Imd. Eff. May 25, 1978;—Am. 1988, Act 134, Imd. Eff. May 27, 1988;—Am. 1994, Act 138, Imd. Eff. May 26, 1994;—Am. 2001, Act 252, Eff. Mar. 22, 2002;—Am. 2006, Act 103, Imd. Eff. Apr. 6, 2006;—Am. 2006, Act 607, Imd. Eff. Jan. 3, 2007;—Am. 2009, Act 228, Imd. Eff. Jan. 5, 2010.

Compiler's note: Sections 2 to 7 of Act 145 of 1974 provide:

"Effective date of changes.

"Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

"Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating petitions; incumbent judges.

"Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

"Nominating petitions.

"Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall

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contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

"Nomination, election, and terms of candidates for new circuit judgeships.

"Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10 years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

"Terms of additional circuit judges.

"Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

"Terms of additional district judges in certain districts.

"Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years."

Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

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"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 2 of Act 134 of 1988 provides: "Any additional circuit judgeship to be added by election in 1988 shall not be authorized to be filled by election unless each county in the circuit, by resolution adopted by the county board of commissioners, approves the creation of the judgeship and unless the clerk of each county adopting such a resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the tenth Tuesday preceding the August primary for the election to fill the additional circuit judgeship."

Enacting section 1 of Act 252 of 2001 provides:

"Enacting section 1. If 2 new offices of judge are added to the sixth judicial circuit by election in 2002 pursuant to this amendatory act, the candidate receiving the highest number of votes in the November 2002 general election shall be elected for a term of 8 years, and the candidate receiving the second highest number of votes shall be elected for a term of 6 years."

Enacting section 1 of Act 607 of 2006 provides:

"Enacting section 1. If, pursuant to this amendatory act, a new office of judge is added to the sixth judicial circuit by election in 2008, the term of office of that judgeship for that election only shall be 8 years."

600.508 Seventh judicial circuit; county; number of judges.

Sec. 508. The seventh judicial circuit consists of the county of Genesee and has 9 judges. Subject to section 550, this judicial circuit may have 1 additional judge effective January 1, 2007.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1965, Act 284, Imd. Eff. July 22, 1965;—Am. 1966, Act 22, Imd. Eff. Apr. 20, 1966;—Am. 1976, Act 125, Imd. Eff. May 21, 1976;—Am. 2001, Act 253, Eff. Mar. 22, 2002;—Am. 2006, Act 100, Imd. Eff. Apr. 6, 2006.

600.509 Eighth judicial circuit.

Sec. 509. The eighth judicial circuit consists of the counties of Ionia and Montcalm and has 2 judges.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1978, Act 164, Imd. Eff. May 25, 1978.

Compiler's note: Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of

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the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

600.510 Ninth judicial circuit.

Sec. 510. The ninth judicial circuit consists of the county of Kalamazoo and has 4 judges. Subject to section 550, this judicial circuit may have 1 additional judge effective January 1, 1989.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1964, Act 264, Imd. Eff. June 3, 1964;—Am. 1972, Act 169, Imd. Eff. June 15, 1972;—Am. 1988, Act 134, Imd. Eff. May 27, 1988.

Compiler's note: Section 2 of Act 134 of 1988 provides:

"Any additional circuit judgeship to be added by election in 1988 shall not be authorized to be filled by election unless each county in the circuit, by resolution adopted by the county board of commissioners, approves the creation of the judgeship and unless the clerk of each county adopting such a resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the tenth Tuesday preceding the August primary for the election to fill the additional circuit judgeship."

600.511 Tenth judicial circuit.

Sec. 511. The tenth judicial circuit consists of the county of Saginaw and has 5 judges.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1968, Act 127, Imd. Eff. June 11, 1968;—Am. 1976, Act 125, Imd. Eff. May 21, 1976.

600.512 Eleventh judicial circuit.

Sec. 512. The eleventh judicial circuit consists of the counties of Alger, Luce, and Schoolcraft and has 1 judge. Beginning April 1, 2003, the eleventh judicial circuit court consists of the counties of Alger, Luce, Mackinac, and schoolcraft and has 1 judge.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1976, Act 125, Imd. Eff. May 21, 1976;—Am. 2002, Act 92, Eff. Mar. 31, 2003.

600.513 Twelfth judicial circuit.

Sec. 513. The twelfth judicial circuit consists of the counties of Baraga, Houghton and Keweenaw and has 1 judge.

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

600.514 Thirteenth judicial circuit.

Sec. 514. The thirteenth judicial circuit consists of the counties of Antrim, Grand Traverse and Leelanau and has 2 judges.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1968, Act 127, Imd. Eff. June 11, 1968;—Am. 1970, Act 30, Imd. Eff. June 11, 1970;—Am. 1970, Act 49, Imd. Eff. Jan. 1, 1971;—Am. 1972, Act 169, Imd. Eff. June 15, 1972.

600.515 Fourteenth judicial circuit.

Sec. 515. The fourteenth judicial circuit consists of the county of Muskegon and has 4 judges.

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History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1968, Act 127, Imd. Eff. June 11, 1968;—Am. 1978, Act 164, Imd. Eff. May 25, 1978.

Compiler's note: Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

600.516 Fifteenth judicial circuit.

Sec. 516. The fifteenth judicial circuit consists of the county of Branch and has 1 judge.

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History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1970, Act 30, Imd. Eff. June 11, 1970.

600.517 Sixteenth judicial circuit; county; number of judges.

Sec. 517. (1) The sixteenth judicial circuit consists of the county of Macomb and, except as provided in subsection (2), has 13 judges.

(2) Subject to section 550, this circuit shall have 12 judges during the period beginning 12 noon, January 1, 2011 and ending 12 noon, January 1, 2017. The 1 judgeship temporarily eliminated from this circuit during the period of January 1, 2011 to January 1, 2017 shall be the judgeship of a judge who is not eligible to run for reelection due to constitutional limitation on the effective date of the amendatory act that added this subsection.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1962, Act 187, Imd. Eff. May 24, 1962;—Am. 1964, Act 198, Imd. Eff. May 22, 1964;—Am. 1965, Act 284, Imd. Eff. July 22, 1965;—Am. 1968, Act 127, Imd. Eff. June 11, 1968;—Am. 1972, Act 169, Imd. Eff. June 15, 1972;—Am. 1974, Act 145, Imd. Eff. June 7, 1974;—Am. 1980, Act 129, Imd. Eff. May 22, 1980;—Am. 1990, Act 54, Imd. Eff. Apr. 11, 1990;—Am. 2001, Act 251, Eff. Mar. 22, 2002;—Am. 2001, Act 257, Eff. Mar. 22, 2002;—Am. 2002, Act 715, Eff. Mar. 31, 2003;—Am. 2006, Act 101, Imd. Eff. Apr. 6, 2006;—Am. 2009, Act 228, Imd. Eff. Jan. 5, 2010.

Compiler's note: Sections 2 to 7 of Act 145 of 1974 provide:

"Effective date of changes.

"Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

"Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating petitions; incumbent judges.

"Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

"Nominating petitions.

"Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

"Nomination, election, and terms of candidates for new circuit judgeships.

"Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10 years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

"Terms of additional circuit judges.

"Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

"Terms of additional district judges in certain districts.

"Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years."

Sections 2 to 5 of Act 129 of 1980 provide:

"New circuit and district judgeships; appearance on ballot; duty of candidate; petitions; filing fee.

"Section 2. The new circuit and district judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit, county, or district, a candidate for a new judgeship authorized in that circuit, county, or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in 1980. Petitions for a new judgeship created pursuant to this amendatory act shall bear signatures affixed to the petition after the date by which all counties in the circuit, all district control units in the district, or, in the case of a probate judgeship, the county, have adopted the resolutions required by law to create that office. Notwithstanding any other provision of law, a nonreturnable filing fee of $250.00 may be paid up to 4 p.m. on June 3, 1980 in lieu of petitions for new judgeships authorized by this 1980 amendatory act which are to be filled by election in 1980.

"Additional circuit judgeship for third judicial circuit; terms.

"Section 3. If the additional circuit judgeship permitted by this amendatory act for the third judicial circuit is created pursuant to law, the candidate receiving the highest number of votes in the 1980 general election shall be elected for a term of 8 years, and the candidate receiving the second highest number of votes shall be elected for a term of 6 years.

"Additional circuit judgeship for sixteenth judicial circuit; term.

"Section 4. If the additional circuit judgeship permitted by this amendatory act for the sixteenth judicial circuit is created pursuant to law, the first term of that judgeship shall be 8 years.

"Change in composition of affected judicial circuits; effective date.

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"Section 5. If a new judicial circuit of the circuit court is created pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1981. If the fifty-fourth judicial circuit is created pursuant to this act, the incumbent circuit judge of the fortieth judicial circuit who resides in Tuscola county shall become the judge of the fifty-fourth judicial circuit on January 1, 1981, and shall serve until the term for which he was elected in the fortieth judicial circuit expires."

Section 2 of Act 54 of 1990 provides:

"If a new judicial circuit of the circuit court is created under this amendatory act pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1991. If the fifty-sixth judicial circuit is created pursuant to this amendatory act, the incumbent judge of the fifth judicial circuit who resides in Eaton county shall become the judge of the fifty-sixth judicial circuit on January 1, 1991, and shall serve until the term for which he or she was elected in the fifth judicial circuit expires."

600.518 Seventeenth judicial circuit; county; number of judges.

Sec. 518. The seventeenth judicial circuit consists of the county of Kent and has 9 judges. Subject to section 550, this judicial circuit may have 1 additional judge effective January 1, 2007.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1964, Act 262, Imd. Eff. June 3, 1964;—Am. 1966, Act 22, Imd. Eff. Apr. 20, 1966;—Am. 1972, Act 169, Imd. Eff. June 15, 1972;—Am. 1974, Act 77, Imd. Eff. Apr. 9, 1974;—Am. 1978, Act 164, Imd. Eff. May 25, 1978;—Am. 1988, Act 134, Imd. Eff. May 27, 1988;—Am. 2001, Act 256, Eff. Mar. 22, 2002;—Am. 2006, Act 99, Imd. Eff. Apr. 6, 2006.

Compiler's note: Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

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"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 2 of Act 134 of 1988 provides: "Any additional circuit judgeship to be added by election in 1988 shall not be authorized to be filled by election unless each county in the circuit, by resolution adopted by the county board of commissioners, approves the creation of the judgeship and unless the clerk of each county adopting such a resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the tenth Tuesday preceding the August primary for the election to fill the additional circuit judgeship."

Enacting section 1 of Act 256 of 2001 provides:

"Enacting section 1. (1) If 2 new offices of judge are added to the seventeenth judicial circuit by election in 2002, pursuant to this amendatory act, the candidate receiving the highest number of votes in the November 2002 general election shall be elected for a term of 8 years, and the candidate receiving the second highest number of votes shall be elected for a term of 6 years.

(2) If 1 new office of judge is added to the twentieth judicial circuit by election in 2004, pursuant to this amendatory act, the candidate receiving the highest number of votes in the November 2004 general election shall be elected for a term of 8 years."

600.519 Eighteenth judicial circuit.

Sec. 519. The eighteenth judicial circuit consists of the county of Bay and has 3 judges.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1978, Act 164, Imd. Eff. May 25, 1978.

Compiler's note: Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit

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and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

600.520 Nineteenth judicial circuit.

Sec. 520. The nineteenth judicial circuit consists of the counties of Manistee and Benzie and has 1 judge.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1972, Act 169, Imd. Eff. June 15, 1972;—Am. 1978, Act 164, Imd. Eff. May 25, 1978.

Compiler's note: Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit

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and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

600.521 Twentieth judicial circuit.

Sec. 521. The twentieth judicial circuit consists of the county of Ottawa and has 3 judges. Subject to section 550, the twentieth judicial circuit may have 1 additional judge effective January 1, 2005.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 22, Imd. Eff. Apr. 20, 1966;—Am. 1974, Act 145, Imd. Eff. June 7, 1974;—Am. 1990, Act 54, Imd. Eff. Apr. 11, 1990;—Am. 2001, Act 256, Eff. Mar. 22, 2002.

Compiler's note: Sections 2 to 7 of Act 145 of 1974 provide:

"Effective date of changes.

"Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

"Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating petitions; incumbent judges.

"Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

"Nominating petitions.

"Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

"Nomination, election, and terms of candidates for new circuit judgeships.

"Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10 years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

"Terms of additional circuit judges.

"Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

"Terms of additional district judges in certain districts.

"Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years."

Section 2 of Act 54 of 1990 provides: "If a new judicial circuit of the circuit court is created under this amendatory act pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1991. If the fifty-sixth judicial circuit is created pursuant to this amendatory act, the incumbent judge of the fifth judicial circuit who resides in Eaton county shall become the judge of the fifty-sixth judicial circuit on January 1, 1991, and shall serve until the term for which he or she was elected in the fifth judicial circuit expires."

Enacting section 1 of Act 256 of 2001 provides:

"Enacting section 1. (1) If 2 new offices of judge are added to the seventeenth judicial circuit by election in 2002, pursuant to this

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amendatory act, the candidate receiving the highest number of votes in the November 2002 general election shall be elected for a term of 8 years, and the candidate receiving the second highest number of votes shall be elected for a term of 6 years.

(2) If 1 new office of judge is added to the twentieth judicial circuit by election in 2004, pursuant to this amendatory act, the candidate receiving the highest number of votes in the November 2004 general election shall be elected for a term of 8 years."

600.522 Twenty-first judicial circuit.

Sec. 522. The twenty-first judicial circuit consists of the county of Isabella and has 1 judge. Subject to section 550, this judicial circuit may have 1 additional judge effective January 1, 2005. If a new office of judge is added to this circuit by election in 2004, the candidate receiving the highest number of votes in the November 2004 general election shall be elected for a term of 8 years.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1965, Act 284, Imd. Eff. July 22, 1965;—Am. 1972, Act 169, Imd. Eff. June 15, 1972;—Am. 1976, Act 125, Imd. Eff. May 21, 1976;—Am. 1981, Act 182, Imd. Eff. Dec. 22, 1981;—Am. 2001, Act 256, Eff. Mar. 22, 2002;—Am. 2001, Act 257, Eff. Mar. 22, 2002.

Compiler's note: Section 2 of Act 182 of 1981 provides: "(1) The fifty-fifth judicial circuit is not created and the circuit judgeship proposed for that circuit is not authorized unless all of the following occur:

"(a) The counties of Clare and Gladwin, by resolutions adopted by each of their county boards of commissioners, approve the creation of the fifty-fifth judicial circuit and the judgeship proposed for that circuit.

"(b) The clerk of each county in subdivision (a) files a copy of the county's respective resolution with the secretary of state not later than December 22, 1981.

"(c) The county of Isabella approves the reformation of the twenty-first judicial circuit as provided in subsection (2).

"(2) The twenty-first judicial circuit is not reformed unless all of the following occur:

"(a) The county of Isabella, by resolution adopted by its county board of commissioners, approves the reformation of the twenty-first judicial circuit.

"(b) The clerk of the county of Isabella files a copy of the resolution with the secretary of state not later than December 22, 1981.

"(c) The counties of Clare and Gladwin approve the creation of the fifty-fifth judicial circuit as provided in subsection (1).

"(3) If the reformation of the twenty-first judicial circuit and the creation of the fifty-fifth judicial circuit are approved pursuant to subsections (1) and (2), the secretary of state shall immediately notify the state court administrator.

"(4) By proposing the creation of the fifty-fifth judicial circuit and a circuit judgeship for that circuit and the reformation of the twenty-first judicial circuit, the legislature is not creating the fifty-fifth judicial circuit or any judgeship in that circuit, or reforming the twenty-first judicial circuit. If the counties of Clare and Gladwin, acting through their respective boards of commissioners, approve the creation of the circuit and the circuit judgeship proposed by law for that circuit, or if the county of Isabella approves the reformation of the twenty-first judicial circuit each approval constitutes an exercise of the affected county's option to provide a new activity or service or to increase the level of activity or service offered in the county 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 and capital improvements which may result from the creation of the circuit and judgeship, or from the reformation of the circuit. However, the exercise of the option does not affect the state's obligation to pay to each county a portion of the circuit judge's or judges' salary as provided by law, or to appropriate and disburse funds to each county for the necessary costs of state requirements established by a state law which becomes effective on or after December 23, 1978.

"(5) If the county of Isabella approves the reformation of the twenty-first judicial circuit and the counties of Clare and Gladwin approve the creation of the fifty-fifth judicial circuit, then the incumbent circuit judge in the twenty-first judicial circuit who is a qualified elector in Clare or Gladwin county and who has been appointed to that office by the governor after January 1, 1981, becomes the circuit judge in the fifty-fifth judicial circuit on January 1, 1982, and serves as a circuit judge until January 1 next succeeding the first general election held after the vacancy to which he or she was appointed occurs, at which election a successor shall be elected for the remainder of the unexpired term which the predecessor incumbent serving on December 30, 1980, would have served had that incumbent remained in office in the twenty-first judicial circuit until his or her term would normally have expired."

600.523 Twenty-second judicial circuit.

Sec. 523. The twenty-second judicial circuit consists of the county of Washtenaw and has 5 judges.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, Act 32, Imd. Eff. Apr. 26, 1963;—Am. 1966, Act 22, Imd. Eff. Apr. 20, 1966;—Am. 1970, Act 30, Imd. Eff. June 11, 1970;—Am. 1976, Act 125, Imd. Eff. May 21, 1976.

600.524 Twenty-third judicial circuit.

Sec. 524. The twenty-third judicial circuit consists of the counties of Iosco and Oscoda and has 1 judge. Beginning April 1, 2003, the twenty-third judicial circuit consists of the counties of Alcona, Arenac, Iosco, and Oscoda and has 2 judges. The additional judgeship in this circuit shall be filled by the incumbent circuit judge of the thirty-fourth circuit residing in Arenac county with a term ending January 1, 2009, who shall serve as a judge of the twenty-third circuit for the balance of the term to which he or she was elected or appointed. For purposes of the November 2008 general election only, the term of the candidate for circuit judge in this circuit who receives the highest number of votes shall be 8 years, and the term of the candidate receiving the second highest number of votes shall be 6 years.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1978, Act 164, Imd. Eff. May 25, 1978;—Am. 2002, Act 92, Eff. Mar. 31, 2003.

Compiler's note: Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as

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otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

600.525 Twenty-fourth judicial circuit.

Sec. 525. The twenty-fourth judicial circuit consists of the county of Sanilac and has 1 judge.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1978, Act 164, Imd. Eff. May 25, 1978.

Compiler's note: Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being

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sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

600.526 Twenty-fifth judicial circuit.

Sec. 526. The twenty-fifth judicial circuit consists of the county of Marquette and has 2 judges.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 145, Imd. Eff. June 7, 1974.

Compiler's note: Sections 2 to 7 of Act 145 of 1974 provide:

"Effective date of changes.

"Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

"Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating petitions; incumbent judges.

"Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume

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office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

"Nominating petitions.

"Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

"Nomination, election, and terms of candidates for new circuit judgeships.

"Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10 years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

"Terms of additional circuit judges.

"Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

"Terms of additional district judges in certain districts.

"Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years."

600.527 Twenty-sixth judicial circuit.

Sec. 527. The twenty-sixth judicial circuit consists of the counties of Alpena, Alcona, Montmorency, and Presque Isle and has 2 judges. Beginning April 1, 2003, the twenty-sixth judicial circuit consists of the counties of Alpena and Montmorency. This circuit shall have 1 judge beginning on the earlier of the following dates:

(a) The date on which a vacancy occurs in the office of circuit judge for this judicial circuit.

(b) Twelve noon, January 1, 2005.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1972, Act 169, Imd. Eff. June 15, 1972;—Am. 1978, Act 164, Imd. Eff. May 25, 1978;—Am. 2002, Act 92, Eff. Mar. 31, 2003.

Compiler's note: Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term

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of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

600.528 Twenty-seventh judicial circuit.

Sec. 528. The twenty-seventh judicial circuit consists of the counties of Newaygo and Oceana and has 1 judge. Subject to section 550, this judicial circuit may have 1 additional judge effective January 1, 1989.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1976, Act 125, Imd. Eff. May 21, 1976;—Am. 1988, Act 134, Imd. Eff. May 27, 1988.

Compiler's note: Section 2 of Act 134 of 1988 provides:

"Any additional circuit judgeship to be added by election in 1988 shall not be authorized to be filled by election unless each county in the circuit, by resolution adopted by the county board of commissioners, approves the creation of the judgeship and unless the clerk of each county adopting such a resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the tenth Tuesday preceding the August primary for the election to fill the additional circuit judgeship."

600.529 Twenty-eighth judicial circuit.

Sec. 529. The twenty-eighth judicial circuit consists of the counties of Missaukee and Wexford and has 1 judge.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1972, Act 169, Imd. Eff. June 15, 1972;—Am. 1978, Act 164, Imd. Eff. May 25, 1978.

Compiler's note: Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the

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number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

600.530 Twenty-ninth judicial circuit.

Sec. 530. The twenty-ninth judicial circuit consists of the counties of Clinton and Gratiot and has 2 judges.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1978, Act 164, Imd. Eff. May 25, 1978.

Compiler's note: Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any

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term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

600.531 Thirtieth judicial circuit.

Sec. 531. The thirtieth judicial circuit consists of the county of Ingham and has 7 judges.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1965, Act 284, Imd. Eff. July 22, 1965;—Am. 1970, Act 30, Imd. Eff. June 11, 1970;—Am. 1978, Act 164, Imd. Eff. May 25, 1978.

Compiler's note: Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any

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term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

600.532 Thirty-first judicial circuit.

Sec. 532. The thirty-first judicial circuit consists of the county of St. Clair and has 3 judges.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1978, Act 164, Imd. Eff. May 25, 1978.

Compiler's note: Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the

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secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

600.533 Thirty-second judicial circuit.

Sec. 533. The thirty-second judicial circuit consists of the counties of Gogebic and Ontonagon and has 1 judge.

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

600.534 Thirty-third judicial circuit.

Sec. 534. (1) Except as provided in subsection (2), the thirty-third judicial circuit consists of the counties of Charlevoix and Emmet and has 1 judge.

(2) If the county of Charlevoix approves the reformation of the thirty-third judicial circuit pursuant to law and the county of Emmet approves the creation of the fifty-seventh judicial circuit pursuant to law, the thirty-third judicial circuit consists of the county of Charlevoix and has 1 judge effective January 1, 1995.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1968, Act 127, Imd. Eff. June 11, 1968;—Am. 1972, Act 169, Imd. Eff. June 15, 1972;—Am. 1978, Act 164, Imd. Eff. May 25, 1978;—Am. 1980, Act 129, Imd. Eff. May 22, 1980;—Am. 1994, Act 138, Imd. Eff. May 26, 1994.

Compiler's note: Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

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"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

600.535 Thirty-fourth judicial circuit.

Sec. 535. The thirty-fourth judicial circuit consists of the counties of Arenac, Ogemaw, and Roscommon and has 2 judges. Beginning April 1, 2003, the thirty-fourth judicial circuit consists of the counties of Ogemaw and Roscommon and has 1 judge.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1965, Act 284, Imd. Eff. July 22, 1965;—Am. 1970, Act 30, Imd. Eff. June 11, 1970;—Am. 1970, Act 49, Imd. Eff. Jan. 1, 1971;—Am. 1972, Act 169, Imd. Eff. June 15, 1972;—Am. 1990, Act 54, Imd. Eff. Apr. 11, 1990;—Am. 2002, Act 92, Eff. Mar. 31, 2003.

Compiler's note: Section 2 of Act 54 of 1990 provides:

"If a new judicial circuit of the circuit court is created under this amendatory act pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1991. If the fifty-sixth judicial circuit is created pursuant to this amendatory act, the incumbent judge of the fifth judicial circuit who resides in Eaton county shall become the judge of the fifty-sixth judicial circuit on January 1, 1991, and shall serve until the term for which he or she was elected in the fifth judicial circuit expires."

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600.536 Thirty-fifth judicial circuit.

Sec. 536. The thirty-fifth judicial circuit consists of the county of Shiawassee and has 1 judge. Subject to section 550, this circuit may have 1 additional judge effective January 1, 1991.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1968, Act 127, Imd. Eff. June 11, 1968;—Am. 1980, Act 129, Imd. Eff. May 22, 1980;—Am. 1990, Act 54, Imd. Eff. Apr. 11, 1990.

Compiler's note: Sections 2 to 5 of Act 129 of 1980 provide:

"New circuit and district judgeships; appearance on ballot; duty of candidate; petitions; filing fee.

"Section 2. The new circuit and district judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit, county, or district, a candidate for a new judgeship authorized in that circuit, county, or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in 1980. Petitions for a new judgeship created pursuant to this amendatory act shall bear signatures affixed to the petition after the date by which all counties in the circuit, all district control units in the district, or, in the case of a probate judgeship, the county, have adopted the resolutions required by law to create that office. Notwithstanding any other provision of law, a nonreturnable filing fee of $250.00 may be paid up to 4 p.m. on June 3, 1980 in lieu of petitions for new judgeships authorized by this 1980 amendatory act which are to be filled by election in 1980.

"Additional circuit judgeship for third judicial circuit; terms.

"Section 3. If the additional circuit judgeship permitted by this amendatory act for the third judicial circuit is created pursuant to law, the candidate receiving the highest number of votes in the 1980 general election shall be elected for a term of 8 years, and the candidate receiving the second highest number of votes shall be elected for a term of 6 years.

"Additional circuit judgeship for sixteenth judicial circuit; term.

"Section 4. If the additional circuit judgeship permitted by this amendatory act for the sixteenth judicial circuit is created pursuant to law, the first term of that judgeship shall be 8 years.

"Change in composition of affected judicial circuits; effective date.

"Section 5. If a new judicial circuit of the circuit court is created pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1981. If the fifty-fourth judicial circuit is created pursuant to this act, the incumbent circuit judge of the fortieth judicial circuit who resides in Tuscola county shall become the judge of the fifty-fourth judicial circuit on January 1, 1981, and shall serve until the term for which he was elected in the fortieth judicial circuit expires."

Section 2 of Act 54 of 1990 provides:

"If a new judicial circuit of the circuit court is created under this amendatory act pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1991. If the fifty-sixth judicial circuit is created pursuant to this amendatory act, the incumbent judge of the fifth judicial circuit who resides in Eaton county shall become the judge of the fifty-sixth judicial circuit on January 1, 1991, and shall serve until the term for which he or she was elected in the fifth judicial circuit expires."

600.537 Thirty-sixth judicial circuit.

Sec. 537. The thirty-sixth judicial circuit consists of the county of Van Buren and has 1 judge. Subject to section 550, this judicial circuit may have 1 additional judge effective January 1, 1989.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1968, Act 127, Imd. Eff. June 11, 1968;—Am. 1988, Act 134, Imd. Eff. May 27, 1988.

Compiler's note: Section 2 of Act 134 of 1988 provides:

"Any additional circuit judgeship to be added by election in 1988 shall not be authorized to be filled by election unless each county in the circuit, by resolution adopted by the county board of commissioners, approves the creation of the judgeship and unless the clerk of each county adopting such a resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the tenth Tuesday preceding the August primary for the election to fill the additional circuit judgeship."

600.538 Thirty-seventh judicial circuit.

Sec. 538. The thirty-seventh judicial circuit consists of the county of Calhoun and has 3 judges. Subject to section 550, the thirty-seventh judicial circuit may have 1 additional judge effective January 1, 1993.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1976, Act 125, Imd. Eff. May 21, 1976;—Am. 1990, Act 54, Imd. Eff. Apr. 11, 1990.

Compiler's note: Section 2 of Act 54 of 1990 provides:

"If a new judicial circuit of the circuit court is created under this amendatory act pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1991. If the fifty-sixth judicial circuit is created pursuant to this amendatory act, the incumbent judge of the fifth judicial circuit who resides in Eaton county shall become the judge of the fifty-sixth judicial circuit on January 1, 1991, and shall serve until the term for which he or she was elected in the fifth judicial circuit expires."

600.539 Thirty-eighth judicial circuit.

Sec. 539. The thirty-eighth judicial circuit consists of the county of Monroe and has 3 judges.

History: 1961, Act 236, Eff. Jan. 1. 1963;—Am. 1966, Act 22, Imd. Eff. Apr. 20, 1966;—Am. 1978, Act 164, Imd. Eff. May 25, 1978.

Compiler's note: Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial

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circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

600.540 Thirty-ninth judicial circuit.

Sec. 540. The thirty-ninth judicial circuit consists of the county of Lenawee and has 2 judges.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1976, Act 125, Imd. Eff. May 21, 1976.

600.541 Fortieth judicial circuit.

Sec. 541. The fortieth judicial circuit consists of the counties of Lapeer and Tuscola and has 3 judges. If

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the county of Lapeer approves the reformation of the fortieth judicial circuit pursuant to law, and the county of Tuscola approves the creation of the fifty-fourth judicial circuit pursuant to law, the fortieth judicial circuit consists of the county of Lapeer and has 2 judges effective July 1, 1981.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1968, Act 127, Imd. Eff. June 11, 1968;—Am. 1978, Act 164, Imd. Eff. May 25, 1978;—Am. 1980, Act 129, Imd. Eff. May 22, 1980;—Am. 1980, Act 190, Imd. Eff. July 8, 1980;—Am. 1980, Act 438, Eff. May 1, 1981.

Compiler's note: Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the

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thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Sections 2 to 5 of Act 129 of 1980 provide:

"New circuit and district judgeships; appearance on ballot; duty of candidate; petitions; filing fee.

"Section 2. The new circuit and district judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit, county, or district, a candidate for a new judgeship authorized in that circuit, county, or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in 1980. Petitions for a new judgeship created pursuant to this amendatory act shall bear signatures affixed to the petition after the date by which all counties in the circuit, all district control units in the district, or, in the case of a probate judgeship, the county, have adopted the resolutions required by law to create that office. Notwithstanding any other provision of law, a nonreturnable filing fee of $250.00 may be paid up to 4 p.m. on June 3, 1980 in lieu of petitions for new judgeships authorized by this 1980 amendatory act which are to be filled by election in 1980.

"Additional circuit judgeship for third judicial circuit; terms.

"Section 3. If the additional circuit judgeship permitted by this amendatory act for the third judicial circuit is created pursuant to law, the candidate receiving the highest number of votes in the 1980 general election shall be elected for a term of 8 years, and the candidate receiving the second highest number of votes shall be elected for a term of 6 years.

"Additional circuit judgeship for sixteenth judicial circuit; term.

"Section 4. If the additional circuit judgeship permitted by this amendatory act for the sixteenth judicial circuit is created pursuant to law, the first term of that judgeship shall be 8 years.

"Change in composition of affected judicial circuits; effective date.

"Section 5. If a new judicial circuit of the circuit court is created pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1981. If the fifty-fourth judicial circuit is created pursuant to this act, the incumbent circuit judge of the fortieth judicial circuit who resides in Tuscola county shall become the judge of the fifty-fourth judicial circuit on January 1, 1981, and shall serve until the term for which he was elected in the fortieth judicial circuit expires."

Sections 2 and 3 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."

600.542 Forty-first judicial circuit.

Sec. 542. The forty-first judicial circuit consists of the counties of Dickinson, Iron, and Menominee and has 1 judge. Subject to section 550, this circuit may have 1 additional judge effective January 1, 1985.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1984, Act 95, Imd. Eff. Apr. 23, 1984.

Compiler's note: Section 2 of Act 95 of 1984 provides: "Section 2. If the additional circuit judgeship permitted by this amendatory act for the forty-first judicial circuit is created pursuant to law, the first term of that judgeship shall be 8 years."

600.543 Forty-second judicial circuit.

Sec. 543. The forty-second judicial circuit consists of the county of Midland and has 2 judges.

History: Add. 1965, Act 284, Imd. Eff. July 22, 1965;—Am. 1976, Act 125, Imd. Eff. May 21, 1976.

600.544 Forty-third judicial circuit.

Sec. 544. The forty-third judicial circuit consists of the county of Cass and has 1 judge.

History: Add. 1968, Act 127, Imd. Eff. June 11, 1968.

600.545 Forty-fourth judicial circuit.

Sec. 545. The forty-fourth judicial circuit consists of the county of Livingston and has 2 judges.

History: Add. 1968, Act 127, Imd. Eff. June 11, 1968;—Am. 1974, Act 145, Imd. Eff. June 7, 1974.

Compiler's note: Sections 2 to 7 of Act 145 of 1974 provide:

"Effective date of changes.

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"Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

"Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating petitions; incumbent judges.

"Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

"Nominating petitions.

"Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

"Nomination, election, and terms of candidates for new circuit judgeships.

"Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10 years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

"Terms of additional circuit judges.

"Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

"Terms of additional district judges in certain districts.

"Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years."

600.546 Forty-fifth judicial circuit.

Sec. 546. The forty-fifth judicial circuit consists of the county of St. Joseph and has 1 judge.

History: Add. 1970, Act 30, Imd. Eff. June 11, 1970.

600.547 Forty-sixth judicial circuit.

Sec. 547. The forty-sixth judicial circuit consists of the counties of Kalkaska, Crawford, and Otsego and has 1 judge. Subject to section 550, this circuit may have 1 additional judge effective January 1, 1985.

History: Add. 1972, Act 169, Imd. Eff. June 15, 1972;—Am. 1984, Act 95, Imd. Eff. Apr. 23, 1984.

Compiler's note: Section 3 of Act 95 of 1984 provides: "Section 3. If the additional circuit judgeship permitted by this amendatory act for the forty-sixth judicial circuit is created pursuant to law, the first term of that judgeship shall be 8 years."

600.548 Forty-seventh judicial circuit.

Sec. 548. The forty-seventh judicial circuit consists of the county of Delta and has 1 judge.

History: Add. 1974, Act 145, Imd. Eff. June 7, 1974.

Compiler's note: Sections 2 to 7 of Act 145 of 1974 provide:

"Effective date of changes.

"Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

"Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating petitions; incumbent judges.

"Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

"Nominating petitions.

"Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

"Nomination, election, and terms of candidates for new circuit judgeships.

"Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the

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new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10 years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

"Terms of additional circuit judges.

"Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

"Terms of additional district judges in certain districts.

"Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years."

600.549 Forty-eighth judicial circuit.

Sec. 549. The forty-eighth judicial circuit consists of the county of Allegan and has 1 judge. Subject to section 550, the forty-eighth judicial circuit may have 1 additional judge effective January 1, 1991.

History: Add. 1974, Act 145, Imd. Eff. June 7, 1974;—Am. 1990, Act 54, Imd. Eff. Apr. 11, 1990.

Compiler's note: Sections 2 to 7 of Act 145 of 1974 provide:

"Effective date of changes.

"Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

"Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating petitions; incumbent judges.

"Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

"Nominating petitions.

"Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

"Nomination, election, and terms of candidates for new circuit judgeships.

"Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10 years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

"Terms of additional circuit judges.

"Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

"Terms of additional district judges in certain districts.

"Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years."

Section 2 of Act 54 of 1990 provides:

"If a new judicial circuit of the circuit court is created under this amendatory act pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1991. If the fifty-sixth judicial circuit is created pursuant to this amendatory act, the incumbent judge of the fifth judicial circuit who resides in Eaton county shall become the judge of the fifty-sixth judicial circuit on January 1, 1991, and shall serve until the term for which he or she was elected in the fifth judicial circuit expires."

600.549a Forty-ninth judicial circuit; counties; number of judges.

Sec. 549a. The forty-ninth judicial circuit consists of the counties of Mecosta and Osceola and has 1 judge. Subject to section 550, this judicial circuit may have 1 additional judge effective January 1, 2007.

History: Add. 1976, Act 125, Imd. Eff. May 21, 1976;—Am. 2006, Act 100, Imd. Eff. Apr. 6, 2006.

Compiler's note: Enacting section 1 of Act 100 of 2006 provides:

"Enacting section 1. If, pursuant to this amendatory act, a new office of judge is added to the forty-ninth judicial circuit by election in 2006, the term of office of that judgeship for that election only shall be 8 years."

600.549b Fiftieth judicial circuit.

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Sec. 549b. The fiftieth judicial circuit consists of the counties of Chippewa and Mackinac and has 1 judge. Beginning April 1, 2003, the fiftieth judicial circuit consists of the county of Chippewa and has 1 judge.

History: Add. 1976, Act 125, Imd. Eff. May 21, 1976;—Am. 1978, Act 164, Imd. Eff. May 25, 1978;—Am. 2002, Act 92, Eff. Mar. 31, 2003.

Compiler's note: Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

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600.549c Fifty-first judicial circuit.

Sec. 549c. The fifty-first judicial circuit consists of the counties of Lake and Mason and has 1 judge.

History: Add. 1978, Act 164, Imd. Eff. May 25, 1978.

Compiler's note: Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

600.549d Fifty-second judicial circuit.

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Sec. 549d. The fifty-second judicial circuit consists of the county of Huron and has 1 judge.

History: Add. 1978, Act 164, Imd. Eff. May 25, 1978.

Compiler's note: Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

600.549e Fifty-third judicial circuit.

Sec. 549e. The fifty-third judicial circuit consists of the county of Cheboygan and has 1 judge. Beginning

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April 1, 2003, the fifty-third judicial circuit consists of the counties of Cheboygan and Presque Isle and has 1 judge.

History: Add. 1980, Act 129, Imd. Eff. May 22, 1980;—Am. 2002, Act 92, Eff. Mar. 31, 2003.

Compiler's note: Sections 2 to 5 of Act 129 of 1980 provide:

"New circuit and district judgeships; appearance on ballot; duty of candidate; petitions; filing fee.

"Section 2. The new circuit and district judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit, county, or district, a candidate for a new judgeship authorized in that circuit, county, or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in 1980. Petitions for a new judgeship created pursuant to this amendatory act shall bear signatures affixed to the petition after the date by which all counties in the circuit, all district control units in the district, or, in the case of a probate judgeship, the county, have adopted the resolutions required by law to create that office. Notwithstanding any other provision of law, a nonreturnable filing fee of $250.00 may be paid up to 4 p.m. on June 3, 1980 in lieu of petitions for new judgeships authorized by this 1980 amendatory act which are to be filled by election in 1980.

"Additional circuit judgeship for third judicial circuit; terms.

"Section 3. If the additional circuit judgeship permitted by this amendatory act for the third judicial circuit is created pursuant to law, the candidate receiving the highest number of votes in the 1980 general election shall be elected for a term of 8 years, and the candidate receiving the second highest number of votes shall be elected for a term of 6 years.

"Additional circuit judgeship for sixteenth judicial circuit; term.

"Section 4. If the additional circuit judgeship permitted by this amendatory act for the sixteenth judicial circuit is created pursuant to law, the first term of that judgeship shall be 8 years.

"Change in composition of affected judicial circuits; effective date.

"Section 5. If a new judicial circuit of the circuit court is created pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1981. If the fifty-fourth judicial circuit is created pursuant to this act, the incumbent circuit judge of the fortieth judicial circuit who resides in Tuscola county shall become the judge of the fifty-fourth judicial circuit on January 1, 1981, and shall serve until the term for which he was elected in the fortieth judicial circuit expires.

600.549f Fifty-fourth judicial circuit.

Sec. 549f. If the county of Lapeer approves the reformation of the fortieth judicial circuit pursuant to law, and the county of Tuscola approves the creation of the fifty-fourth judicial circuit pursuant to law, the fifty-fourth judicial circuit consists of the county of Tuscola and has 1 judge effective July 1, 1981.

History: Add. 1980, Act 129, Imd. Eff. May 22, 1980;—Am. 1980, Act 190, Imd. Eff. July 8, 1980;—Am. 1980, Act 438, Eff. May 1, 1981.

Compiler's note: Sections 2 to 5 of Act 129 of 1980 provide:

"New circuit and district judgeships; appearance on ballot; duty of candidate; petitions; filing fee.

"Section 2. The new circuit and district judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit, county, or district, a candidate for a new judgeship authorized in that circuit, county, or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in 1980. Petitions for a new judgeship created pursuant to this amendatory act shall bear signatures affixed to the petition after the date by which all counties in the circuit, all district control units in the district, or, in the case of a probate judgeship, the county, have adopted the resolutions required by law to create that office. Notwithstanding any other provision of law, a nonreturnable filing fee of $250.00 may be paid up to 4 p.m. on June 3, 1980 in lieu of petitions for new judgeships authorized by this 1980 amendatory act which are to be filled by election in 1980.

"Additional circuit judgeship for third judicial circuit; terms.

"Section 3. If the additional circuit judgeship permitted by this amendatory act for the third judicial circuit is created pursuant to law, the candidate receiving the highest number of votes in the 1980 general election shall be elected for a term of 8 years, and the candidate receiving the second highest number of votes shall be elected for a term of 6 years.

"Additional circuit judgeship for sixteenth judicial circuit; term.

"Section 4. If the additional circuit judgeship permitted by this amendatory act for the sixteenth judicial circuit is created pursuant to law, the first term of that judgeship shall be 8 years.

"Change in composition of affected judicial circuits; effective date.

"Section 5. If a new judicial circuit of the circuit court is created pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1981. If the fifty-fourth judicial circuit is created pursuant to this act, the incumbent circuit judge of the fortieth judicial circuit who resides in Tuscola county shall become the judge of the fifty-fourth judicial circuit on January 1, 1981, and shall serve until the term for which he was elected in the fortieth judicial circuit expires."

Sections 2, 3 and 6 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

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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."

"Creation of fifty-fourth judicial circuit and reformation of fortieth judicial circuit; conditions; legislative intent; judgeship.

"Section 6. (1) The fifty-fourth judicial circuit shall not be created nor any circuit judgeship proposed for that circuit be authorized or filled by election unless all of the following occur:

"(a) The county of Lapeer approves the reformation of the fortieth judicial circuit pursuant to subsection (2).

"(b) The county of Tuscola, by resolution adopted by its county board of commissioners, approves the creation of the fifty-fourth judicial circuit and the judgeship proposed for that circuit.

"(c) The clerk of the county of Tuscola files a copy of the resolution adopted pursuant to subdivision (b) with the state court administrator not later than 4 p.m. on June 1, 1981.

"(2) The fortieth judicial circuit shall not be reformed unless the county of Lapeer, by resolution adopted by its county board of commissioners, approves the reformation of the fortieth judicial circuit and unless the clerk of the county of Lapeer files a copy of the resolution with the state court administrator not later than 4 p.m. on June 1, 1981.

"(3) If the reformation of the fortieth judicial circuit, the creation of the fifty-fourth judicial circuit, and the creation of the proposed circuit judgeship for the fifty-fourth judicial circuit are approved pursuant to subsections (1) and (2), the state court administrator shall immediately notify the elections division of the department of state of the composition of the circuits.

"(4) By proposing the creation of the fifty-fourth judicial circuit and a circuit judgeship for that circuit and the reformation of the fortieth judicial circuit, the legislature is not creating the fifty-fourth judicial circuit or any judgeship in that circuit, or reforming the fortieth judicial circuit. If the county of Tuscola, acting through its board of commissioners, approves the creation of the circuit and the circuit judgeship proposed by law for that circuit, or if the county of Lapeer approves the reformation of the fortieth judicial circuit each approval constitutes an exercise of the affected county's option to provide a new activity or service or to increase the level of activity or service offered in the county beyond that required by existing law, as the elements of the 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 and capital improvements which may result from the creation of the circuit and judgeship, or from the reformation of the circuit. However, the exercise of the option does not affect the state's obligation to pay to each county a portion of the circuit judge's or judges' salary as provided by law, or to appropriate and disburse funds to each county for the necessary costs of state requirements established by a state law which becomes effective on or after December 23, 1978.

"(5) If the county of Lapeer approves the reformation of the fortieth judicial circuit and the county of Tuscola approves the creation of the fifty-fourth judicial circuit and the judgeship for that circuit pursuant to this section, the circuit judge in the fortieth judicial circuit whose term expires on January 1, 1989, shall become a judge of the fifty-fourth judicial circuit and shall serve the balance of his or her term after July 1, 1981, as a judge of the fifty-fourth judicial circuit."

600.549g Fifty-fifth judicial circuit; counties; number of judges.

Sec. 549g. The fifty-fifth judicial circuit consists of the counties of Clare and Gladwin and has 1 judge. Subject to section 550, this judicial circuit may have 1 additional judge effective January 1, 2007.

History: Add. 1981, Act 182, Imd. Eff. Dec. 22, 1981;—Am. 2006, Act 102, Imd. Eff. Apr. 6, 2006.

Compiler's note: Section 2 of Act 182 of 1981 provides:

"(1) The fifty-fifth judicial circuit is not created and the circuit judgeship proposed for that circuit is not authorized unless all of the following occur:

"(a) The counties of Clare and Gladwin, by resolutions adopted by each of their county boards of commissioners, approve the creation of the fifty-fifth judicial circuit and the judgeship proposed for that circuit.

"(b) The clerk of each county in subdivision (a) files a copy of the county's respective resolution with the secretary of state not later than December 22, 1981.

"(c) The county of Isabella approves the reformation of the twenty-first judicial circuit as provided in subsection (2).

"(2) The twenty-first judicial circuit is not reformed unless all of the following occur:

"(a) The county of Isabella, by resolution adopted by its county board of commissioners, approves the reformation of the twenty-first judicial circuit.

"(b) The clerk of the county of Isabella files a copy of the resolution with the secretary of state not later than December 22, 1981.

"(c) The counties of Clare and Gladwin approve the creation of the fifty-fifth judicial circuit as provided in subsection (1).

"(3) If the reformation of the twenty-first judicial circuit and the creation of the fifty-fifth judicial circuit are approved pursuant to subsections (1) and (2), the secretary of state shall immediately notify the state court administrator.

"(4) By proposing the creation of the fifty-fifth judicial circuit and a circuit judgeship for that circuit and the reformation of the twenty-first judicial circuit, the legislature is not creating the fifty-fifth judicial circuit or any judgeship in that circuit, or reforming the twenty-first judicial circuit. If the counties of Clare and Gladwin, acting through their respective boards of commissioners, approve the creation of the circuit and the circuit judgeship proposed by law for that circuit, or if the county of Isabella approves the reformation of the twenty-first judicial circuit each approval constitutes an exercise of the affected county's option to provide a new activity or service or to increase the level of activity or service offered in the county 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 and capital improvements which may result from the creation of the circuit and judgeship, or from the reformation of the circuit. However, the exercise of the option does not affect the state's obligation to pay to each county a portion of the circuit judge's or judges' salary as provided by law, or to appropriate and disburse funds to each county for the necessary costs of state requirements established by a state law which becomes effective on or after December 23, 1978.

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"(5) If the county of Isabella approves the reformation of the twenty-first judicial circuit and the counties of Clare and Gladwin approve the creation of the fifty-fifth judicial circuit, then the incumbent circuit judge in the twenty-first judicial circuit who is a qualified elector in Clare or Gladwin county and who has been appointed to that office by the governor after January 1, 1981, becomes the circuit judge in the fifty-fifth judicial circuit on January 1, 1982, and serves as a circuit judge until January 1 next succeeding the first general election held after the vacancy to which he or she was appointed occurs, at which election a successor shall be elected for the remainder of the unexpired term which the predecessor incumbent serving on December 30, 1980, would have served had that incumbent remained in office in the twenty-first judicial circuit until his or her term would normally have expired."

600.549h Fifty-sixth judicial circuit.

Sec. 549h. If the county of Barry approves the reformation of the fifth judicial circuit pursuant to law, and the county of Eaton approves the creation of the fifty-sixth judicial circuit pursuant to law, the fifty-sixth judicial circuit consists of the county of Eaton and has 1 judge effective January 1, 1991. Subject to section 550, this judicial circuit may have 1 additional judge effective January 1, 1991.

History: Add. 1990, Act 54, Imd. Eff. Apr. 11, 1990.

Compiler's note: Section 2 of Act 54 of 1990 provides:

"If a new judicial circuit of the circuit court is created under this amendatory act pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1991. If the fifty-sixth judicial circuit is created pursuant to this amendatory act, the incumbent judge of the fifth judicial circuit who resides in Eaton county shall become the judge of the fifty-sixth judicial circuit on January 1, 1991, and shall serve until the term for which he or she was elected in the fifth judicial circuit expires."

600.549i Fifty-seventh judicial circuit.

Sec. 549i. If the county of Charlevoix approves the reformation of the thirty-third judicial circuit pursuant to law, and the county of Emmet approves the creation of the fifty-seventh judicial circuit pursuant to law, the fifty-seventh judicial circuit consists of the county of Emmet and has 1 judge effective January 1, 1995.

History: Add. 1994, Act 138, Imd. Eff. May 26, 1994.

600.550 Additional circuit judgeship; creation; approval by county; resolution; filing; valid approval of judgeship; notice to elections division; effect of approval; state's obligation; election; first term; temporary reduction in number of circuit judgeships; notice.

Sec. 550. (1) An additional circuit judgeship permitted by this chapter shall not be authorized to be filled by election unless each county in the circuit, by resolution adopted by the county board of commissioners, approves the creation of that judgeship and unless the clerk of each county adopting such a resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the sixteenth Tuesday preceding the August primary for the election to fill the additional circuit judgeship. The state court administrator shall immediately notify the elections division of the department of state with respect to each new circuit judgeship authorized pursuant to this subsection. If a circuit judgeship is permitted by law to be authorized without a resolution being adopted by the county board of commissioners, the state court administrator shall immediately notify the elections division of the department of state with respect to each new circuit judgeship authorized.

(2) A resolution required under subsection (1) that is filed before the effective date of the amendatory act that authorized that judgeship is a valid approval of the judgeship for purposes of this section only if the filing occurs within the 2-year state legislative session during which the amendatory act was enacted. A resolution required under subsection (1) that is filed after the effective date of the amendatory act that added that judgeship is a valid approval of the judgeship for purposes of this section only if the filing occurs not later than 4 p.m. of the sixteenth Tuesday preceding the August primary for the election immediately preceding the effective date of the additional judgeship.

(3) By permitting an additional judgeship, or by restoring a judgeship after a temporary reduction in judgeships as described in subsection (5), the legislature is not creating that judgeship. If a county, acting through its board of commissioners, approves the creation of an additional circuit judgeship, that approval 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 beyond that required by existing law, as the elements of that option are defined by 1979 PA 101, MCL 21.231 to 21.244, and a voluntary acceptance by the county of all expenses and capital improvements which may result from the creation of the judgeship. However, the exercise of the option does not affect the state's obligation to pay the same portion of the additional judge's salary which is paid by the state to the other judges of the same circuit, or to appropriate and disburse funds to the county for the necessary costs of state requirements established by a state law which becomes effective on or after December 23, 1978.

(4) Each additional circuit judgeship created pursuant to subsection (1) shall be filled by election pursuant to the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. The first term of each additional circuit

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judgeship shall be 6 years, unless the law permitting the additional judgeship provides for a term of a different length.

(5) If, by law, the number of judgeships in a judicial circuit is temporarily reduced for a period of not more than 6 years and then restored to the number of judgeships that existed before the temporary reduction, the restored judgeship or judgeships are not considered additional circuit judgeships for purposes of this section, and a resolution of approval under subsection (1) is not required.

(6) A temporary reduction in the number of circuit judgeships in a judicial circuit shall not take effect unless both of the following occur:

(a) Each county in the circuit, by resolution adopted by the county board of commissioners, supports the temporary reduction in the number of judgeships.

(b) The clerk of each county adopting the resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the sixteenth Tuesday preceding the date on which the August primary would have been held for the judgeship that is being eliminated. A resolution required under subdivision (a) that is filed before the effective date of the amendatory act that added this subsection is valid if the filing occurs within the 2-year state legislative session during which the amendatory act was enacted.

(7) The state court administrator shall immediately notify the elections division of the department of state with respect to either of the following:

(a) A temporary reduction in the number of judgeships in a judicial circuit.

(b) The restoration of the number of judgeships in a judicial circuit, after a temporary reduction in that number.

History: Add. 1980, Act 129, Imd. Eff. May 22, 1980;—Am. 1984, Act 95, Imd. Eff. Apr. 23, 1984;—Am. 1988, Act 134, Imd. Eff. May 27, 1988;—Am. 1990, Act 54, Imd. Eff. Apr. 11, 1990;—Am. 2009, Act 228, Imd. Eff. Jan. 5, 2010.

Compiler's note: Sections 2 to 5 of Act 129 of 1980 provide:

"New circuit and district judgeships; appearance on ballot; duty of candidate; petitions; filing fee.

"Section 2. The new circuit and district judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit, county, or district, a candidate for a new judgeship authorized in that circuit, county, or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in 1980. Petitions for a new judgeship created pursuant to this amendatory act shall bear signatures affixed to the petition after the date by which all counties in the circuit, all district control units in the district, or, in the case of a probate judgeship, the county, have adopted the resolutions required by law to create that office. Notwithstanding any other provision of law, a nonreturnable filing fee of $250.00 may be paid up to 4 p.m. on June 3, 1980 in lieu of petitions for new judgeships authorized by this 1980 amendatory act which are to be filled by election in 1980.

"Additional circuit judgeship for third judicial circuit; terms.

"Section 3. If the additional circuit judgeship permitted by this amendatory act for the third judicial circuit is created pursuant to law, the candidate receiving the highest number of votes in the 1980 general election shall be elected for a term of 8 years, and the candidate receiving the second highest number of votes shall be elected for a term of 6 years.

"Additional circuit judgeship for sixteenth judicial circuit; term.

"Section 4. If the additional circuit judgeship permitted by this amendatory act for the sixteenth judicial circuit is created pursuant to law, the first term of that judgeship shall be 8 years.

"Change in composition of affected judicial circuits; effective date.

"Section 5. If a new judicial circuit of the circuit court is created pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1981. If the fifty-fourth judicial circuit is created pursuant to this act, the incumbent circuit judge of the fortieth judicial circuit who resides in Tuscola county shall become the judge of the fifty-fourth judicial circuit on January 1, 1981, and shall serve until the term for which he was elected in the fortieth judicial circuit expires."

Section 2 of Act 134 of 1988 provides: "Any additional circuit judgeship to be added by election in 1988 shall not be authorized to be filled by election unless each county in the circuit, by resolution adopted by the county board of commissioners, approves the creation of the judgeship and unless the clerk of each county adopting such a resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the tenth Tuesday preceding the August primary for the election to fill the additional circuit judgeship."

Section 2 of Act 54 of 1990 provides:

"If a new judicial circuit of the circuit court is created under this amendatory act pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1991. If the fifty-sixth judicial circuit is created pursuant to this amendatory act, the incumbent judge of the fifth judicial circuit who resides in Eaton county shall become the judge of the fifty-sixth judicial circuit on January 1, 1991, and shall serve until the term for which he or she was elected in the fifth judicial circuit expires."

600.550a New judicial circuit and 1 or more circuit judgeships; creation; approval by county; resolution; filing; notice to elections division; effect of approval; state's obligation; election; first term; approval of county board of commissioners not required.

Sec. 550a. (1) If a new judicial circuit is proposed by law, that new circuit shall not be created and any circuit judgeship proposed for the circuit shall not be authorized or filled by election unless each county in the proposed circuit, by resolution adopted by the county board of commissioners, approves the creation of the

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new circuit and each judgeship proposed for the circuit and unless the clerk of each county adopting that resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the sixteenth Tuesday preceding the August primary immediately following the effective date of the amendatory act permitting the creation of the new circuit. The state court administrator shall immediately notify the elections division of the department of state with respect to each new judicial circuit and circuit judgeship authorized pursuant to this subsection.

(2) By proposing a new judicial circuit and 1 or more circuit judgeships for the circuit, the legislature is not creating that circuit or any judgeship in the circuit. If a county, acting through its board of commissioners, approves the creation of a new circuit and 1 or more circuit judgeships proposed by law for that circuit, that approval 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 beyond that required by existing law, as the elements of that option are defined by 1979 PA 101, MCL 21.231 to 21.244, and a voluntary acceptance by the county of all expenses and capital improvements which may result from the creation of the new circuit and each judgeship. However, the exercise of the option does not affect the state's obligation to pay a portion of the circuit judge's or judges' salary as provided by law, or to appropriate and disburse funds to the county for the necessary costs of state requirements established by a state law which becomes effective on or after December 23, 1978.

(3) Each circuit judgeship created pursuant to subsection (1) shall be filled by election pursuant to the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. The first term of each circuit judgeship shall be 6 years, unless the law permitting the creation of the new circuit and 1 or more judgeships provides for a term of a different length.

(4) The reformation of the eleventh, twenty-third, twenty-sixth, thirty-fourth, fiftieth, and fifty-third judicial circuits pursuant to the 2002 amendatory act that added this subsection does not require the approval of the county board of commissioners under this section or section 550.

History: Add. 1980, Act 129, Imd. Eff. May 22, 1980;—Am. 1990, Act 54, Imd. Eff. Apr. 11, 1990;—Am. 2002, Act 92, Eff. Mar. 31, 2003.

Compiler's note: Sections 2 to 5 of Act 129 of 1980 provide:

"New circuit and district judgeships; appearance on ballot; duty of candidate; petitions; filing fee.

"Section 2. The new circuit and district judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit, county, or district, a candidate for a new judgeship authorized in that circuit, county, or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in 1980. Petitions for a new judgeship created pursuant to this amendatory act shall bear signatures affixed to the petition after the date by which all counties in the circuit, all district control units in the district, or, in the case of a probate judgeship, the county, have adopted the resolutions required by law to create that office. Notwithstanding any other provision of law, a nonreturnable filing fee of $250.00 may be paid up to 4 p.m. on June 3, 1980 in lieu of petitions for new judgeships authorized by this 1980 amendatory act which are to be filled by election in 1980.

"Additional circuit judgeship for third judicial circuit; terms.

"Section 3. If the additional circuit judgeship permitted by this amendatory act for the third judicial circuit is created pursuant to law, the candidate receiving the highest number of votes in the 1980 general election shall be elected for a term of 8 years, and the candidate receiving the second highest number of votes shall be elected for a term of 6 years.

"Additional circuit judgeship for sixteenth judicial circuit; term.

"Section 4. If the additional circuit judgeship permitted by this amendatory act for the sixteenth judicial circuit is created pursuant to law, the first term of that judgeship shall be 8 years.

"Change in composition of affected judicial circuits; effective date.

"Section 5. If a new judicial circuit of the circuit court is created pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1981. If the fifty-fourth judicial circuit is created pursuant to this act, the incumbent circuit judge of the fortieth judicial circuit who resides in Tuscola county shall become the judge of the fifty-fourth judicial circuit on January 1, 1981, and shall serve until the term for which he was elected in the fortieth judicial circuit expires."

Section 2 of Act 54 of 1990 provides:

"If a new judicial circuit of the circuit court is created under this amendatory act pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1991. If the fifty-sixth judicial circuit is created pursuant to this amendatory act, the incumbent judge of the fifth judicial circuit who resides in Eaton county shall become the judge of the fifty-sixth judicial circuit on January 1, 1991, and shall serve until the term for which he or she was elected in the fifth judicial circuit expires."

600.551 Additional courtroom facilities in multi-judge counties.

Sec. 551. The boards of supervisors of counties of circuits which have more than 1 circuit judge shall provide additional courtroom facilities as they are required for the prompt and orderly dispatch of business.

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

600.555 Circuit judge; annual salary.

Sec. 555. (1) Subject to subsection (5), each circuit judge shall receive an annual salary payable by the state as provided in this section and may receive from any county in which he or she regularly holds court an

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additional salary as determined from time to time by the county board of commissioners. In any county where an additional salary is granted, it shall be paid at the same rate to all circuit judges regularly holding court in that county.

(2) Until the salary of a justice of the supreme court exceeds $128,538.00, each circuit judge shall receive an annual salary determined as follows:

(a) An annual salary payable by the state of $65,314.00.

(b) An additional salary payable by the county or counties of the judicial circuit. The state shall reimburse to a county or counties paying an additional salary to a circuit judge $43,943.00, if the total additional salary, including any cost-of-living allowance, payable by that county or counties to a circuit judge is not less than or more than $43,943.00. If the county or counties pay a circuit judge less than or more than $43,943.00, the county or counties are not entitled to reimbursement from the state under this subsection.

(3) If the salary of a justice of the supreme court exceeds $128,538.00 but is not more than $130,633.00, each circuit judge shall receive an annual salary determined as follows:

(a) An annual salary payable by the state of $65,314.00.

(b) An additional salary payable by the county or counties of the judicial circuit. If a county or counties paying an additional salary to a circuit judge pay a circuit judge the difference between 85% of the salary of a justice of the supreme court and $65,314.00, the state shall reimburse to the county or counties that amount. If the county or counties pay a circuit judge an additional salary, including any cost-of-living allowance, that exceeds that amount, the county or counties are not entitled to reimbursement from the state under this subsection.

(4) If the salary of a justice of the supreme court exceeds $130,633.00, each circuit judge shall receive an annual salary determined as follows:

(a) An annual salary payable by the state that is the difference between 85% of the salary of a justice of the supreme court and $45,724.00.

(b) An additional salary payable by the county or counties of the judicial circuit. The state shall reimburse to a county or counties paying an additional salary to a circuit judge $45,724.00, if the total additional salary, including any cost-of-living allowance, payable by that county or counties to a circuit judge is not less than or more than $45,724.00. If the county or counties pay a circuit judge less than or more than $45,724.00, the county or counties are not entitled to reimbursement from the state under this subsection.

(5) An increase in the amount of salary payable to a judge under subsection (1) caused by an increase in the salary payable to a justice of the supreme court resulting from the operation of Act No. 357 of the Public Acts of 1968, being sections 15.211 to 15.218 of the Michigan Compiled Laws, shall not be effective until February 1 of the year in which the increase in the salary of a justice of the supreme court becomes effective. If an increase in salary becomes effective on February 1 of a year in which an increase in the salary of a justice of the supreme court becomes effective, the increase shall be retroactive to January 1 of that year.

(6) Each circuit judge who holds court in a county other than the county of his or her residence shall be reimbursed for his or her actual and necessary expenses incurred in holding court. Each circuit judge entitled to the reimbursement shall certify the expenses incurred to the court administrator for allowance. Upon allowance by the administrator, the state treasurer shall issue a warrant on the state treasury for payment.

(7) A circuit judge whose case load is less than other circuit judges may be authorized by the supreme court or state court administrator to assist other courts and perform other judicial duties, for limited periods or specific assignments. This subsection shall not be construed as a directive to the supreme court or state court administrator.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, Act 172, Eff. Sept. 6, 1963;—Am. 1965, Act 284, Imd. Eff. July 22, 1965;—Am. 1966, Act 252, Eff. Jan. 1, 1967;—Am. 1970, Act 248, Imd. Eff. July 1, 1971;—Am. 1980, Act 438, Eff. Sept. 1, 1981;—Am. 1995, Act 259, Imd. Eff. Jan. 5, 1996;—Am. 1996, Act 374, Eff. Jan. 1, 1997.

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

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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."

600.557 "Senior judge" defined; assignment of senior judge to hear and decide nonjury civil action; contents and filing of stipulation; fees and costs; approval; powers, duties, and immunity of senior judge; provisions applicable to senior judge; service not constituting retirement service; public trial; site of trial; transcript; final judgment; appeal not available; enforceability of judgment; failure to assign senior judge; inability of senior judge to hear action; withdrawal of stipulation.

Sec. 557. (1) As used in this section and sections 557a and 557b, "senior judge" means a former justice of the supreme court, or a former judge of the court of appeals, circuit court, recorder's court, probate court, district court, common pleas court, or a municipal court, who meets all of the following requirements:

(a) Was once elected to judicial office in this state.

(b) At the time of assignment under this section, does not hold a judicial office by appointment or election.

(c) Has never been removed from judicial office pursuant to article VI or article XI of the state constitution of 1963, or as otherwise allowed by law.

(d) Is a member in good standing of the state bar of Michigan.

(e) Is a legal resident of this state.

(2) Except as otherwise provided in this section, in any nonjury civil action pending in any court of this state, with the consent of all the parties to the action, the parties may stipulate to the assignment of a senior judge to hear and decide the action pursuant to this section and sections 557a and 557b.

(3) The stipulation shall contain all of the following:

(a) The names of 2 senior judges, agreed upon by all the parties to the action, selected from a list of senior judges approved by the supreme court.

(b) A realistic estimate of the number of judicial hours it will take to hear the action and to perform all of the functions required of the senior judge.

(c) The hourly rate of compensation the parties agree to pay the senior judge for his or her services. The hourly rate of compensation shall not be greater than an hourly rate which, if computed on a daily basis, would exceed the daily salary paid to a judge of the court in which the action is pending.

(d) A realistic estimate of the costs of trial, including notice, the services of a court reporter, the rental of an appropriate site to hold the trial, necessary expenses of the senior judge and support staff including travel, lodging, and meals, and other costs of trial as are appropriate.

(e) A determination as to who is responsible for initial payment of the costs of the action, and who is responsible for those costs upon final judgment.

(f) A realistic estimate of the cost to the local unit of government for administering the senior judge civil action fund created in section 557b, for that action.

(4) The stipulation shall be filed with the chief judge of the court in which the action is pending together with a copy of a receipt from the clerk of the court indicating that the fees and costs were deposited with the clerk of the court for deposit in the funds established in each judicial circuit pursuant to sections 557a and 557b.

(5) If the chief judge of the court in which the action is pending approves the stipulation of the parties, the stipulation shall be forwarded to the supreme court for approval and assignment of the senior judge. If the supreme court, through its direct order or through the state court administrator, approves the stipulation and assigns a senior judge named in the stipulation, the assignment takes effect upon entry of the order of approval by the chief judge.

(6) The senior judge assigned to hear the action shall exercise the same powers and duties as a judge sitting without a jury in the court in which the action is pending. The senior judge has the same immunity from criminal and civil liability in connection with the exercise of his or her powers and duties as judge as does a judge of the court in which the action is pending.

(7) All of the following are applicable to a senior judge, while hearing and deciding an action under this section:

(a) The senior judge is subject to the provisions of the code of judicial conduct.

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(b) The senior judge is prohibited from holding a nonjudicial office to the same extent as a judge of the court in which the action is pending, pursuant to section 2 of article III of the state constitution of 1963.

(c) The senior judge may be censured, suspended, or removed the same as a judge of the court in which the action is pending.

(8) Service as a senior judge does not constitute service for purposes of retirement in any public retirement system in this state.

(9) A trial conducted pursuant to this section shall be a public trial.

(10) A trial conducted pursuant to this section shall be held within the venue of the court in which the action is pending. Unless the trial is held in a facility provided by the court in which the action is pending, notice of the site of the trial shall be published by the clerk of the court in which the action is pending in a legally designated newspaper circulating within the jurisdiction of the court in which the action is pending not less than 7 days before the commencement date of trial and shall be entered upon the court file of the court in which the action is pending not less than 7 days before the date of trial.

(11) A written transcript of the proceedings shall be filed in the court in which the action is pending upon the request of any party at that party's expense, or upon the request of the senior judge, in which case the expense shall be allocated by the senior judge among the parties.

(12) Except for good cause shown to the chief judge of the court in which the action is pending, a final judgment shall be entered by the senior judge within 21 days after all parties have submitted their closing proofs and arguments. An order, decision, or judgment of the senior judge is conclusive, and appeal shall not be available to any party. The order, decision, or judgment is enforceable to the same extent as an order, decision, or judgment of the court in which the action was pending.

(13) If neither of the senior judges selected by the parties is assigned by the supreme court, or if the assigned senior judge is unable to hear the action for any reason, both of the following shall apply:

(a) The parties to the stipulation may select 2 other senior judges from the list approved by the supreme court and resubmit the stipulation for approval and assignment of a senior judge to hear the action without the payment of an additional stipulation assignment fee under section 557a.

(b) Any of the parties to the stipulation may elect to withdraw the stipulation for the assignment of a senior judge and all deposits paid will be refunded except the stipulation assignment fee under section 557a.

(14) A stipulation for the assignment of a senior judge to hear the action may be withdrawn only as provided in subsection (13) or with the consent of the senior judge assigned to hear the action. Upon withdrawal of a stipulation for the assignment of a senior judge to hear the action, the action shall regain the same status it had before the filing of the stipulation or as may be ordered by the chief judge of the court in which the action is pending.

History: Add. 1990, Act 185, Eff. Oct. 1, 1990.

600.557a Stipulation assignment fee fund.

Sec. 557a. (1) There is established in the circuit court in each judicial circuit a stipulation assignment fee fund. A stipulation assignment fee of $250.00 shall be paid into the fund by each party to the action. The fee is not refundable.

(2) The total fees received pursuant to subsection (1) shall be used for the provision of civil legal services through the legal aid and defender association of Detroit or through existing legal services and legal aid programs funded by the legal services corporation. By January 30 of each year, the circuit court shall distribute the fees received during the previous calendar year pursuant to subsection (1) solely to the existing civil legal services programs within its judicial circuit. If more than 1 civil legal service program exists within the judicial circuit, each program shall receive an equal share of the funds.

History: Add. 1990, Act 185, Eff. Oct. 1, 1990.

600.557b Senior judge civil action fund.

Sec. 557b. (1) There is established in the circuit court in each judicial circuit a senior judge civil action fund. The senior judge civil action fund shall be used to pay the compensation and costs of actions under this section. The following money shall be deposited in the senior judge civil action fund:

(a) A sum of money equal to the estimated compensation that will be due the senior judge for his or her services, costs, and actual and necessary expenses as provided in section 557(3)(b), (c), (d), and (f).

(b) A sum of money equal to the estimated costs of trial as provided in section 557(3)(d) and (f).

(c) Such other funds as provided by law or by court rule.

(2) Before receiving payment from the fund, a senior judge shall file a detailed statement of services rendered and costs incurred. The chief judge of the court in which the action is pending shall review and approve the statement. The clerk shall reimburse the senior judge for actual and necessary expenses and for

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services according to the hourly rate provided for in the stipulation, up to the amount deposited in the fund by the parties to the action.

(3) The senior judge may file for interim payments and need not await the conclusion of the trial to be partially compensated or reimbursed for expenses.

(4) If the chief judge of the court in which the action is pending considers at any time that the parties have not deposited a sufficient sum to cover the compensation that will be due the senior judge or for the costs of the trial, the chief judge may order the parties to deposit an additional amount to provide for compensation and costs. The chief judge may adjourn the trial until the additional amount is deposited. If the designated additional amount is not paid within 10 days after entry of an order for the additional amount, the chief judge may take such appropriate actions as considered necessary, including returning the action to the status it had before the filing of the stipulation, for failure to comply with the order for the additional amount.

(5) Money deposited in the senior judge civil action fund in excess of the actual compensation and costs of the trial shall be refunded to the parties within a reasonable time after final judgment.

History: Add. 1990, Act 185, Eff. Oct. 1, 1990.

600.558 Repealed. 1990, Act 185, Eff. Oct. 1, 1990.

Compiler's note: The repealed section pertained to visiting judges.

600.560 Judges; absence or disability, authority of judge in adjoining circuit.

Sec. 560. In case of the absence or disability of all the circuit judges of any judicial circuit in this state, the circuit judge of any adjoining circuit is authorized to grant any order which may be made by a circuit judge at chambers with reference to any suit or action pending or about to be brought in the circuit from which the judge or judges thereof may be absent or unable to act. A recital of such absence or disability in any order so granted shall be conclusive evidence thereof.

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

600.562 Judges; practice of law prohibited.

Sec. 562. The circuit court judges shall not practice as attorneys or counselors in any court of the state, nor shall they engage in the practice of law for compensation. No circuit judge may have any law partner practicing in the circuit of which he is a judge.

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

600.563, 600.564 Repealed. 1996, Act 374, Eff. Oct. 1, 1996.

Compiler's note: The repealed sections pertained to executive committee and executive chief judge.

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.

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(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.

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(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.

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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,

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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

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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.

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

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"(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

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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

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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

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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

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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.

CHAPTER 6
JURISDICTION OF THE CIRCUIT COURTS

600.601 Circuit court; jurisdiction and power.

Sec. 601. (1) The circuit court has the power and jurisdiction:

(a) Possessed by courts of record at the common law, as altered by the state constitution of 1963, the laws of this state, and the rules of the supreme court.

(b) Possessed by courts and judges in chancery in England on March 1, 1847, as altered by the state constitution of 1963, the laws of this state, and the rules of the supreme court.

(c) Prescribed by the rules of the supreme court.

(2) The circuit court has exclusive jurisdiction over condemnation cases commenced under the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630.

(3) In a judicial circuit in which the circuit court is affected by a plan of concurrent jurisdiction adopted under chapter 4, the circuit court has concurrent jurisdiction with the probate court or the district court, or both, as provided in the plan of concurrent jurisdiction, except as to the following matters:

(a) The probate court has exclusive jurisdiction over trust and estate matters.

(b) Except as provided in section 411, the district court has exclusive jurisdiction over small claims and civil infraction actions.

(4) The family division of circuit court has jurisdiction as provided in chapter 10.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1996, Act 388, Eff. Jan. 1, 1998;—Am. 2002, Act 678, Eff. Apr. 1, 2003;—Am. 2005, Act 326, Imd. Eff. Dec. 27, 2005.

600.605 Circuit court; original jurisdiction.

Sec. 605. Circuit courts have original jurisdiction to hear and determine all civil claims and remedies, except where exclusive jurisdiction is given in the constitution or by statute to some other court or where the circuit courts are denied jurisdiction by the constitution or statutes of this state.

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

600.606 Violations by certain juveniles; jurisdiction of circuit court; "specified juvenile violation" defined.

Sec. 606. (1) The circuit court has jurisdiction to hear and determine a specified juvenile violation if committed by a juvenile 14 years of age or older and less than 17 years of age.

(2) As used in this section, "specified juvenile violation" means any of the following:

(a) A violation of section 72, 83, 86, 89, 91, 316, 317, 349, 520b, 529, 529a, or 531 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531 of the Michigan Compiled Laws.

(b) A violation of section 84 or 110a(2) of Act No. 328 of the Public Acts of 1931, being sections 750.84 and 750.110a of the Michigan Compiled Laws, if the juvenile is armed with a dangerous weapon. As used in this subdivision, "dangerous weapon" means 1 or more of the following:

(*i*) A loaded or unloaded firearm, whether operable or inoperable.

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(*ii*) A knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.

(*iii*) An object that is likely to cause death or bodily injury when used as a weapon and that is used as a weapon or carried or possessed for use as a weapon.

(*iv*) An object or device that is used or fashioned in a manner to lead a person to believe the object or device is an object or device described in subparagraphs (*i*) to (*iii*).

(c) A violation of section 186a of Act No. 328 of the Public Acts of 1931, being section 750.186a of the Michigan Compiled Laws, regarding escape or attempted escape from a juvenile facility, but only if the juvenile facility from which the individual escaped or attempted to escape was 1 of the following:

(*i*) A high-security or medium-security facility operated by the family independence agency.

(*ii*) A high-security facility operated by a private agency under contract with the family independence agency.

(d) A violation of section 7401(2)(a)(*i*) or 7403(2)(a)(*i*) of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7401 and 333.7403 of the Michigan Compiled Laws.

(e) An attempt to commit a violation described in subdivisions (a) to (d).

(f) Conspiracy to commit a violation described in subdivisions (a) to (d).

(g) Solicitation to commit a violation described in subdivisions (a) to (d).

(h) Any lesser included offense of a violation described in subdivisions (a) to (g) if the individual is charged with a violation described in subdivisions (a) to (g).

(i) Any other violation arising out of the same transaction as a violation described in subdivisions (a) to (g) if the individual is charged with a violation described in subdivisions (a) to (g).

History: Add. 1988, Act 52, Eff. Oct. 1, 1988;—Am. 1994, Act 193, Eff. Oct. 1, 1994;—Am. 1996, Act 260, Eff. Jan. 1, 1997.

Compiler's note: Section 3 of Act 52 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 171 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."

600.611 Circuit court; orders to effectuate judgments.

Sec. 611. Circuit courts have jurisdiction and power to make any order proper to fully effectuate the circuit courts' jurisdiction and judgments.

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

600.615 Superintending control over inferior courts and tribunals.

Sec. 615. Except as provided in section 10b of Act No. 369 of the Public Acts of 1919, being section 725.10b of the Michigan Compiled Laws, the circuit court has a general superintending control over all inferior courts and tribunals, subject to supreme court rule.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1981, Act 206, Eff. Jan. 1, 1982.

600.621 Circuit court; rules of practice.

Sec. 621. The circuit courts from time to time may make rules for regulating the practice of the said courts in matters not covered by rule of the supreme court or by statute.

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

600.631 Appeal from order, decision, or opinion of state board, commission, or agency.

Sec. 631. An appeal shall lie from any order, decision, or opinion of any state board, commission, or agency, authorized under the laws of this state to promulgate rules from which an appeal or other judicial review has not otherwise been provided for by law, to the circuit court of the county of which the appellant is a resident or to the circuit court of Ingham county, which court shall have and exercise jurisdiction with respect thereto as in nonjury cases. Such appeals shall be made in accordance with the rules of the supreme court.

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

600.641 Repealed. 1996, Act 374, Eff. Jan. 1, 1997.

Compiler's note: The repealed section pertained to removal or remand of action to district court.

CHAPTER 6A
UNIFORM CHILD CUSTODY JURISDICTION ACT

600.651-600.673 Repealed. 2001, Act 195, Eff. Apr. 1, 2002.

CHAPTER 7

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600.701 General personal jurisdiction over individuals.

Sec. 701. The existence of any of the following relationships between an individual and the state shall constitute a sufficient basis of jurisdiction to enable the courts of record of this state to exercise general personal jurisdiction over the individual or his representative and to enable such courts to render personal judgments against the individual or representative.

(1) Presence in the state at the time when process is served.

(2) Domicile in the state at the time when process is served.

(3) Consent, to the extent authorized by the consent and subject to the limitations provided in section 745.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 88, Eff. Apr. 1, 1975.

Compiler's note: Section 2 of Act 88 of 1974 provides: "This 1974 amendatory act shall apply to actions commenced after its effective date, even if the cause of action arose prior thereto. Actions commenced prior to the effective date of this act shall not be affected thereby."

600.705 Limited personal jurisdiction over individuals.

Sec. 705. The existence of any of the following relationships between an individual or his agent and the state shall constitute a sufficient basis of jurisdiction to enable a court of record of this state to exercise limited personal jurisdiction over the individual and to enable the court to render personal judgments against the individual or his representative arising out of an act which creates any of the following relationships:

(1) The transaction of any business within the state.

(2) The doing or causing an act to be done, or consequences to occur, in the state resulting in an action for tort.

(3) The ownership, use, or possession of real or tangible personal property situated within the state.

(4) Contracting to insure a person, property, or risk located within this state at the time of contracting.

(5) Entering into a contract for services to be rendered or for materials to be furnished in the state by the defendant.

(6) Acting as a director, manager, trustee, or other officer of a corporation incorporated under the laws of, or having its principal place of business within this state.

(7) Maintaining a domicile in this state while subject to a marital or family relationship which is the basis of the claim for divorce, alimony, separate maintenance, property settlement, child support, or child custody.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 90, Eff. Apr. 1, 1975.

Compiler's note: Section 2 of Act 90 of 1974 provides: "This amendatory act shall apply to an action commenced on or after the effective date of this act regardless of whether or not the cause of action arose prior to the effective date of this act or thereafter."

600.711 General personal jurisdiction over corporations.

Sec. 711. The existence of any of the following relationships between a corporation and the state shall constitute a sufficient basis of jurisdiction to enable the courts of record of this state to exercise general personal jurisdiction over the corporation and to enable such courts to render personal judgments against the corporation.

(1) Incorporation under the laws of this state.

(2) Consent, to the extent authorized by the consent and subject to the limitations provided in section 745.

(3) The carrying on of a continuous and systematic part of its general business within the state.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 88, Eff. Apr. 1, 1975.

Compiler's note: Section 2 of Act 88 of 1974 provides: "This 1974 amendatory act shall apply to actions commenced after its effective date, even if the cause of action arose prior thereto. Actions commenced prior to the effective date of this act shall not be affected thereby."

600.715 Corporations; limited personal jurisdiction.

Sec. 715. The existence of any of the following relationships between a corporation or its agent and the state shall constitute a sufficient basis of jurisdiction to enable the courts of record of this state to exercise limited personal jurisdiction over such corporation and to enable such courts to render personal judgments against such corporation arising out of the act or acts which create any of the following relationships:

(1) The transaction of any business within the state.

(2) The doing or causing any act to be done, or consequences to occur, in the state resulting in an action for tort.

(3) The ownership, use, or possession of any real or tangible personal property situated within the state.

(4) Contracting to insure any person, property, or risk located within this state at the time of contracting.

(5) Entering into a contract for services to be performed or for materials to be furnished in the state by the

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defendant.

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

600.721 General personal jurisdiction over partnerships and limited partnerships.

Sec. 721. The existence of any of the following relationships between a partnership or limited partnership and the state shall constitute a sufficient basis of jurisdiction to enable the courts of record of this state to exercise general personal jurisdiction over the partnership or limited partnership and to enable such courts to render personal judgments against the partnership or limited partnership.

(1) Formation under the laws of this state.

(2) Consent, to the extent authorized by the consent and subject to the limitations provided in section 745.

(3) The carrying on of a continuous and systematic part of its general business within the state.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 88, Eff. Apr. 1, 1975.

Compiler's note: Section 2 of Act 88 of 1974 provides: "This 1974 amendatory act shall apply to actions commenced after its effective date, even if the cause of action arose prior thereto. Actions commenced prior to the effective date of this act shall not be affected thereby."

600.725 Partnerships; limited personal jurisdiction.

Sec. 725. The existence of any of the following relationships between a partnership or limited partnership or an agent thereof and the state shall constitute a sufficient basis of jurisdiction to enable the courts of record of this state to exercise limited personal jurisdiction over such partnership or limited partnership and to enable such courts to render personal judgments against such partnership or limited partnership arising out of the act or acts which create any of the following relationships:

(1) The transaction of any business within the state.

(2) The doing or causing any act to be done, or consequences to occur, in the state resulting in an action for tort.

(3) The ownership, use, or possession of any real or tangible personal property situated within the state.

(4) Contracting to insure any person, property, or risk located within this state at the time of contracting.

(5) Entering into a contract for services to be performed or for materials to be furnished in the state by the defendant.

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

600.731 General personal jurisdiction over partnership associations or unincorporated voluntary associations.

Sec. 731. The existence of any of the following relationships between a partnership association or unincorporated voluntary association and the state shall constitute a sufficient basis of jurisdiction to enable the courts of record of this state to exercise general personal jurisdiction over the partnership association or unincorporated voluntary association and to enable such courts to render personal judgments against the partnership association or unincorporated voluntary association.

(1) Formation under the laws of this state.

(2) Consent, to the extent authorized by the consent and subject to the limitations provided in section 745.

(3) The carrying on of a continuous and systematic part of its general business within the state.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 88, Eff. Apr. 1, 1975.

Compiler's note: Section 2 of Act 88 of 1974 provides: "This 1974 amendatory act shall apply to actions commenced after its effective date, even if the cause of action arose prior thereto. Actions commenced prior to the effective date of this act shall not be affected thereby."

600.735 Partnership association or unincorporated voluntary association; limited personal jurisdiction.

Sec. 735. The existence of any of the following relationships between a partnership association or unincorporated voluntary association or an agent thereof and the state shall constitute a sufficient basis of jurisdiction to enable the courts of record of this state to exercise limited personal jurisdiction over such partnership association or unincorporated voluntary association and to enable such courts to render personal judgments against such partnership association or unincorporated voluntary association arising out of the act or acts which create any of the following relationships:

(1) The transaction of any business within the state.

(2) The doing or causing any act to be done, or consequences to occur, in the state resulting in an action for tort.

(3) The ownership, use or possession of any real or tangible personal property situated within the state.

(4) Contracting to insure any person, property, or risk located within this state at the time of contracting.

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(5) Entering into a contract for services to be rendered or for materials to be furnished in the state by the defendant.

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

600.741 Limited jurisdiction; bond by plaintiff.

Sec. 741. In all civil actions where sections 705, 715, 725 or 735 constitute the basis of jurisdiction of a defendant, on such defendant's motion the court shall require the plaintiff to post a bond to such defendant with 2 or more sureties to be approved by the judge or clerk of court, or with a surety company authorized to do business in this state, in the sum to be fixed by the court conditioned that in the event judgment is not rendered in favor of such plaintiff, so much of the penalty of said bond as may be required shall be applied to the satisfaction of any judgment for court costs and to defray the actual expenses of such defendant incurred in defending the action (but not to include attorney's fees). If plaintiff prevails in the action, he may tax as costs in the case his reasonable expense in procuring the bond furnished.

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

600.745 "State" defined; agreement of parties as basis for jurisdiction; conditions.

Sec. 745. (1) As used in this section, "state" means any foreign nation, and any state, district, commonwealth, territory, or insular possession of the United States.

(2) If the parties agreed in writing that an action on a controversy may be brought in this state and the agreement provides the only basis for the exercise of jurisdiction, a court of this state shall entertain the action if all the following occur:

(a) The court has power under the law of this state to entertain the action.

(b) This state is a reasonably convenient place for the trial of the action.

(c) The agreement as to the place of the action is not obtained by misrepresentation, duress, the abuse of economic power, or other unconscionable means.

(d) The defendant is served with process as provided by court rules.

(3) If the parties agreed in writing that an action on a controversy shall be brought only in another state and it is brought in a court of this state, the court shall dismiss or stay the action, as appropriate, unless any of the following occur:

(a) The court is required by statute to entertain the action.

(b) The plaintiff cannot secure effective relief in the other state for reasons other than delay in bringing the action.

(c) The other state would be a substantially less convenient place for the trial of the action than this state.

(d) The agreement as to the place of the action is obtained by misrepresentation, duress, the abuse of economic power, or other unconscionable means.

(e) It would for some other reason be unfair or unreasonable to enforce the agreement.

History: Add. 1974, Act 88, Eff. Apr. 1, 1975.

Compiler's note: Section 2 of Act 88 of 1974 provides: "This 1974 amendatory act shall apply to actions commenced after its effective date, even if the cause of action arose prior thereto. Actions commenced prior to the effective date of this act shall not be affected thereby."

600.751 Jurisdiction over land irrespective of ownership.

Sec. 751. The courts of record of this state shall have jurisdiction over land situated within the state whether or not the persons owning or claiming interests therein are subject to the jurisdiction of the courts of this state.

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

600.755 Jurisdiction over chattels irrespective of ownership.

Sec. 755. The courts of record of this state shall have jurisdiction over chattels situated within the state whether or not the persons owning or claiming interests therein are subject to the jurisdiction of the courts of the state.

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

600.761 Jurisdiction over documents irrespective of ownership.

Sec. 761. The courts of record of this state shall have jurisdiction over documents which are within the state whether or not the persons owning or claiming interests therein are subject to the jurisdiction of the courts of the state.

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

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600.765 Jurisdiction over corporate shares irrespective of ownership.

Sec. 765. The courts of record of this state shall have jurisdiction

(1) over the shares in a corporation incorporated in the state (subject to the limitations in the uniform stock transfer act),

(2) over share certificates which are located within the territory of the state,

(3) over shares in a corporation represented by share certificates located within the state if the law of the state of incorporation embodies the share in the share certificates, whether or not the persons owning or claiming an interest in the shares or share certificates are subject to the jurisdiction of the courts of the state.

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

600.771 Jurisdiction over obligations irrespective of creditor.

Sec. 771. The courts of record of this state shall have jurisdiction over obligations owed by persons who are subject to the judicial jurisdiction of the state whether or not the persons to whom the obligations are owed are subject to the jurisdiction of the state.

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

600.775 Jurisdiction over status.

Sec. 775. The judicial jurisdiction over status granted to the courts of record of this state by the state's constitution, laws, and court rules may be exercised:

(1) to the extent permitted by the constitution of the United States, except as limited by the constitution, court rules, and laws of this state, and

(2) in the manner permitted by the court rules and laws of this state.

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

CHAPTER 8
PROBATE COURTS

600.801 Probate court as court of record; organization.

Sec. 801. The probate court is a court of record and is organized in accordance with this chapter.

History: Add. 1978, Act 543, Eff. July 1, 1979.

Compiler's note: The heading for this chapter has been editorially furnished and is not part of the official enrolled bill.

600.803 Probate judges; number.

Sec. 803. (1) Except as otherwise provided in this section, each county which is not part of a probate court district created pursuant to sections 808 to 810 or previously created pursuant to law shall have at least 1 judge of probate.

(2) Each probate court district created pursuant to law shall have 1 judge of probate.

(3) The counties of Berrien, Calhoun, Ingham, Monroe, Muskegon, Saginaw, St. Clair, and Washtenaw shall each have 2 judges of probate.

(4) Until 12 noon, January 1, 2005, the county of Genesee shall have 3 judges of probate; however, if, after 12 noon, January 1, 2003, a vacancy occurs in the judgeship held by the incumbent probate judge in Genesee county whose term of office expires January 1, 2005 and who would be ineligible to seek reelection to that office in 2004, that probate judgeship is eliminated effective 12 noon, January 1, 2005. Beginning 12 noon, January 1, 2005, the county of Genesee shall have 2 judges of probate.

(5) Until 12 noon, January 1, 2005, the county of Macomb shall have 3 judges of probate; however, if the incumbent probate judge in Macomb county whose term of office as probate judge expires on January 1, 2005 is elected in 2002 to the office of circuit judge in the sixteenth judicial circuit for a term beginning January 1, 2003, that probate judgeship is eliminated effective 12 noon, January 1, 2005. Beginning 12 noon, January 1, 2005, the county of Macomb shall have 2 judges of probate.

(6) The county of Kalamazoo shall have 3 judges of probate.

(7) The county of Kent shall have 4 judges of probate.

(8) The county of Oakland shall have 4 judges of probate.

(9) The county of Wayne shall have the following number of judges of probate:

(a) Until subdivision (b) takes effect, the county of Wayne shall have 9 judges of probate.

(b) The county of Wayne shall have 8 judges of probate beginning on the earliest of the following dates:

(*i*) Upon the occurrence of a vacancy in a judgeship held by an incumbent probate judge in Wayne county whose term expires on January 1, 2005, and who would be ineligible to seek reelection to that office in 2004.

(*ii*) Upon the expiration of the term of an incumbent probate judge who is not eligible to seek reelection to

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that office.

(10) When 1 or more new judges of probate are authorized in a county pursuant to this section, the new judgeship or judgeships shall appear on the ballot separate and apart from other judicial offices of the same court in the primary and general election.

History: Add. 1978, Act 543, Eff. July 1, 1979;—Am. 1980, Act 129, Imd. Eff. May 22, 1980;—Am. 1998, Act 55, Imd. Eff. Apr. 8, 1998;—Am. 2001, Act 253, Eff. Mar. 22, 2002;—Am. 2002, Act 715, Eff. Mar. 31, 2003.

Compiler's note: Sections 2 to 5 of Act 129 of 1980 provide:

"New circuit and district judgeships; appearance on ballot; duty of candidate; petitions; filing fee.

"Section 2. The new circuit and district judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit, county, or district, a candidate for a new judgeship authorized in that circuit, county, or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in 1980. Petitions for a new judgeship created pursuant to this amendatory act shall bear signatures affixed to the petition after the date by which all counties in the circuit, all district control units in the district, or, in the case of a probate judgeship, the county, have adopted the resolutions required by law to create that office. Notwithstanding any other provision of law, a nonreturnable filing fee of $250.00 may be paid up to 4 p.m. on June 3, 1980 in lieu of petitions for new judgeships authorized by this 1980 amendatory act which are to be filled by election in 1980.

"Additional circuit judgeship for third judicial circuit; terms.

"Section 3. If the additional circuit judgeship permitted by this amendatory act for the third judicial circuit is created pursuant to law, the candidate receiving the highest number of votes in the 1980 general election shall be elected for a term of 8 years, and the candidate receiving the second highest number of votes shall be elected for a term of 6 years.

"Additional circuit judgeship for sixteenth judicial circuit; term.

"Section 4. If the additional circuit judgeship permitted by this amendatory act for the sixteenth judicial circuit is created pursuant to law, the first term of that judgeship shall be 8 years.

"Change in composition of affected judicial circuits; effective date.

"Section 5. If a new judicial circuit of the circuit court is created pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1981. If the fifty-fourth judicial circuit is created pursuant to this act, the incumbent circuit judge of the fortieth judicial circuit who resides in Tuscola county shall become the judge of the fifty-fourth judicial circuit on January 1, 1981, and shall serve until the term for which he was elected in the fortieth judicial circuit expires."

600.805 Additional probate judgeship; creation; approval by county; resolution; filing; notice to county clerk; effect of approval; state's obligation; election; first term.

Sec. 805. (1) The additional judges of probate permitted by section 803 shall not be authorized to be filled by election unless the county, by resolution adopted by the county board of commissioners, approves the creation of that judgeship and unless the clerk of that county files a copy of the resolution with the state court administrator not later than 4 p.m. of the thirteenth Tuesday preceding the August primary for the election to fill the additional judge of probate. The state court administrator shall immediately notify the county clerk with respect to any new judge of probate authorized for that county pursuant to this subsection.

(2) By permitting an additional judgeship, the legislature is not creating that judgeship. If a county, acting through its board of commissioners, approves the creation of an additional judge of probate, that approval 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 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 and capital improvements which may result from the creation of the judgeship. However, the exercise of the option does not affect the state's obligation to pay the same portion of the additional judge's salary which is paid by the state to the other judges of probate of the same county, or to appropriate and disburse funds to the county for the necessary costs of state requirements established by a state law which becomes effective on or after December 23, 1978.

(3) Each additional judgeship created pursuant to subsection (1) shall be filled by election pursuant to the Michigan election law, Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws. The first term of each additional judgeship shall be 6 years unless the law permitting the additional judgeship provides for a term of a different length.

History: Add. 1980, Act 129, Imd. Eff. May 22, 1980;—Am. 1988, Act 134, Imd. Eff. May 27, 1988.

Compiler's note: Sections 2 to 5 of Act 129 of 1980 provide:

"New circuit and district judgeships; appearance on ballot; duty of candidate; petitions; filing fee.

"Section 2. The new circuit and district judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit, county, or district, a candidate for a new judgeship authorized in that circuit, county, or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in 1980. Petitions for a new judgeship created pursuant to this amendatory act shall bear signatures affixed to the petition after the date by which all counties in the circuit, all district control units in the district, or, in the case of a probate judgeship, the county, have adopted the resolutions required by law to create that office. Notwithstanding any other provision of law, a nonreturnable filing fee of $250.00 may be paid up to 4 p.m.

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on June 3, 1980 in lieu of petitions for new judgeships authorized by this 1980 amendatory act which are to be filled by election in 1980.

"Additional circuit judgeship for third judicial circuit; terms.

"Section 3. If the additional circuit judgeship permitted by this amendatory act for the third judicial circuit is created pursuant to law, the candidate receiving the highest number of votes in the 1980 general election shall be elected for a term of 8 years, and the candidate receiving the second highest number of votes shall be elected for a term of 6 years.

"Additional circuit judgeship for sixteenth judicial circuit; term.

"Section 4. If the additional circuit judgeship permitted by this amendatory act for the sixteenth judicial circuit is created pursuant to law, the first term of that judgeship shall be 8 years.

"Change in composition of affected judicial circuits; effective date.

"Section 5. If a new judicial circuit of the circuit court is created pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1981. If the fifty-fourth judicial circuit is created pursuant to this act, the incumbent circuit judge of the fortieth judicial circuit who resides in Tuscola county shall become the judge of the fifty-fourth judicial circuit on January 1, 1981, and shall serve until the term for which he was elected in the fortieth judicial circuit expires."

Section 2 of Act 134 of 1988 provides:

"Any additional circuit judgeship to be added by election in 1988 shall not be authorized to be filled by election unless each county in the circuit, by resolution adopted by the county board of commissioners, approves the creation of the judgeship and unless the clerk of each county adopting such a resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the tenth Tuesday preceding the August primary for the election to fill the additional circuit judgeship."

600.807 Probate court districts.

Sec. 807. A probate court district is created in each of the following described districts when a majority of the electors voting on the question in each affected county approves the probate court district. The districts shall consist as follows:

(a) The first district consists of the counties of Houghton and Keweenaw.

(b) The fifth district consists of the counties of Schoolcraft and Alger.

(c) The sixth district consists of the counties of Mackinac and Luce.

(d) The seventh district consists of the counties of Emmet and Charlevoix.

(e) The seventeenth district consists of the counties of Clare and Gladwin.

(f) The eighteenth district consists of the counties of Mecosta and Osceola.

History: Add. 1978, Act 543, Eff. July 1, 1979;—Am. 2002, Act 715, Eff. Mar. 31, 2003;—Am. 2003, Act 40, Imd. Eff. July 9, 2003 ;—Am. 2004, Act 492, Eff. Jan. 2, 2007.

600.808 Question of creation of district; submission to electors; resolution calling for special election; form of question; counting, canvassing, and returning votes; canvassing and certifying results; effect of approval; election of probate judge; reimbursement of costs.

Sec. 808. (1) When each county board of commissioners of a district described in section 807 agrees by resolution to form a district, the question of creation of the district shall be submitted to the electors of the affected counties at the next primary, general, or special election that occurs more than 49 days after the resolution is adopted. A special election for submission of the question may be called by resolution adopted by each county board of commissioners in the proposed district.

(2) The question relative to creating the district shall be in substantially the following form:

"Shall this county join in a probate court district, which will consist of the counties of _____ and _____ if the majority of the electors voting on the question in each affected county approve?

Yes ( )

No ( )".

(3) The votes on the question shall be counted, canvassed, and returned in the manner provided by law. The results shall be canvassed and certified by the board of state canvassers in the same manner as provided for state propositions under chapter 31 of the Michigan election law, 1954 PA 116, MCL 168.841 to 168.848.

(4) If approved by a majority of the electors voting on the question in each of the counties affected, those counties shall constitute the probate court district corresponding to the appropriate district described in section 807, and that district becomes effective as provided in section 809 or 810, whichever section results in an earlier effective date.

(5) The election of the probate judge for a probate court district created under this section shall be held as provided in section 811.

(6) The state shall reimburse the affected counties for the additional cost of submitting the question of the district to the electors of the affected counties if the question is submitted to the electors at a primary, general, or special election held after January 2, 2007.

History: Add. 1978, Act 543, Eff. July 1, 1979;—Am. 2003, Act 40, Imd. Eff. July 9, 2003;—Am. 2004, Act 492, Eff. Jan. 2, 2007.

600.809 Probate court district; effective date; term of incumbent probate judge; election of probate judge.

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Sec. 809. (1) Except when the vacancy or vacancies occur after the date established by Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for nonincumbent candidates to file for the office of probate judge for a full 6-year term or for the unexpired portion of a term, whichever is applicable, a probate court district created under section 808 shall become effective upon the existence of a vacancy in the office of probate judge in all but 1 of the counties comprising that district.

(2) When a probate court district becomes effective pursuant to subsection (1), the remaining incumbent probate judge in the district shall serve as the probate judge of the district until the term for which he was elected or appointed expires. Thereafter the 1 probate judge for the district shall be elected as provided in section 808(5).

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.810 Probate court district; effective date; election of probate judge.

Sec. 810. Except when section 809 results in an earlier effective date, a probate court district created under section 808 becomes effective upon the beginning date of the term for which an incumbent probate judge in any county in the district no longer seeks reelection to that office that occurs not less than 220 days after the vote on the question. At the general election immediately preceding that date, 1 probate judge for the district shall be elected as provided in section 808(5).

History: Add. 1978, Act 543, Eff. July 1, 1979;—Am. 2005, Act 326, Imd. Eff. Dec. 27, 2005.

600.810a Arenac, Kalkaska, Crawford, Lake, Iron, and Ontonagon counties; jurisdiction, powers, duties, and title of probate judges; additional probate judges.

Sec. 810a. (1) The probate judges in the counties of Arenac, Kalkaska, Crawford, Lake, Iron, and Ontonagon have the jurisdiction, powers, duties, and title of a district judge within their respective counties, in addition to the jurisdiction, powers, duties, and title of a probate judge.

(2) Beginning January 2, 2007, in addition to the probate judges described in subsection (1), the probate judges in the counties of Alcona, Baraga, Benzie, Missaukee, Montmorency, Oscoda, and Presque Isle have the jurisdiction, powers, duties, and title of a district judge within their respective counties, in addition to the jurisdiction, powers, duties, and title of a probate judge.

History: Add. 2002, Act 92, Eff. Mar. 31, 2003;—Am. 2002, Act 715, Eff. Mar. 31, 2003;—Am. 2004, Act 492, Eff. Mar. 30, 2005.

600.811 Election of probate judges; filing nominating petitions and incumbency affidavits of candidacy; term.

Sec. 811. (1) Judges of probate shall be elected in the manner provided in Act No. 116 of the Public Acts of 1954, as amended. For the office of judge of probate in a probate court district created pursuant to law, nominating petitions and incumbency affidavits of candidacy shall be filed with the secretary of state.

(2) An elected judge of probate shall have a term of office of 6 years except as otherwise provided by section 803 or when a vacancy is being filled for the balance of an unexpired term.

(3) The term of a judge of probate shall commence on January 1 following the date of election. If a vacancy is filled by appointment, the term shall commence in accordance with the order of appointment.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.812 Oath.

Sec. 812. A judge of probate after being elected or appointed shall qualify by taking the constitutional oath of office and shall subscribe the same and file it in the office of the county clerk or, in the instance of a probate court district created pursuant to law, file it with the secretary of state.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.813 Construction of chapter.

Sec. 813. (1) This chapter shall not be construed to affect the terms of those judges of probate elected before the effective date of this section or appointed before that date to fill a vacancy in the office of judge of probate.

(2) This chapter shall not be construed to rescind or repeal those probate court districts created before the effective date of this section.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.815 Terms of probate court prohibited; probate court open at all reasonable times; evening and weekend sessions.

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Sec. 815. The probate court shall not have terms of court. The probate court shall be open at all reasonable times as fixed by the probate judge or, in counties having more than 1 probate judge, the chief judge. The probate court may hold evening and weekend sessions.

History: Add. 1978, Act 543, Eff. July 1, 1979;—Am. 1996, Act 374, Imd. Eff. July 17, 1996.

600.816 Probate judge; court sessions at regional diagnostic and treatment center; court sessions at places designated by county chief probate judge; hearing regarding incapacitated or mentally ill person; site.

Sec. 816. (1) A probate judge shall hold sessions of the probate court at the county seat of each county, unless an alternative primary location is designated as provided in subsection (3), and may hold sessions of the probate court in a city of the county where sessions of the circuit court are authorized by law to be held. A probate judge may maintain an office at a place where sessions of the probate court are held.

(2) A probate judge may hold sessions of the court at the regional diagnostic and treatment center assigned to his or her court if sessions are approved by the state court administrator. The center shall provide an area for court sessions to which the public has access.

(3) Subject to the approval of the county board of commissioners and the state court administrator, the chief probate judge of a county may designate 1 or more places in the county where regular sessions of probate court may be held. A designation made under this subsection shall be delivered to the county clerk.

(4) Nothing in this section prohibits a judge from holding a hearing regarding an allegedly incapacitated individual or an allegedly mentally ill person at a site considered appropriate by the court as provided by section 5304 of the estates and protected individuals code, 1998 PA 386, MCL 700.5304, or section 456 of the mental health code, 1974 PA 258, MCL 330.1456. Nothing in this section prohibits a judge from holding a hearing regarding an individual alleged to need protection at a site the court considers appropriate as provided by section 5406 of the estates and protected individuals code, 1998 PA 386, MCL 700.5406.

History: Add. 1978, Act 543, Eff. July 1, 1979;—Am. 1991, Act 189, Imd. Eff. Dec. 27, 1991;—Am. 1995, Act 14, Imd. Eff. Apr. 12, 1995;—Am. 2000, Act 56, Eff. Apr. 1, 2000.

600.817 Books, printed blanks, and stationery; furniture, equipment, and supplies.

Sec. 817. Each county shall provide all books, printed blanks and other stationery necessary for keeping the records in the office of the judge of probate, and all furniture, equipment, and supplies necessary for equipping and maintaining the office.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.819 Annual convention; election of state presiding probate judge; designation of successor; appointment of probate judges; election of president and other officers; powers and duties; committee on rules and procedure.

Sec. 819. The several probate judges may meet in annual convention before October 1 of each year, at which convention they shall elect from among the judges a state presiding probate judge for the ensuing year, commencing on January 1 next following. In case of the death, removal, or disability of the state presiding probate judge, the governor shall designate his successor from among the probate judges to serve for the balance of the unexpired term. The state presiding probate judge shall appoint probate judges to hold court in another county as provided in this act. The convention shall elect a president and such other officers who shall have such powers and perform such duties as the convention may determine. The state presiding judge shall appoint as 1 of the committees of the probate judges' convention, a committee on rules and procedure which committee shall draft rules for uniform practice and procedure in the probate court of this state, which rules if and when adopted by the supreme court shall be binding upon the probate court in each county and probate court district in this state.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.821 Probate judges; practice of law; annual salary; county contribution and reimbursement; additional salary; increase in salary.

Sec. 821. (1) The following probate judges shall not engage in the practice of law other than as a judge and shall receive, subject to subsection (6), an annual salary provided in this section:

(a) A probate judge of a county that is not described in section 807.

(b) The probate judge in each probate court district described in section 807 in which a majority of the electors voting on the question in each county of the probate court district has approved or approves creation of the district.

(c) A probate judge in a county having a population of 15,000 or more according to the 1990 federal

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decennial census, if the county is not part of a probate court district created pursuant to law.

(d) A probate judge who has the jurisdiction, powers, duties, and title of a district judge within his or her respective county pursuant to section 810a.

(2) Each probate judge shall receive an annual salary determined as follows:

(a) A minimum annual salary of the difference between 85% of the salary of a justice of the supreme court and $45,724.00.

(b) An additional salary of $45,724.00 paid by the county or by the counties comprising a probate court district. If a probate judge receives a total additional salary of $45,724.00 from the county, or from the counties comprising a probate court district, and does not receive less than or more than $45,724.00, including any cost-of-living allowance, the state shall reimburse the county or counties the amount that the county or counties have paid to the judge.

(3) Six thousand dollars of the minimum annual salary provided in subsection (2) shall be paid by the county, or by the counties comprising a probate court district, and the balance of that minimum annual salary shall be paid by the state as a grant to the county or the counties comprising the probate court district. The county, or the counties comprising the probate court district, shall in turn pay that amount to the probate judge. The state shall annually reimburse the county or counties $6,000.00 for each probate judge to offset the cost of the county or counties required by this section.

(4) The salary provided in this section is full compensation for all services performed by a probate judge, except as otherwise provided by law. In a probate court district, each county of the district shall contribute to the salary in the same proportion as the population of the county bears to the population of the district.

(5) An additional salary determined by the county board of commissioners may be increased during a term of office but shall not be decreased except to the extent of a general salary reduction in all other branches of government in the county. In a county where an additional salary is granted, it shall be paid at the same rate to all probate judges regularly holding court in the county.

(6) An increase in the amount of salary payable to a judge under subsection (1) caused by an increase in the salary payable to a justice of the supreme court resulting from the operation of 1968 PA 357, MCL 15.211 to 15.218, is not effective until February 1 of the year in which the increase in the salary of a justice of the supreme court becomes effective. If an increase in salary becomes effective on February 1 of a year in which an increase in the salary of a justice of the supreme court becomes effective, the increase is retroactive to January 1 of that year.

History: Add. 1978, Act 543, Eff. July 1, 1979;—Am. 1980, Act 438, Eff. Sept. 1, 1981;—Am. 1990, Act 343, Eff. Jan. 1, 1995;—Am. 1994, Act 138, Imd. Eff. May 26, 1994;—Am. 1994, Act 389, Imd. Eff. Dec. 29, 1994;—Am. 1995, Act 259, Imd. Eff. Jan. 5, 1996;—Am. 1996, Act 374, Eff. Jan. 1, 1997;—Am. 1996, Act 388, Eff. Jan. 1, 1998;—Am. 1998, Act 298, Imd. Eff. July 28, 1998;—Am. 2002, Act 92, Eff. Mar. 31, 2003;—Am. 2003, Act 40, Imd. Eff. July 9, 2003;—Am. 2004, Act 492, Eff. Mar. 30, 2005.

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."

600.821a Probate judges' federal social security and medicare taxes; reimbursement to counties.

Sec. 821a. In addition to the reimbursement under section 821(2)(b) to a county or to counties for amounts paid for probate judges' salaries, the state shall reimburse the county or counties for amounts paid as the

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employer's share for probate judges' federal social security and medicare taxes.

History: Add. 1998, Act 100, Imd. Eff. May 28, 1998;—Am. 2002, Act 92, Eff. Mar. 31, 2003.

600.822 Probate judge; annual salary based on population; payment; increase or decrease in salary; representing party in contested proceeding; additional salary; total annual salary; state salary standardization payment; minimum annual salary.

Sec. 822. (1) Except as provided in subsection (6), a probate judge not included in section 821 shall receive a minimum annual salary of $20,000.00. Six thousand dollars of the minimum annual salary provided by this subsection shall be paid by the county and the balance of the minimum annual salary shall be paid by the state as a grant to the county. The county shall, in turn, pay that amount to the probate judge.

(2) The minimum annual salary provided in subsection (1) may be increased but shall not be decreased during the term for which the probate judge has been elected or appointed. This salary is in full compensation for all services performed by the person as probate judge, except as otherwise provided by law. A probate judge whose minimum annual salary is provided in subsection (1) shall not represent a party in a contested proceeding in the probate court of this state.

(3) In addition to the salary provided in subsection (1), a probate judge may receive from the county in which he or she regularly holds court an additional salary of not more than $45,724.00, as determined by the county board of commissioners. The additional salary may be increased during a term of office but shall not be decreased except to the extent of a general salary reduction in all other branches of government in the county.

(4) Except as provided in subsection (8), the total annual salary of a probate judge, including the salary provided in subsection (1) and any additional salary granted by the county under subsection (3), shall not exceed $65,724.00.

(5) From funds appropriated to the judiciary, the state shall pay to a county described in subsection (1) a state salary standardization payment of $5,750.00 for each probate judge and an additional payment of $6,000.00 for each probate judge to offset the portion of minimum annual salary paid by the county.

(6) A probate judge described in subsection (1) may receive an additional minimum annual salary, in addition to the $20,000.00 minimum annual salary described in subsection (1), if all of the following apply:

(a) The county board of commissioners approves payment to the probate judge of an additional salary from the county in the amount of $45,724.00 as provided in subsection (3).

(b) The county board of commissioners passes a resolution that includes all of the following:

(*i*) A determination of an amount that the county is willing to reimburse the state as an additional minimum annual salary for the probate judge.

(*ii*) An agreement to immediately reimburse the state for the additional minimum annual salary authorized under this subsection.

(*iii*) An agreement that the determination under subparagraph (*i*) will not be decreased during the term of office of the probate judge.

(*iv*) An agreement that the amount of reimbursement for the additional minimum annual salary will not be decreased during the term of office of the probate judge.

(c) The probate judge agrees in writing to the following:

(*i*) To participate in a plan of concurrent jurisdiction as provided in chapter 4.

(*ii*) To participate in a family court plan as provided in chapter 10.

(*iii*) To not engage in the practice of law other than as a judge.

(*iv*) That if he or she becomes included in section 821, any additional minimum annual salary authorized under this subsection would thereafter be considered part of the minimum annual salary described in section 821.

(d) The supreme court or the state court administrative office approves the payment of the additional minimum annual salary authorized under this subsection.

(7) The additional minimum annual salary authorized under subsection (6) shall be paid by the state as a grant to the county, and the county shall in turn pay that amount to the probate judge in the same manner as provided in section 821(3). The county may increase the determination authorized under subsection (6)(b)(*i*) and its obligation to reimburse the state during the term of office of the probate judge.

(8) The total annual salary paid to a probate judge who receives an additional minimum annual salary under subsection (6), including the minimum annual salary provided in subsection (1), the additional county salary provided in subsection (3), and the additional minimum annual salary provided in subsection (6), shall not exceed 85% of the salary of a justice of the supreme court.

(9) If a probate judge described in subsection (1) becomes included in section 821, any additional minimum annual salary authorized under subsection (6) shall thereafter be considered part of the minimum

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annual salary described in section 821(2)(a), and the county's obligation to reimburse the state under subsection (6) shall cease.

(10) A probate judge who receives an additional minimum annual salary under subsection (6) shall not engage in the practice of law other than as a judge.

History: Add. 1978, Act 543, Eff. July 1, 1979;—Am. 1994, Act 389, Imd. Eff. Dec. 29, 1994;—Am. 1995, Act 259, Imd. Eff. Jan. 5, 1996;—Am. 1996, Act 374, Eff. Jan. 1, 1997;—Am. 1998, Act 298, Imd. Eff. July 28, 1998;—Am. 1998, Act 313, Eff. Jan. 1, 1999;—Am. 2002, Act 92, Eff. Mar. 31, 2003;—Am. 2003, Act 40, Imd. Eff. July 9, 2003.

600.824 Circuit judge temporarily serving as probate judge; powers and duties; entry of reason in records.

Sec. 824. (1) If the office of probate judge is vacant or the judge is temporarily absent from the county or probate court district, is performing other duties required of him by law, or is incapacitated from executing the duties of his office, a judge of the circuit court serving in that county or probate court district shall serve as a probate judge unless that circuit judge is incapacitated from executing the duties. If a circuit judge within that county or probate court district is not available because of incapacity, then a circuit judge of any circuit or a probate judge of any county or probate court district who is not incapacitated from executing the duties of probate judge may serve as a probate judge in the county or probate court district if a written request is made therefor by the probate judge of that county or probate court district, or if a written request is made therefor by a circuit judge or probate register of that county or probate court district when the probate judge thereof is temporarily absent or is legally disabled from making the request. The probate judge or probate register of the county or probate court district may request the state presiding judge appointed pursuant to section 819 to assign a probate judge of another county or probate court district to serve as a probate judge of that county or probate court district.

(2) A judge serving temporarily under subsection (1) shall have all the powers and perform all the duties of the probate judge in the county or probate court district, until the probate judge returns, the incapacity is removed, or another judge of probate is elected or appointed and qualified.

(3) A judge, who, while serving temporarily as a probate judge pursuant to this section, begins a hearing which is not concluded when the acting judge's temporary service terminates under subsection (2), may hear the matter to its conclusion and give judgment thereon.

(4) When a circuit judge or a probate judge of another county or probate court district performs the duties of probate judge, an entry of the reason for the circuit judge or probate judge so performing the duties shall be made in the records of the probate court in the county in which the judge served.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.825 Repealed. 1990, Act 185, Eff. Oct. 1, 1990.

Compiler's note: The repealed section pertained to probate judge serving as probate judge in another county or probate court district.

600.826 Certain probate judges to assist other courts or probate judges for limited periods or specific assignments; legislative intent.

Sec. 826. (1) A probate judge who is elected or appointed for a county in which the salary of that office is or would have been increased by sections 2a, 3, or 4 of chapter 1 of Act No. 288 of the Public Acts of 1939, as those sections were amended by Act No. 147 of the Public Acts of 1976, before their repeal by section 899 of this chapter, and whose judicial activity is less heavy than other probate judges' should be authorized by the supreme court or state court administrator to assist other courts within the same county or probate court district which they serve, to assist probate judges in other counties or districts, and to perform other judicial duties, for limited periods or specific assignments.

(2) This section is not intended as a directive to the judiciary but expresses an expectation in furtherance of full utilization of judicial officers and serves as notice of the expectation and intent of the legislature for incumbents and prospective candidates seeking election to judgeships affected by aforementioned 1976 amendments to sections 2a, 3, or 4 of chapter 1 of Act No. 288 of the Public Acts of 1939, as repealed.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.828 Reimbursement for actual and necessary expenses.

Sec. 828. In a probate court district a probate judge who holds court in a county other than the county of his residence shall be reimbursed for his actual and necessary expenses incurred in so holding court upon his certification of the expenses to the state court administrator and upon approval by the state court administrator. Upon allowance, the sum shall be paid out of the general fund of the state in accordance with the accounting laws of the state.

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History: Add. 1978, Act 543, Eff. July 1, 1979.

600.829 Probate judge; additional salary and reimbursement for expenses; payment of compensation and expenses; voucher; compensation provided pursuant to MCL 600.225(6).

Sec. 829. (1) When a probate judge of another county or probate court district is performing duties under sections 824 or 825, he or she shall receive an additional salary and reimbursement for expenses as provided in section 225(6).

(2) The county treasurer shall pay the compensation and expenses, upon receipt of a voucher approved by the local probate judge or chief probate judge, out of the general funds of the county. If the local probate judge dies or is incapacitated to act, the voucher shall be subject to approval by the circuit judge of the county.

(3) Compensation provided pursuant to section 225(6) shall be in addition to the salary paid to the acting probate judge by the state or any county pursuant to section 821 or 822.

History: Add. 1978, Act 543, Eff. July 1, 1979;—Am. 1987, Act 225, Imd. Eff. Dec. 28, 1987;—Am. 1996, Act 388, Eff. Oct. 1, 1996.

600.831 Powers, duties, and compensation of probate judges of county having 2 or more probate judges; power vested in chief probate judge; selection, powers, and duties of probate judges in counties of 1,000,000 or more.

Sec. 831. (1) The probate judges of a county having 2 or more probate judges shall have equal powers, duties, and compensation except that the power of nomination, appointment, and removal of the several employees as provided by law for the probate court in that county, and of the offices connected therewith and the general direction and control of the business of the court, including the division of the work between the judges, shall be vested in a chief probate judge selected as follows:

(a) If the county has less than 1,000,000 in population, then in the probate judge having served for the longest period continuously, or if 2 or more judges were elected at the same election and served the same number of years continuously, then in the judge receiving the highest vote at the last election.

(b) If the county has 1,000,000 or more in population, then in the probate judge who is chosen by the several probate judges in the county, or if a judge does not receive a majority vote of the probate judges, then in the probate judge of that county selected by the Governor.

(2) The selection provided for in this section in counties of 1,000,000 or more in population shall be made within 15 days after the commencement of each year and the judge so selected shall exercise the duties and powers therein provided for the full calendar year then commencing, until his successor is selected, or is designated by the governor.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.832 Seal, records, books, files, and papers; inspection; index.

Sec. 832. (1) The probate judge or chief probate judge shall have possession of the seal, records, books, files, and papers belonging to the probate court in the respective county or probate court district. Each judge shall keep a true and correct record of each order, sentence, and decree of the court, and of all other official acts made or done by him, and of all wills proved therein with the probate thereof, of all letters of authority and of all other things proper to be recorded in the court.

(2) The records, except as otherwise provided by law, may be inspected without charge by all persons interested.

(3) The probate court shall maintain an alphabetical index to the records of probate court proceedings in each county.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.833 Probate register; appointment; salary; oath; bond; term; appointment, compensation, term, powers, and oath of deputy probate registers.

Sec. 833. (1) In each county the probate judge of the county or probate court district, or the chief probate judge in a county having 2 or more probate judges, may appoint a probate register, at a reasonable salary fixed by the county board of commissioners. The probate register so appointed shall take and subscribe the oath of office prescribed by the state constitution of 1963, and give bond to the probate judge or chief judge in the penal sum of $1,000.00 to be approved by that judge, which bond and oath shall be filed in the office of the county clerk of the county. The probate register shall hold office until his appointment is terminated by the probate judge or chief judge.

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(2) If a county has a probate register, the probate judge or the chief probate judge may appoint 1 or more deputy probate registers, who shall have such compensation as is fixed by the county board of commissioners. The term of office of the deputy probate registers and their powers shall be the same as those prescribed by law for probate registers. They shall take and subscribe the constitutional oath of office, which shall be filed with the county clerk.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.834 Probate register or deputy probate register; powers in uncontested matter or hearing; entry of judgment prohibited; restriction on powers; orders and acts; trial or hearing of issues.

Sec. 834. (1) Except as provided in subsection (2), a probate register or deputy probate register is competent to exercise any of the following powers in an uncontested matter or hearing if authorized by general order of the probate judge or chief probate judge of the county in which the probate register or deputy probate register was appointed:

(a) Determine whether the petitioner or the petitioner's attorney has complied with the requirements of law and supreme court rules.

(b) Take acknowledgments.

(c) Administer oaths.

(d) Set hearings.

(e) Sign notices, citations, and subpoenas.

(f) Take testimony required by law or supreme court rules in all of the following matters:

(*i*) Appointment of a fiduciary of an estate of a deceased or minor.

(*ii*) Admission to probate of a will, codicil, or other testamentary instrument.

(*iii*) Determination of heirs.

(*iv*) Sale, mortgage, or lease of property.

(*v*) Assignment of residue of an estate or any part of the residue of an estate.

(*vi*) Setting and approval of bonds.

(*vii*) Removal of fiduciaries.

(*viii*) Issuing of a license to marry, if the issuance of the license is authorized under section 1 of 1897 PA 180, MCL 551.201.

(g) Perform an act or issue an order as specified in the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102, if that act authorizes the probate register to do so.

(2) A probate register or deputy probate register shall not enter a judgment. A probate register or deputy probate register shall not exercise any power provided in subsection (1) if the matter or hearing is:

(a) For a commitment to, or incarceration in, an institution or facility.

(b) For appointment of a guardian of a legally incapacitated individual or the appointment of a conservator for a reason other than minority.

(c) For or involves a developmentally disabled person.

(3) An order made by a probate register or deputy probate register shall be made over the name of the probate judge for whom the order is made, and the probate register or deputy probate register shall place his or her signature under the name of the judge. An act done or order made by the probate register or deputy probate register authorized under this section shall have the same validity, force, and effect as though done or made by the judge.

(4) Upon the oral or written request of an interested party made before commencement or during the hearing of the proceeding, the proceeding shall be taken immediately before the judge for trial or hearing of the issues.

History: Add. 1978, Act 543, Eff. July 1, 1979;—Am. 1979, Act 69, Imd. Eff. July 25, 1979;—Am. 1996, Act 388, Eff. Jan. 1, 1998;—Am. 2000, Act 67, Eff. Apr. 1, 2000.

600.835 Official court reporters or certified recorders; salary; oath; expenses; order for payment; residence of reporter or recorder.

Sec. 835. (1) The probate judge or chief probate judge of any county or probate court district may appoint, and in counties having a population of 50,000 or more shall appoint, 1 or more official court reporters or certified recorders of the probate court, at a reasonable salary fixed by the county board of commissioners. The reporters or recorders so appointed shall take and subscribe the constitutional oath of office, which shall be filed with the county clerk of the county.

(2) The reporter or recorder serving in a probate court district shall be entitled to receive, in addition to the salary provided for in this section, the necessary and actual expenses incurred in attending court in the county

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other than the county in which the reporter or recorder resides. Upon filing with the clerk of the county in which the reporter or recorder attended court a sworn statement that the expenses were incurred by the reporter or recorder and that the expenditures were necessary in performing the services, the clerk shall draw an order for payment and upon presentation of that properly drawn order, the treasurer of the county shall pay the ordered sum to the person entitled to the payment. If the reporter or recorder does not reside within the probate court district in which he or she serves, he or she shall be considered for the purpose of this subsection to reside in the county where the probate judge of that district resides.

History: Add. 1978, Act 543, Eff. July 1, 1979;—Am. 1986, Act 308, Eff. Jan. 1, 1987.

600.836 Allocating duties; combining title and powers.

Sec. 836. The probate judge or chief probate judge may allocate the duties of the deputy registers, clerks, and reporters or recorders, and may combine the title and powers in any 1 or more persons.

History: Add. 1978, Act 543, Eff. July 1, 1979;—Am. 1986, Act 308, Eff. Jan. 1, 1987.

600.837 Operation of probate court; appropriation; employer; authority; collective bargaining; appointment, supervision, discipline, and dismissal of employees; transfer of employees; effect of existing collective bargaining agreement; control of employees; chief judge as principal administrator; "county-paid employees of the probate court" defined.

Sec. 837. (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 probate court in that county. However, before a county board of commissioners may appropriate a lump-sum budget, the chief judge of the probate court in that county or that probate district 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 county that is not part of a probate district, the county is the employer of the county-paid employees of the probate court in that county. In a probate district, the employer of the county-paid employees of the probate court shall be as follows:

(a) As determined pursuant to a contract entered into by the counties within the probate district 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 probate district do not enter into an agreement described in subdivision (a), each county is the employer of the county-paid employees of the probate court who serve in that county or who are designated by agreement of the counties within the probate district as being employed by that county.

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

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

(7) Except as otherwise provided by law, the chief judge of the probate court in a county or probate court district shall appoint, supervise, discipline, or dismiss the employees of the probate court in that county or

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probate court district 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 probate court shall be paid by the county or, in the case of a probate district, by the counties comprising the probate court district.

(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 probate court are subject to the control of the judge holding court in the courtroom.

(11) 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.

(12) As used in this section, “county-paid employees of the probate court” means persons employed in the probate 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 probate court.

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.

600.838 Disqualification of probate judge.

Sec. 838. (1) A probate judge shall not sit in any proceeding:

(a) In which he is a party, or is financially interested.

(b) In which he would be excluded from being a juror by reason of consanguinity or affinity to any of the parties.

(c) In which he is related within the third degree of consanguinity or affinity to any of the attorneys of any party, witness, or representative in the proceeding. This disqualification may be waived by stipulation filed in the proceeding.

(d) Which involves or may involve the validity or interpretation of a will, contract, deed, mortgage, bill of sale, note or other document which he prepared, in the preparation of which he assisted, or to the execution of which he acted as a witness.

(e) Which involves a contested matter concerning which he advised a party to the contest.

(f) In which a probate register or other employee of the probate court in that county or probate court district, while holding that office or employment, prepared or assisted in the preparation of a will, contract, deed, mortgage, bill of sale, note, or other document involved in the hearing or trial, or acted as a witness to the execution thereof.

(2) A judge of probate shall not decide nor participate in the decision of any question which is argued in the court when he was not present and sitting therein as a judge.

(3) When a probate judge is disqualified within the meaning of subsection (1) or (2), the judge shall be

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deemed incapacitated for purposes of section 824.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.839 Probate judge, probate register, or employee of probate court; prohibitions.

Sec. 839. (1) A probate judge, probate register, or employee of the probate court shall not be:

(a) A fiduciary or appraiser of an estate under the jurisdiction of the probate court in the county or probate court district in which he is a probate judge, probate register, or employee.

(b) An attorney or counsel in an action or matter which may depend upon, or relate to, a sentence or order made or entered by the probate judge in the county or probate court district in which he is a probate judge, probate register, or employee.

(c) An attorney or counsel for or against a fiduciary appointed under the jurisdiction of the probate court in the county or probate court district in which he is a probate judge, probate register, or employee, in any action or proceeding brought by or against the fiduciary as such or in any action or proceeding relating to the official conduct of that fiduciary.

(2) A probate judge shall not have a partner practicing in the probate court in the county or probate court district in which he is a probate judge. Unless he is a party to the proceeding, a probate judge shall not be directly or indirectly interested in the costs of a proceeding that is brought in the probate court in the county or probate court district in which he is a probate judge.

(3) A clerk or employee of the probate court may not be an appraiser, referee, or divider of an estate which is under the jurisdiction of the probate court in the county or probate court district in which he is a clerk or employee.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.841 Probate court; jurisdiction and power.

Sec. 841. (1) The probate court has jurisdiction and power as follows:

(a) As conferred upon it under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102.

(b) As conferred upon it under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(c) As conferred upon it under this act.

(d) As conferred upon it under another law or compact.

(2) In a judicial circuit in which the probate court is affected by a plan of concurrent jurisdiction adopted under chapter 4, the probate court has concurrent jurisdiction with the circuit court or the district court, or both, as provided in the plan of concurrent jurisdiction, except as to the following matters:

(a) The circuit court has exclusive jurisdiction over appeals from the district court and from administrative agencies as authorized by law.

(b) The circuit court has exclusive jurisdiction and power to issue, hear, and determine prerogative and remedial writs consistent with section 13 of article VI of the state constitution of 1963.

(c) The circuit court has exclusive jurisdiction to hear and decide matters within the jurisdiction of the court of claims under chapter 64.

(d) Except as provided in section 411, the district court has exclusive jurisdiction over small claims and civil infraction actions.

History: Add. 1978, Act 543, Eff. July 1, 1979;—Am. 1996, Act 388, Eff. Jan. 1, 1998;—Am. 2000, Act 56, Eff. Apr. 1, 2000;—Am. 2002, Act 678, Eff. Apr. 1, 2003;—Am. 2005, Act 326, Imd. Eff. Dec. 27, 2005.

600.843 Contesting jurisdiction based on residence of person or location of person's property.

Sec. 843. Jurisdiction assumed in any case by a judge of probate, so far as it depends on the place of residence of a person, or the location of the person's property, shall not be contested in any other action or proceeding, except in an appeal from the probate court in the original case, or when the want of jurisdiction appears on the face of a petition or from the record.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.845 Concurrent jurisdiction of circuit court.

Sec. 845. The jurisdiction conferred by this chapter shall not be construed to deprive the circuit court in the proper county of concurrent jurisdiction as originally exercised over the same matter.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.846 Removal of action or proceeding to probate court.

Sec. 846. In an action or proceeding pending in any other court of this state of which the probate court and

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the other court have concurrent jurisdiction, the judge of the other court, upon motion of a party and after a finding and order on the jurisdictional issue, may by order remove the action or proceeding to the probate court. If the action or proceeding is removed to the probate court, the judge of the other court shall forward to the probate court the original of all papers in the action or proceeding and thereafter proceedings shall not be had before the other court, except by appeal or review provided by law or supreme court rule, and the action or proceeding shall be prosecuted in the probate court as a probate court proceeding.

History: Add. 1978, Act 543, Eff. July 1, 1979;—Am. 1989, Act 70, Eff. Sept. 1, 1989.

600.847 Powers of probate court in exercise of jurisdiction.

Sec. 847. In the exercise of jurisdiction vested in the probate court by law, the probate court shall have the same powers as the circuit court to hear and determine any matter and make any proper orders to fully effectuate the probate court's jurisdiction and decisions.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.848 Rehearings; modifying and setting aside orders, sentences, or judgments; order with respect to original hearing or rehearing of contested matter; exception.

Sec. 848. (1) Upon petition, where justice requires, and after due notice is given to all parties in interest, the probate court may grant rehearings and modify and set aside orders, sentences, or judgments rendered in the court.

(2) The probate court shall make and enter an order with respect to the original hearing or rehearing of a contested matter within 30 days after the termination of the hearing or rehearing.

(3) This section shall not apply to a proceeding under chapter 10 of Act No. 288 of the Public Acts of 1939, as amended.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.849 Validity of order or decree.

Sec. 849. When the validity of any order or sentence of the probate court is in question in any other action or proceeding, everything necessary to have been done or proved to render the order or decree valid, and which might have been proved by parol at the time of making the order or sentence, and was not required to be recorded, shall, after 20 years from such time, be presumed to have been done or proved, unless the contrary appears on the same record.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.851 Administration of oaths; certification.

Sec. 851. Oaths required to be taken by fiduciaries, appraisers, and dividers of estates, or by any other person in relation to any proceeding in the probate court, may be administered by a probate judge, probate register, or notary public, and a certified certificate thereof shall be returned and filed in the probate court.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.852 Petition, inventory, accounting, proof of claim, or proof of service; declaration; false execution and filing; penalties.

Sec. 852. (1) A petition, inventory, accounting, proof of claim or proof of service filed with the probate court need not be verified, acknowledged or made on oath if the person signing the instrument states immediately above the date and his signature: "I declare under the penalties of perjury that this _____ was examined by me and that the contents thereof are true to the best of my information, knowledge and belief." This provision shall not apply to nominations of guardians by minors.

(2) A person who falsely executes and files with the probate court as provided in this section an instrument containing a declaration under the penalty of perjury may be found guilty of contempt of court and punished therefor and shall in addition be subject to the same responsibilities, liabilities, and penalties as he would have been if he had executed the instrument under oath.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.854 Notice governed by supreme court rule.

Sec. 854. Except as otherwise provided by law, any notice required by law shall be governed by supreme court rule.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.855 Form; approval.

Sec. 855. For the purpose of achieving uniformity of forms throughout this state in the probate court,

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effective July 1, 1979, only forms approved by the supreme court or the state court administrator shall be used.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.856 Change of venue; procedure; contested venue.

Sec. 856. (1) The venue of all proceedings or any portion thereof may be changed for the convenience of the parties and witnesses or when an impartial trial cannot be had, to the probate court in any other county upon petition of an interested party or upon the motion of the probate judge who has or would have jurisdiction. Copies of documents, as specified by the petitioner, which are on file in the court where the proceedings are pending, together, with any original instrument as specified, shall, without payment therefor, thereupon be transmitted by the probate court to the probate court in the county granted venue. After venue is changed, any notice of hearing which is required to be published shall be published in the county from which venue was changed.

(2) In cases of contested venue, proceedings shall be stayed except in the probate court in the county where first filed until final determination there of venue.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.857 Jury trial.

Sec. 857. (1) If a party to a proceeding in the probate court would have had a right before January 1, 1971 to demand a jury to determine a particular issue of fact in the circuit court upon a de novo appeal from that proceeding to the circuit court, that party shall on and after January 1, 1971 have the right to demand a jury to determine that issue of fact in the probate court proceeding.

(2) When a jury is demanded pursuant to law in a proceeding in the probate court, the jury shall be summoned and selected in accordance with sections 1301 to 1354. With respect to jurors any examination, challenge, replacement, oath or other practice which is not governed by the provisions of sections 1301 to 1354 shall be governed by rules adopted by the supreme court.

(3) If a jury trial is demanded in any proceeding by a party having a right to have a jury determine an issue, the demanding party shall pay into court a jury fee in an amount equal to the jury fee required in the circuit court in the same county but not to exceed $30.00, which fee shall be paid to the county treasurer for deposit in the general fund of the county. A jury fee shall not be required from a party demanding a jury trial in the juvenile division of the probate court or under Act No. 258 of the Public Acts of 1974, as amended, being sections 330.1001 to 330.2106 of the Michigan Compiled Laws.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.858 Security for costs; award of costs in contested case.

Sec. 858. (1) When it appears reasonable and proper, the probate court may require a party to a proceeding before a hearing to give sufficient security for all costs as may be awarded against that party.

(2) In a contested case, the probate court may award costs to either party to be paid by the other party or out of the estate, as justice and equity requires.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.859 Taking testimony; record; keeping index and original notes; transcript; destruction of notes.

Sec. 859. (1) The following testimony before a probate judge shall be recorded:

(a) Testimony in contested matters.

(b) Testimony in matters pertaining to the admission to a hospital or other facility for mentally ill or developmentally disabled persons.

(c) Testimony in matters pertaining to persons having a contagious disease.

(d) Testimony in other matters if requested by an interested party.

(e) Testimony and other proceedings required by supreme court rule.

(2) In matters not governed by subsection (1), testimony before a probate judge, probate register, or deputy probate register may be given orally without a record being made of the testimony.

(3) The court shall keep sufficient index of the testimony and the court shall keep the index and the original notes for at least 10 years. The reporter or recorder need not transcribe the testimony unless a transcript is ordered by the court or a party. Except in those cases in which the testimony is transcribed and filed with the record of the case, notes pertaining to a hearing for the admission of any person to a hospital or other place of detention as a mentally ill or developmentally disabled person or as a person with a contagious disease shall be destroyed only after the discharge of the person from the hospital or facility.

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(4) Notes may not be destroyed until after 10 years after the date of the hearing or as provided in subsection (3), whichever is longer.

History: Add. 1978, Act 543, Eff. July 1, 1979;—Am. 1979, Act 69, Imd. Eff. July 25, 1979;—Am. 1986, Act 308, Eff. Jan. 1, 1987;—Am. 2005, Act 326, Imd. Eff. Dec. 27, 2005.

600.861 Appeal of orders as matter of right.

Sec. 861. A party to a proceeding in the probate court may appeal the following orders as a matter of right to the court of appeals:

(a) A final order affecting the rights or interests of any interested person in an estate or trust.

(b) An order entered before January 1, 1998 in an adoption proceeding under chapter X of Act No. 288 of the Public Acts of 1939, being sections 710.21 to 710.70 of the Michigan Compiled Laws, and appealed in accordance with section 65 of chapter X of Act No. 288 of the Public Acts of 1939, being section 710.65 of the Michigan Compiled Laws.

(c) The following final orders entered before January 1, 1998 by the juvenile division of the probate court:

(*i*) An order of disposition placing a child under the supervision of the court or removing the child from his or her home.

(*ii*) An order terminating parental rights.

(d) A final order in a condemnation case entered before January 1, 1998 under the drain code of 1956, Act No. 40 of the Public Acts of 1956, being sections 280.1 to 280.630 of the Michigan Compiled Laws.

History: Add. 1978, Act 543, Eff. July 1, 1979;—Am. 1982, Act 318, Imd. Eff. Oct. 18, 1982;—Am. 1996, Act 388, Eff. Jan. 1, 1998.

600.863 Appeal to circuit court and court of appeals; interlocutory appeal.

Sec. 863. (1) Except when prohibited by statute, a person aggrieved by an order, sentence, or judgment of the probate court, other than an order appealable under section 861, may appeal from that order, sentence, or judgment to the circuit court in the county in which the order, sentence, or judgment is rendered. An interlocutory appeal under this subsection shall be by application and not as a matter of right.

(2) An appeal to the court of appeals from a judgment entered by the circuit court on an appeal from the probate court under subsection (1) shall be by application.

(3) Instead of appeal under subsection (1), a party may appeal directly to the court of appeals upon certification of the issue or issues by the probate judge. An appeal under this subsection shall be by application and not as a matter of right.

History: Add. 1978, Act 543, Eff. July 1, 1979;—Am. 1979, Act 69, Imd. Eff. July 25, 1979.

600.866 Appeals to be on record; trial de novo prohibited; notice of appeal; appeals governed by supreme court rule.

Sec. 866. (1) All appeals from the probate court shall be on a written transcript of the record made in the probate court or on a record settled and agreed to by the parties and approved by the court. An appeal shall not be tried de novo.

(2) Notice of appeal shall be given to all interested parties as provided by supreme court rule.

(3) Except as otherwise provided in sections 861 to 867, appeals from the probate court or a judge thereof shall be governed by supreme court rule.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.867 Cessation of further proceedings in pursuance of order, sentence, or judgment appealed from; exception; suspension of order; application for delayed appeal.

Sec. 867. (1) After an appeal is claimed and notice of the appeal is given at the probate court, all further proceedings in pursuance of the order, sentence, or judgment appealed from shall cease until the appeal is determined, except as otherwise provided in subsection (2) and in section 65(2) of chapter 10 of Act No. 288 of the Public Acts of 1939, being section 710.65 of the Michigan Compiled Laws.

(2) The pendency of an appeal from the juvenile division of the probate court or from an order of the probate court entered pursuant to Act No. 258 of the Public Acts of 1974, as amended, being sections 330.1001 to 330.2106 of the Michigan Compiled Laws shall not suspend the order unless the court to which the appeal is taken specifically orders the suspension. An application for a delayed appeal from an order of the juvenile division shall be filed within 6 months after entry of the order.

History: Add. 1978, Act 543, Eff. July 1, 1979;—Am. 1979, Act 69, Imd. Eff. July 25, 1979.

600.871 Decedents' estates; fees; payment; final accounting; receipt.

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Sec. 871. (1) In all decedents' estates in which proceedings are instituted for probate, the probate court shall charge and collect the following fees as an expense of administration on the value of all assets, as of the date of death of the decedent, as follows:

(a) In an estate of value of less than $1,000.00, $5.00 plus 1% of the amount over $500.00.

(b) In an estate of value of $1,000.00 or more, but less than $3,000.00, $25.00.

(c) In an estate of value of $3,000.00 or more but less than $10,000.00, $25.00 plus 5/8 of 1% of the amount over $3,000.00.

(d) In an estate of value of $10,000.00 or more but less than $25,000.00, $68.75 plus 1/2 of 1% of the amount over $10,000.00.

(e) In an estate of value of $25,000.00 but less than $50,000.00, $143.75 plus 3/8 of 1% of the amount over $25,000.00.

(f) In an estate of value of $50,000.00 but less than $100,000.00, $237.50 plus 1/4 of 1% of the amount over $50,000.00.

(g) In an estate of value of $100,000.00 to $500,000.00, $362.50 plus 1/8 of 1% of the amount over $100,000.00.

(h) For each additional $100,000.00 value, or larger fraction thereof, over $500,000.00, $62.50.

(i) For each additional $100,000.00 value, or larger fraction thereof, over $1,000,000.00, $31.25.

(2) The fees in subsection (1), rounded to the whole dollar, shall be due and payable to the probate court before the filing of the final account or within 1 year after the commencement of probate proceedings, whichever occurs first. A final accounting shall not be accepted by the probate court until the fees are paid in full and shown as part of the final accounting. An official receipt shall be issued to the payer when the fees are collected.

History: Add. 1978, Act 543, Eff. July 1, 1979;—Am. 2005, Act 326, Imd. Eff. Dec. 27, 2005.

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

Compiler's note: The repealed section pertained to exemplifications and certified copies.

600.873 Repealed. 1979, Act 69, Imd. Eff. July 25, 1979.

Compiler's note: The repealed section pertained to certified copy or exemplification of record, paper, or proceeding.

600.874 Marriage ceremony, commission to take testimony, and depositions; fees; waiver.

Sec. 874. (1) The probate court shall charge and collect the following fees:

(a) For performing a marriage ceremony, $10.00.

(b) For issuance of a commission to take testimony, $7.00.

(c) For taking, certifying, sealing, and forwarding depositions, $5.00, and 10 cents per folio, which fees shall be considered as costs in the case; and for each copy of the deposition furnished, 3 cents per folio.

(2) A probate judge may waive the fee for performing a marriage ceremony if the parties thereto are indigent.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.875 Charging estate; limitation; conditions.

Sec. 875. If the estate of a respondent, minor, legally incapacitated person, or protected person is sufficient, the probate court may charge the estate of the person an amount approved by the court, but not more than the actual cost of the services, for any of the following:

(a) Guardian ad litem appointed to represent the person.

(b) Counsel appointed to represent the person.

(c) Court ordered examination by a physician or mental health professional.

(d) Independent examination by a physician or mental health professional.

History: Add. 1993, Act 189, Imd. Eff. Oct. 8, 1993.

600.876 Certified copies for which charges or fees prohibited.

Sec. 876. A charge shall not be made nor shall any fee be collected on account of or by reason of the furnishing of certified copies in connection with proceedings for the admission and commitment of persons to mental hospitals or any facility or institution maintained or operated by the state or the federal government for the care of mentally ill or retarded persons, or for determining inheritance tax.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.877 Payment and disposition of fees.

Sec. 877. All fees received by the probate court during each month pursuant to sections 871 to 874 shall be

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paid on or before the tenth day of the succeeding month as follows:

(a) Two-fifths of each fee shall be paid to the county treasurer and credited to the county general fund.

(b) Three-fifths of each fee shall be paid to the state treasurer and credited to the state general fund.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.878 Transcript fees.

Sec. 878. (1) The probate court reporter or recorder may collect for transcripts of testimony requested by any interested party or ordered by the probate judge, other than depositions, the same fees as provided by section 2543 for circuit court reporters or recorders unless a lower rate is agreed upon. The transcript fees so collected shall be paid to the probate court reporter or recorder by the ordering party, or by the county for a transcript ordered by a probate judge, which fees shall accrue to the reporter or recorder as additional compensation.

(2) Fees shall not be charged or collected for transcripts provided under Act No. 243 of the Public Acts of 1919, being section 35.41 of the Michigan Compiled Laws.

History: Add. 1978, Act 543, Eff. July 1, 1979;—Am. 1986, Act 308, Eff. Jan. 1, 1987.

600.879 Prohibited compensation, fees, or costs; violation as malfeasance in office.

Sec. 879. (1) A probate judge, probate register, clerk, or employee of the probate court shall not receive or accept any compensation whatever for collecting from a fiduciary or estate any fees for the publishing of a notice or matter required in a proceeding in the probate court.

(2) A probate judge shall not collect or receive any fee from, or charge any costs to, a person unless the payment of the fee or costs is expressly authorized by law. A person violating this section is guilty of malfeasance in office.

History: Add. 1978, Act 543, Eff. July 1, 1979.

600.880 Filing fees for civil action to probate register; exceptions; disposition.

Sec. 880. (1) Except as otherwise provided in this section and section 880a, at the time of commencing a civil action or proceeding in the probate court, the party commencing the civil action or proceeding shall pay a $150.00 filing fee to the probate court register.

(2) At the time of commencing a proceeding under section 3982 of the estates and protected individuals code, 1998 PA 386, MCL 700.3982, the party commencing the proceeding shall pay a $25.00 filing fee to the probate court register.

(3) Except as otherwise provided by law, a fee shall not be charged for commencing a proceeding in probate court under a provision of the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(4) A party is not required to pay a fee under this section if the party is the attorney general, department of treasury, family independence agency, state public administrator, or administrator of veterans affairs of the United States veterans administration, or an agency of county government.

(5) The probate register, on or before the fifth day of the month following the month in which fees are collected under this section, shall transmit to the county treasurer all fees collected under this section during the preceding month. Within 15 days after receiving the fees, the county treasurer shall transmit all fees collected under subsection (1) to the civil filing fee fund created in section 171 and all fees collected under subsection (2) to the state treasurer for deposit in the state court fund created by section 151a.

History: Add. 1992, Act 233, Eff. Mar. 31, 1993;—Am. 1993, Act 189, Eff. Oct. 8, 1993;—Am. 2000, Act 56, Eff. Apr. 1, 2000;—Am. 2003, Act 138, Eff. Oct. 1, 2003.

600.880a Filing fee commencing guardianship to probate register; exception; disposition.

Sec. 880a. (1) Except as otherwise provided in this section and section 880, at the time of commencing a guardianship or limited guardianship proceeding in the probate court, the party commencing the proceeding shall pay a $150.00 filing fee to the probate register.

(2) A party is not required to pay a fee under this section if the party is the attorney general, department of treasury, family independence agency, state public administrator, or administrator of veterans affairs of the United States veterans administration, or an agency of county government.

(3) The probate register, on or before the fifth day of the month following the month in which any fees are collected under this section, shall transmit to the county treasurer all fees collected under this section during the preceding month. Within 15 days after receiving the fees, the county treasurer shall transmit all fees collected to the state treasurer for deposit in the civil filing fee fund created by section 171.

History: Add. 1993, Act 189, Imd. Eff. Oct. 8, 1993;—Am. 2003, Act 138, Eff. Oct. 1, 2003.

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600.880b Fees paid to probate register; exceptions; disposition.

Sec. 880b. (1) Except as otherwise provided by law, after the commencement of a civil action or proceeding in the probate court, a party filing a motion, petition, account, objection, or claim shall pay a $20.00 motion fee to the probate register.

(2) The probate register shall charge and collect a $15.00 service fee for each writ of garnishment, attachment, or execution or for each judgment debtor discovery subpoena issued.

(3) A fee shall not be charged under this section in a guardianship or limited guardianship proceeding if the moving party is the subject of the proceeding.

(4) A fee shall not be charged under this section in a conservatorship proceeding if the moving party is the subject of the proceeding or, if the conservatorship is for a minor, for a motion to release restricted funds.

(5) A party is not required to pay a fee under this section if the party is the attorney general, department of treasury, family independence agency, state public administrator, or administrator of veterans affairs of the United States veterans administration, or an agency of county government.

(6) The probate register, on or before the fifth day of the month following the month in which fees are collected under this section, shall transmit to the county treasurer all fees collected under this section during the preceding month. Within 15 days after receiving the fees, the county treasurer shall transmit 50% of each fee collected to the state treasurer for deposit in the state court fund created by section 151a and shall deposit the remaining 50% of each fee in the county general fund for use exclusively for expenses of the probate court, to be first applied toward expenses in adult guardianship proceedings of the independent evaluations, legal counsel, and periodic review mandated by article 5 of the estates and protected individuals code, 1998 PA 386, MCL 700.5101 to 700.5520.

History: Add. 1993, Act 189, Imd. Eff. Oct. 8, 1993;—Am. 2000, Act 56, Eff. Apr. 1, 2000;—Am. 2003, Act 138, Eff. Oct. 1, 2003;—Am. 2003, Act 178, Eff. Oct. 1, 2003.

600.880c Fees for bringing appeal, registering trust, or depositing will; disposition.

Sec. 880c. (1) Upon appeal from the probate court to the circuit court or court of appeals, the party bringing the appeal shall pay a $25.00 fee to the probate court register.

(2) Upon registering a trust or depositing a will for safekeeping, the person registering the trust or depositing the will shall pay a $25.00 fee to the probate court register.

(3) The probate court register, on or before the fifth day of the month following the month in which fees are collected under this section, shall transmit all fees collected under this section during the previous month to the county treasurer. The county treasurer shall deposit all the fees in the county general fund for use exclusively for expenses of the probate court, to be first applied toward expenses in adult guardianship proceedings of the independent evaluations, legal counsel, and periodic review mandated by article 5 of the estates and protected individuals code, 1998 PA 386, MCL 700.5101 to 700.5513.

History: Add. 1993, Act 189, Imd. Eff. Oct. 8, 1993;—Am. 2000, Act 56, Eff. Apr. 1, 2000.

600.880d Waiver or suspension of fees.

Sec. 880d. A judge of probate shall order that the payment of any fee required under this chapter be waived or suspended, in whole or in part, upon a showing by affidavit of indigency or inability to pay.

History: Add. 1993, Act 189, Imd. Eff. Oct. 8, 1993.

600.899 Repeal of MCL 701.1 to 701.18a, 701.20 to 701.45d, 701.50 to 701.55, and 712A.22.

Sec. 899. Sections 1 to 18a, 20 to 45d and 50 to 55 of chapter 1 and section 22 of chapter 12A of Act No. 288 of the Public Acts of 1939, as amended, being sections 701.1 to 701.18a, 701.20 to 701.45d, 701.50 to 701.55 and 712A.22 of the Compiled Laws of 1970, are repealed.

History: Add. 1978, Act 543, Eff. July 1, 1979.

CHAPTER 9
ATTORNEYS AND COUNSELORS

600.901 State bar; membership; public body corporate.

Sec. 901. The state bar of Michigan is a public body corporate, the membership of which consists of all persons who are now and hereafter licensed to practice law in this state. The members of the state bar of Michigan are officers of the courts of this state, and have the exclusive right to designate themselves as “attorneys and counselors,” or “attorneys at law,” or “lawyers.” No person is authorized to practice law in this state unless he complies with the requirements of the supreme court with regard thereto.

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

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Constitutionality: The State of Michigan, through the combined actions of the Supreme Court, the Legislature, and the State Bar, may compulsorily exact dues, and require association of attorneys, to support only those duties and functions of the State Bar which serve a compelling state interest and which cannot be accomplished by means less intrusive upon the First Amendment rights of objecting attorneys. Falk v State Bar, 418 Mich 270; 342 NW2d 504 (1983).

The regulation of the practice of law, the maintenance of high standards in the legal profession, and the discharge of the profession's duty to protect and inform the public are purposes in which the State of Michigan has a compelling interest justifying unavoidable intrusions on the First Amendment rights of attorneys; on the other hand, political and legislative activities are impermissible intrusions, as are activities designed to further commercial and economic interests of the members of the bar. Falk v State Bar, 418 Mich 270; 342 NW2d 504 (1983).

600.904 State bar; regulation by supreme court.

Sec. 904. The supreme court has the power to provide for the organization, government, and membership of the state bar of Michigan, and to adopt rules and regulations concerning the conduct and activities of the state bar of Michigan and its members, the schedule of membership dues therein, the discipline, suspension, and disbarment of its members for misconduct, and the investigation and examination of applicants for admission to the bar.

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

Constitutionality: The State of Michigan, through the combined actions of the Supreme Court, the Legislature, and the State Bar, may compulsorily exact dues, and require association of attorneys, to support only those duties and functions of the State Bar which serve a compelling state interest and which cannot be accomplished by means less intrusive upon the First Amendment rights of objecting attorneys. Falk v State Bar, 418 Mich 270; 342 NW2d 504 (1983).

The regulation of the practice of law, the maintenance of high standards in the legal profession, and the discharge of the profession's duty to protect and inform the public are purposes in which the State of Michigan has a compelling interest justifying unavoidable intrusions on the First Amendment rights of attorneys; on the other hand, political and legislative activities are impermissible intrusions, as are activities designed to further commercial and economic interests of the members of the bar. Falk v State Bar, 418 Mich 270; 342 NW2d 504 (1983).

600.907 State bar; subpoena, administration of oaths.

Sec. 907. The state bar of Michigan has the power of subpoena, and the authority to take testimony under oath, which may be exercised by its officers, boards and committees for the purpose of aiding in cases of discipline, suspension, and disbarment of its members, and in cases of applicants for admission to the bar, under such regulations and restrictions as the supreme court may prescribe. The persons exercising the power granted by this section have the power to administer the necessary oaths.

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

600.908 Granting immunity to witness in lawyer disciplinary proceeding.

Sec. 908. (1) Upon application filed by the attorney grievance commission, and after affording the witness, the attorney general, and the prosecuting attorney of the county where the alleged violation occurred the opportunity to be heard regarding any objections which any may have, the supreme court may grant immunity to a witness in a lawyer disciplinary proceeding in a manner described in this section.

(2) An order granting immunity shall not be issued if the supreme court determines, based on information supplied by the attorney general or the prosecuting attorney of the county where the alleged violation occurred, that an order of immunity would interfere with an ongoing criminal investigation.

(3) The application shall set forth the proposed questions to be asked and shall be served on the witness, the attorney general, and the prosecuting attorney of the county where the alleged violation occurred.

(4) An order granting immunity shall not extend beyond answers reasonably encompassed within the questions set forth in the application or beyond the scope of the disciplinary proceeding.

(5) A true copy of the order granting immunity shall be delivered to the witness before he or she answers a question which is the subject of the grant of immunity.

(6) A witness granted immunity as provided by this section has the right to be represented by counsel at all times at his or her request.

(7) A person required to answer the questions pursuant to an order granting immunity shall not be prosecuted thereafter for an offense concerning which an answer may have tended to incriminate that person.

(8) A witness who wilfully swears falsely under oath in regard to any matter upon which he or she is being examined under a grant of immunity commits perjury and is guilty of a felony, punishable by imprisonment for not more than 15 years.

(9) The refusal of a witness to answer a question which is the subject of a grant of immunity shall constitute a contempt punishable by the circuit court of the county in which the refusal occurred or by the supreme court.

(10) A copy of the transcript of the questions and answers subject to the grant of immunity shall be delivered to the witness as soon as practicable. The copy of the transcript shall be certified as true by a person authorized to administer oaths in the proceeding.

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History: Add. 1982, Act 166, Imd. Eff. May 31, 1982.

600.909 License to practice law subject to support and visitation enforcement act.

Sec. 909. A license to practice law in this state is subject to suspension as provided in the support and visitation enforcement act, Act No. 295 of the Public Acts of 1982, being sections 552.601 to 552.650 of the Michigan Compiled Laws, and the regulated occupation support enforcement act.

History: Add. 1996, Act 238, Eff. Jan. 1, 1997.

600.910 Admission to bar; discipline; venue.

Sec. 910. The supreme court and each circuit court has jurisdiction to admit to the bar of this state, persons who possess the required qualifications, to disbar or suspend members of the bar for misconduct, and to reinstate licenses to practice law. All such matters and proceedings are declared to be civil in nature, and the venue thereof is subject to regulation by the supreme court.

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

600.913 Admission of person to bar; oath; fee; certificate of admission; record of admission; transmitting certified copies of orders of admission, suspension, disbarment, contempt, or reinstatement.

Sec. 913. The clerk of the supreme court and of each circuit court shall, when a person is admitted to the bar by that court, administer to the person the oath prescribed by the supreme court for members of the bar, and upon payment of the sum of $25.00 issue to that person a certificate of admission, and keep a record of the admission in the roll of attorneys and the journal of that court, and transmit promptly to the clerk of the supreme court and to the state bar of Michigan without charge certified copies of the orders of admission. When a member of the bar is suspended or disbarred, or is held in contempt, and when a person is reinstated as a member of the bar, the clerk of the court so doing shall transmit to the clerk of the supreme court and to the state bar of Michigan without charge certified copies of those orders.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1977, Act 112, Imd. Eff. Oct. 12, 1977.

600.916 Unauthorized practice of law.

Sec. 916. (1) A person shall not practice law or engage in the law business, shall not in any manner whatsoever lead others to believe that he or she is authorized to practice law or to engage in the law business, and shall not in any manner whatsoever represent or designate himself or herself as an attorney and counselor, attorney at law, or lawyer, unless the person is regularly licensed and authorized to practice law in this state. A person who violates this section is guilty of contempt of the supreme court and of the circuit court of the county in which the violation occurred, and upon conviction is punishable as provided by law. This section does not apply to a person who is duly licensed and authorized to practice law in another state while temporarily in this state and engaged in a particular matter.

(2) A domestic violence victim advocate's assistance that is provided in accordance with section 2950c does not violate this section.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 2000, Act 112, Eff. July 1, 2000.

600.919 Fees; solicitation.

Sec. 919. (1) The measure of the compensation of members of the bar is left to the express or implied agreement of the parties subject to the regulation of the supreme court.

(2) Any agreement for such compensation, or for reimbursement of any expenses, incident to the prosecution or defense of any claim by any party is wholly void if such professional employment was solicited by the member of the bar, or by any other person acting on his behalf or at his request, unless the services of such member of the bar were first requested by such party.

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

600.922 Board of law examiners; membership, vacancies, officers.

Sec. 922. There is hereby constituted a board of law examiners consisting of 5 active members of the bar each of whom shall hold office for 5 years and 1 of whom shall be appointed by the governor on nomination by the supreme court on the first day of July in each year. Vacancies on the board shall be filled in like manner for the unexpired term. The president of the board is the member of the board whose term first expires. The board shall elect a secretary annually from its own membership. The clerk of the supreme court ex-officio is the assistant secretary and treasurer of the board. If a vacancy occurs in the office of president, the board may elect a president for the unexpired term from its own membership.

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

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600.925 Board of law examiners; applicants for admission; rules and regulations.

Sec. 925. The board of law examiners has charge of the investigation and examination of all persons who initially apply for admission to the bar of this state. The board may adopt suitable regulations, subject to approval by the supreme court, concerning the performance of its functions and duties. Regulations adopted pursuant to this section need not be published pursuant to Act No. 88 of the Public Acts of 1943, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948, as amended. The board has the power of subpoena, and the authority to administer oaths, and to take testimony under oath, which may be exercised by any member of the board in cases of applicants for admission to the bar.

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

600.928 Board of law examiners; meetings, quorum.

Sec. 928. The board of law examiners shall meet at least once in each year at such times and places as the chairman shall determine for the purpose of investigating, examining, hearing, and passing upon the qualifications of applicants for admission to the bar, and to transact such other business as may come before the board. Three members of the board shall constitute a quorum. The action of a majority of the members present at a meeting at which a quorum is present shall be the action of the board.

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

600.931 Fees for admission to bar; compensation and expenses of board of law examiners.

Sec. 931. (1) The fees required to be paid by each applicant for admission to the bar shall be paid to the board of law examiners, and shall be deposited in the general fund for the restricted purpose of expenditures of the supreme court related to the administration of the board of law examiners.

(2) Subject to subsection (3), the fees described in this section are as follows:

(a) The fee for applying for examination is $175.00 for an examination occurring before January 1, 2001, or $300.00 for an examination occurring after January 1, 2001.

(b) The fee for applying for reexamination or recertification is $100.00 for a reexamination or recertification occurring before January 1, 2001, or $200.00 for a reexamination or recertification occurring after January 1, 2001.

(c) The fee for admission without examination is $400.00 for an admission without examination before January 1, 2001, or $600.00 for an admission without examination after January 1, 2001.

(d) The additional fee for late filing of application or transfer of an application is $100.00.

(3) The supreme court, by administrative order or rule, may increase the amounts prescribed in subsection (2)(a), (b), or (c) within the following limits:

(a) The fee for applying for an examination occurring after January 1, 2002 may be increased to not more than $400.00.

(b) The fee for applying for a reexamination or recertification occurring after January 1, 2002 may be increased to not more than $300.00.

(c) The fee for admission without examination after January 1, 2002 may be increased to not more than $800.00.

(4) Each member of the board is entitled to receive compensation for his or her services as are authorized by the supreme court and appropriated by the legislature, and in addition the actual and necessary expenses incurred in the discharge of his or her duties as a member of the board. The expenses of the board shall be paid upon certification by the supreme court pursuant to the procedures established by the supreme court.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1976, Act 57, Imd. Eff. Mar. 24, 1976;—Am. 1980, Act 408, Imd. Eff. Jan. 8, 1981;—Am. 1989, Act 100, Imd. Eff. June 21, 1989;—Am. 2000, Act 86, Imd. Eff. May 1, 2000.

600.934 Qualifications for admission to bar; "good moral character" defined; election to use multi-state bar examination scaled score; disclosure of score.

Sec. 934. (1) A person is qualified for admission to the bar of this state who proves to the satisfaction of the board of law examiners that he or she is a person of good moral character, is 18 years of age or older, has the required general education, learning in the law, and fitness and ability to enable him or her to practice law in the courts of record of this state, and that he or she intends in good faith to practice or teach law in this state. Additional requirements concerning the qualifications for admission are contained in subsequent sections of this chapter. As used in this subsection, "good moral character" means good moral character as defined and determined under 1974 PA 381, MCL 338.41 to 338.47.

(2) A person may elect to use the multi-state bar examination scaled score that the person achieved on a multi-state bar examination administered in another state or territory when applying for admission to the bar

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of this state, but only if all of the following occur:

(a) The score that the person elects to use was achieved on a multi-state examination administered within the 3 years immediately preceding the multi-state bar examination in this state for which the person would otherwise sit.

(b) The person achieved a passing grade on the bar examination of which the multi-state examination the score of which the person elects to use was a part.

(c) The multi-state examination the score of which the person elects to use was administered in a state or territory that accords the reciprocal right to elect to use the score achieved on the multi-state examination administered in this state to Michigan residents seeking admission to the bar of that state or territory.

(d) The person earns a grade on the essay portion of the bar examination that when combined with the transferred multi-state scaled score constitutes a passing grade for that bar examination.

(e) The person otherwise meets all requirements for admission to the bar of this state.

(3) The state board of law examiners shall disclose to a person electing under subsection (2) to transfer the multi-state bar examination scaled score achieved on an examination administered in another state or territory the score the person achieved as soon as that score is received by the board regardless of whether the person could have obtained that score in the jurisdiction in which the examination was administered. This subsection does not require disclosure by the board of the score achieved on a multi-state bar examination administered in another state or territory until the scores achieved on that examination administered in Michigan are released.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1972, Act 87, Imd. Eff. Mar. 20, 1972;—Am. 1978, Act 289, Eff. July 10, 1978;—Am. 1980, Act 271, Imd. Eff. Oct. 6, 1980;—Am. 2000, Act 112, Imd. Eff. May 24, 2000;—Am. 2004, Act 558, Imd. Eff. Jan. 3, 2005.

Constitutionality: Requirement of United States citizenship as a necessary prerequisite for the admission to the practice of law constitutes denial of equal protection of the law under Const 1963, art I, § 2, and US Const, am XIV, § 1. In re Houlahan, 389 Mich 665; 209 NW2d 250 (1973), decided prior to the 1978 amendment.

600.937 General education requirements.

Sec. 937. Every applicant for admission to the bar is required to have completed successfully prior to commencement of his legal education at least 2 years of study, consisting of not less than 60 “semester hours” or 90 “quarter hours” of study in courses for which credit towards a collegiate degree is given, either in an accredited college authorized under the laws of the state in which the college is located to grant collegiate degrees, or in a junior college or other school from which students who have successfully completed such 2 years of study are accepted as regular third-year students by any accredited college in this state that is authorized by law to grant collegiate degrees.

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

600.940 Legal education requirements; military service.

Sec. 940. (1) Every applicant for examination is required to be a graduate from a reputable and qualified law school duly incorporated under the laws of this state or another state or territory, or the District of Columbia, of the United States of America.

(2) If an applicant is called into or volunteers for the armed forces of the United States of America, and has completed successfully 2 1/2 years of the course of study as a full-time student, or 3 1/2 years of the course of study as a part-time student, in any such law school, the board of law examiners, in its discretion may allow such applicant to be examined for the bar prior to such graduation, but shall withhold certification until after his graduation.

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

600.943 Examination of schools and colleges.

Sec. 943. The board of law examiners has the authority to examine, or to cause to be examined, any school, college, junior college, or law school for the purpose of determining whether the standards of education and training required for admission to the bar are being maintained, and to exclude from the bar examination any person who was a student therein at the time any such educational institution is found to have been disqualified or of questionable reputation. The board of law examiners may exclude from the bar examination any person who was a student in any such educational institution if such educational institution refuses to allow the examination.

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

600.946 Foreign attorneys; admission to bar, qualifications, extension of term.

Sec. 946. Any person who is duly licensed to practice law in the court of last resort of any other state or territory or the District of Columbia, of the United States of America, and who applies for admission to the

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bar of this state without examination, is required to prove to the satisfaction of the board of law examiners that:

(1) He is in good standing at the bar of such other state, territory, or district, and has the qualifications as to moral character, citizenship, age, general education, fitness and ability required for admission to the bar of this state; and

(2) He intends in good faith either to maintain an office in this state for the practice of law, and to practice actively in this state, or to engage in the teaching of law as a full-time instructor in a reputable and qualified law school duly incorporated under the laws of this state; and

(3) His principal business or occupation for at least 3 of the 5 years immediately preceding his application has been either the active practice of law in such other state, territory, or district or the teaching of law as a full-time instructor in a reputable and qualified law school duly incorporated under the laws of this or some other state or territory, or the District of Columbia, of the United States of America, or that period of active service, full-time as distinguished from active duty for training and reserve duty, in the armed forces of the United States, during which the applicant was assigned to and discharged the duties of a judge advocate, legal specialist or legal officer by any other designation, shall be considered as the practice of law for the purposes of this section, which assignment and the inclusive dates thereof shall be certified to by the judge advocate general or comparable officer of the armed forces concerned or by the principal assistant to whom this certification may be delegated; or any combination of periods of practice thereof. The supreme court may, in its discretion, on special motion and for good cause shown, increase said 5-year period. Any period of active service in the armed forces of the United States not meeting the requirements of duty in the armed forces as herein stated may be excluded from the 5-year period above prescribed and the period extended accordingly.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1967, Act 118, Eff. Nov. 2, 1967.

600.949 Investigation of applicants to state bar of Michigan; duty of law enforcement officers; fingerprinting required; disposition of fingerprint records.

Sec. 949. (1) It is the duty of all state, county, and city law enforcement officers to aid the state bar of Michigan and the board of law examiners in any investigation of the conduct of members of the bar, and the character and fitness of persons who apply for admission or reinstatement to the bar, and to furnish all available information about the members or persons.

(2) The board of law examiners shall require that an applicant for admission to the state bar of Michigan be fingerprinted to determine whether the applicant has a record of criminal convictions in this state or in other states. The board of law examiners shall submit the fingerprints and the appropriate state and federal fees, which shall be borne by the applicant, to the department of state police for a criminal history check. The department of state police may then forward the fingerprints to the federal bureau of investigation for a criminal history check. The information obtained as a result of the fingerprinting of an applicant shall be limited to officially determining the character and fitness of the applicant for admission to the state bar of Michigan. After approval of the applicant by the board of law examiners, all fingerprint records shall be returned to the applicant or destroyed.

(3) All fingerprint records being held by the state bar of Michigan shall be destroyed.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1980, Act 69, Imd. Eff. Apr. 3, 1980;—Am. 2002, Act 459, Imd. Eff. June 21, 2002.

CHAPTER 10

600.1001 Family division of circuit court; creation; organization.

Sec. 1001. The family division of circuit court is created as a division of circuit court and is organized pursuant to this chapter.

History: Add. 1996, Act 388, Eff. Jan. 1, 1998.

Compiler's note: Former MCL 600.1001, which pertained to circuit court commissioners, election, term, and number, was repealed by Act 297 of 1974, Eff. Apr. 1, 1975.

600.1003 Family division of circuit court to be in each judicial circuit.

Sec. 1003. Each judicial circuit shall have a family division of circuit court.

History: Add. 1996, Act 388, Eff. Jan. 1, 1998.

600.1004 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

Compiler's note: The repealed section pertained to presiding circuit court commissioner.

600.1005 Family division of circuit court; power and authority of judge.

Sec. 1005. A circuit judge serving in the family division of circuit court retains all the power and authority

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of a judge of the circuit court.

History: Add. 1996, Act 388, Eff. Jan. 1, 1998;—Am. 2002, Act 682, Eff. Apr. 1, 2003.

600.1007 Family division of circuit court; county clerk as clerk of the court.

Sec. 1007. As with circuit court, the county clerk is the clerk of the court for the family division of the circuit court.

History: Add. 1996, Act 388, Eff. Jan. 1, 1998.

Compiler's note: Former MCL 600.1007, which pertained to circuit court commissioner and designation of successors, was repealed by Act 297 of 1974, Eff. Apr. 1, 1975.

600.1009 Reference to former juvenile division of probate court; construction.

Sec. 1009. A reference to the former juvenile division of probate court in any statute of this state shall be construed to be a reference to the family division of circuit court.

History: Add. 1996, Act 388, Eff. Jan. 1, 1998.

600.1010 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

Compiler's note: The repealed section pertained to continuance in office of incumbent circuit court commissioner.

600.1011 Operation of family division and coordination of agency services; agreement; establishment of family court plan.

Sec. 1011. (1) Not later than July 1, 2003, in each judicial circuit, the chief circuit judge and the chief probate judge or judges shall enter into an agreement that establishes a plan known as the "family court plan" that details how the family division will be operated in that circuit and how the services of the agencies listed in section 1043 will be coordinated in order to promote more efficient and effective services to families and individuals. If a probate court district includes counties that are in different judicial circuits, the chief judge of each judicial circuit that includes a county in the probate court district and the chief probate judge shall enter into a family court plan for each circuit.

(2) If, in any judicial circuit, the agreement required under subsection (1) is not entered into on or before July 1, 2003, the supreme court shall develop and implement the family court plan for that judicial circuit.

(3) A family court plan required under subsection (1) shall provide that a judge's service pursuant to the family court plan be consistent with the goal of developing sufficient judicial expertise in family law to properly serve the interests of the families and children whose cases are assigned to that judge. The chief judge of the circuit court shall have the authority and flexibility to determine the duration of a judge's service pursuant to the family court plan in furtherance of this goal.

(4) A judge serving pursuant to the family court plan shall receive appropriate training as required by the supreme court.

(5) A family court plan required under subsection (1) may provide that when a judge's service pursuant to the family court plan ends, the pending cases of that judge are to be reassigned to another judge or judges serving pursuant to the family court plan or are to be resolved by that judge.

(6) A family court plan required under subsection (1) shall specifically identify any probate judge serving pursuant to the family court plan.

(7) A family court plan required under subsection (1) shall be reviewed and revised periodically, as necessary, by the chief circuit judge or judges and the chief probate judge or judges, and shall be submitted for approval by the supreme court.

History: Add. 1996, Act 388, Eff. Oct. 1, 1996;—Am. 1998, Act 298, Imd. Eff. July 28, 1998;—Am. 2002, Act 682, Eff. Apr. 1, 2003.

600.1013 Repealed. 2002, Act 682, Eff. Apr. 1, 2003.

Compiler's note: The repealed section pertained to assignement of judges to family division.

600.1016 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

Compiler's note: The repealed section pertained to oath of office of circuit court commissioner.

600.1017 Repealed. 1998, Act 298, Imd. Eff. July 28, 1998.

Compiler's note: The repealed section pertained to assignment of judge not licensed to practice law.

600.1019 Family court judges; training.

Sec. 1019. The Michigan judicial institute shall provide appropriate training for all probate judges and circuit judges who are serving pursuant to the family court plan.

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History: Add. 1996, Act 388, Eff. Jan. 1, 1998;—Am. 2002, Act 682, Eff. Apr. 1, 2003.

Compiler's note: Former MCL 600.1019, which pertained to execution of bond by circuit court commissioner, was repealed by Act 297 of 1974, Eff. Apr. 1, 1975.

600.1021 Family division of circuit court; jurisdiction.

Sec. 1021. (1) Except as otherwise provided by law, the family division of circuit court has sole and exclusive jurisdiction over the following cases commenced on or after January 1, 1998:

(a) Cases of divorce and ancillary matters as set forth in the following statutes:

(*i*) 1846 RS 84, MCL 552.1 to 552.45.

(*ii*) 1909 PA 259, MCL 552.101 to 552.104.

(*iii*) 1911 PA 52, MCL 552.121 to 552.123.

(*iv*) 1913 PA 379, MCL 552.151 to 552.156.

(*v*) The friend of the court act, 1982 PA 294, MCL 552.501 to 552.535.

(*vi*) 1905 PA 299, MCL 552.391.

(*vii*) 1949 PA 42, MCL 552.401 to 552.402.

(*viii*) The family support act, 1966 PA 138, MCL 552.451 to 552.459.

(*ix*) The support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650.

(*x*) The interstate income withholding act, 1985 PA 216, MCL 552.671 to 552.685.

(b) Cases of adoption as provided in chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70.

(c) Cases involving certain children incapable of adoption under 1925 PA 271, MCL 722.531 to 722.534.

(d) Cases involving a change of name as provided in chapter XI of the probate code of 1939, 1939 PA 288, MCL 711.1 to 711.3.

(e) Cases involving juveniles as provided in chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32.

(f) Cases involving the status of minors and the emancipation of minors under 1968 PA 293, MCL 722.1 to 722.6.

(g) Cases of child custody under the child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31, and child custody jurisdiction as provided in the uniform child-custody jurisdiction and enforcement act, 2001 PA 195, MCL 722.1101 to 722.1406.

(h) Cases involving paternity and child support under the paternity act, 1956 PA 205, MCL 722.711 to 722.730.

(i) Cases involving parental consent for abortions performed on unemancipated minors under the parental rights restoration act, 1990 PA 211, MCL 722.901 to 722.908.

(j) Cases involving child support under the revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183.

(k) Cases involving personal protection orders and foreign protection orders under sections 2950 to 2950m.

(2) The family division of circuit court has ancillary jurisdiction over the following cases commenced on or after January 1, 1998:

(a) Cases involving guardians and conservators as provided in article 5 of the estates and protected individuals code, 1998 PA 386, MCL 700.5101 to 700.5520.

(b) Cases involving treatment of, or guardianship of, mentally ill or developmentally disabled persons under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(3) A probate judge identified in section 1011 as serving pursuant to the family court plan has the same power and authority, within the county or probate court district in which he or she serves as probate judge, as that of a circuit judge over cases described in subsection (1), in addition to all the power and authority of a judge of the probate court.

History: Add. 1996, Act 388, Eff. Jan. 1, 1998;—Am. 2000, Act 56, Eff. Apr. 1, 2000;—Am. 2002, Act 682, Eff. Apr. 1, 2003.

600.1022 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

Compiler's note: The repealed section pertained to powers of circuit court commissioner.

600.1023 Cases involving members of same family; assignment of judge.

Sec. 1023. When 2 or more matters within the jurisdiction of the family division of circuit court involving members of the same family are pending in the same judicial circuit, those matters, whenever practicable, shall be assigned to the judge to whom the first such case was assigned.

History: Add. 1996, Act 388, Eff. Jan. 1, 1998;—Am. 2002, Act 682, Eff. Apr. 1, 2003.

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600.1025 Fees; applicability.

Sec. 1025. Except as otherwise provided in sections 1027 to 1031, fees payable in civil actions in circuit court apply to cases in the family division.

History: Add. 1996, Act 388, Eff. Jan. 1, 1998.

Compiler's note: Former MCL 600.1025, which pertained to circuit court commissioner power to punish for contempt of court, was repealed by Act 297 of 1974, Eff. Apr. 1, 1975.

600.1027 Ancillary or limited guardianship; filing fee; disposition.

Sec. 1027. (1) At the time of commencing an ancillary guardianship or limited guardianship proceeding in the family division of circuit court, the party commencing the proceeding shall pay a $150.00 filing fee to the family division of circuit court.

(2) A party is not required to pay a fee under this section if the party is the attorney general, department of treasury, family independence agency, state public administrator, or administrator of veterans affairs of the United States veterans administration, or an agency of county government.

(3) The clerk of the court, on or before the fifth day of the month following the month in which any fees are collected under this section, shall transmit to the county treasurer all fees collected under this section during the preceding month. Within 15 days after receiving the fees, the county treasurer shall transmit, for each fee collected, $31.00 to the county treasurer and the balance of the fee to the state treasurer for deposit in the civil filing fee fund created in section 171.

History: Add. 1996, Act 388, Eff. Jan. 1, 1998;—Am. 2003, Act 138, Eff. Oct. 1, 2003.

600.1028 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

Compiler's note: The repealed section pertained to limitations of powers on circuit court commissioners.

600.1029 Proceedings not requiring fee.

Sec. 1029. A fee shall not be charged for any of the following in the family division of circuit court:

(a) Commencing an ancillary proceeding under any provision of the mental health code, Act No. 258 of the Public Acts of 1974, being sections 330.1001 to 330.2106 of the Michigan Compiled Laws, or any provision of chapter XIIA of Act No. 288 of the Public Acts of 1939, being sections 712A.1 to 712A.31 of the Michigan Compiled Laws.

(b) Filing an acknowledgment of paternity.

(c) Filing a motion, petition, account, objection, or claim in an ancillary guardianship or limited guardianship proceeding if the moving party is the subject of the proceeding.

(d) An ancillary conservatorship proceeding if the moving party is the subject of the proceeding, or in the case of a conservatorship for a minor for a motion to release restricted funds.

History: Add. 1996, Act 388, Eff. Jan. 1, 1998.

600.1031 Copies of letters of authority or guardianship; publication of order.

Sec. 1031. In an ancillary proceeding under section 1021(2), the family division of circuit court shall make 1 certified copy or exemplification of any letter of authority or letter of guardianship and shall furnish it without charge to the fiduciary or the fiduciary's attorney or guardian or guardian's attorney on request. The court, where the order shall necessarily be entered in the administration of an estate, shall deliver to the printer or publisher a certified copy of each order for publication.

History: Add. 1996, Act 388, Eff. Jan. 1, 1998.

Compiler's note: Former MCL 600.1031, which pertained to practice of law by copartner of circuit court commissioner, was repealed by Act 297 of 1974, Eff. Apr. 1, 1975.

600.1034 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

Compiler's note: The repealed section pertained to discharge of former duties of masters in chancery by circuit court commissioner.

600.1037 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

Compiler's note: The repealed section pertained to discharge of former duties of injunction masters by circuit court commissioner.

600.1040 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

Compiler's note: The repealed section pertained to transfer of records to circuit court commissioner.

600.1041 Suspension of order pending appeal.

Sec. 1041. The pendency of an appeal from the family division of circuit court in a matter involving the disposition of a juvenile or, in a case where the family division has ancillary jurisdiction, from an order

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entered pursuant to the mental health code, Act No. 258 of the Public Acts of 1974, being sections 330.1001 to 330.2106 of the Michigan Compiled Laws, shall not suspend the order unless the court to which the appeal is taken specifically orders the suspension. An application for a delayed appeal from an order of the family division of circuit court in a matter involving the disposition of a juvenile shall be filed within 6 months after entry of the order.

History: Add. 1996, Act 388, Eff. Jan. 1, 1998.

600.1043 Assistance to be provided to family division.

Sec. 1043. All of the following shall provide assistance to the family division of circuit court in accordance with the court's jurisdiction:

(a) The office and facilities of the friend of the court.

(b) The family counseling services created under the circuit court family counseling services act, Act No. 155 of the Public Acts of 1964, being sections 551.331 to 551.344 of the Michigan Compiled Laws.

(c) The county juvenile officers and assistant county juvenile officers appointed under Act No. 22 of the Public Acts of the Extra Session of 1919, being sections 400.251 to 400.254 of the Michigan Compiled Laws.

(d) All other state and public agencies that provide assistance to families or juveniles.

History: Add. 1996, Act 388, Eff. Jan. 1, 1998.

Compiler's note: Former MCL 600.1043, which pertained to completion of real estate sale by circuit court commission after expiration of term of circuit court commissioner, was repealed by Act 297 of 1974, Eff. Apr. 1, 1975.

600.1046 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

Compiler's note: The repealed section pertained to process and duties of circuit court commissioner for other absent or otherwise disqualified commissioner.

600.1049 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

Compiler's note: The repealed section pertained to sale of property by circuit court commissioner pursuant to judgment of court.

600.1052 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

Compiler's note: The repealed section pertained to duties performed by circuit court commissioner in adjoining counties where no commissioner is legally qualified to act.

600.1055 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

Compiler's note: The repealed section pertained to suspension of circuit court commissioner by circuit judge.

600.1058 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

Compiler's note: The repealed section pertained to vacancies in office of circuit court commissioner.

CHAPTER 10A.
DRUG TREATMENT COURTS

600.1060 Definitions.

Sec. 1060. As used in this chapter:

(a) "Dating relationship" means that term as defined in section 2950.

(b) "Domestic violence offense" means any crime alleged to have been committed by an individual against his or her spouse or former spouse, an individual with whom he or she has a child in common, an individual with whom he or she has had a dating relationship, or an individual who resides or has resided in the same household.

(c) "Drug treatment court" means a court supervised treatment program for individuals who abuse or are dependent upon any controlled substance or alcohol. A drug treatment court shall comply with the 10 key components promulgated by the national association of drug court professionals, which include all of the following essential characteristics:

(*i*) Integration of alcohol and other drug treatment services with justice system case processing.

(*ii*) Use of a nonadversarial approach by prosecution and defense that promotes public safety while protecting any participant's due process rights.

(*iii*) Identification of eligible participants early with prompt placement in the program.

(*iv*) Access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.

(*v*) Monitoring of participants effectively by frequent alcohol and other drug testing to ensure abstinence from drugs or alcohol.

(*vi*) Use of a coordinated strategy with a regimen of graduated sanctions and rewards to govern the court's responses to participants' compliance.

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(*vii*) Ongoing close judicial interaction with each participant and supervision of progress for each participant.

(*viii*) Monitoring and evaluation of the achievement of program goals and the program's effectiveness.

(*ix*) Continued interdisciplinary education in order to promote effective drug court planning, implementation, and operation.

(*x*) The forging of partnerships among other drug courts, public agencies, and community-based organizations to generate local support.

(d) "Participant" means an individual who is admitted into a drug treatment court.

(e) "Prosecutor" means the prosecuting attorney of the county, the city attorney, the village attorney, or the township attorney.

(f) "Traffic offense" means a violation of the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a violation of a local ordinance substantially corresponding to a violation of that act, that involves the operation of a vehicle and, at the time of the violation, is a felony or misdemeanor.

(g) "Violent offender" means an individual who meets either of the following criteria:

(*i*) Is currently charged with or has pled guilty to, or, if a juvenile, is currently alleged to have committed or has admitted responsibility for, an offense involving the death of or a serious bodily injury to any individual, or the carrying, possessing, or use of a firearm or other dangerous weapon by that individual, whether or not any of these circumstances are an element of the offense, or is criminal sexual conduct of any degree.

(*ii*) Has 1 or more prior convictions for, or, if a juvenile, has 1 or more prior findings of responsibility for, a felony involving the use or attempted use of force against another individual with the intent to cause death or serious bodily harm.

History: Add. 2004, Act 224, Eff. Jan. 1, 2005;—Am. 2006, Act 620, Imd. Eff. Jan. 3, 2007.

600.1061 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

Compiler's note: The repealed section pertained to protections provided by circuit court commissioners for infants and mentally incompetent persons.

600.1062 Drug treatment court; adoption by circuit or district court; memorandum of understanding; parties; adoption by family division of circuit court; training; transfer of participant from another jurisdiction.

Sec. 1062. (1) The circuit court in any judicial circuit or the district court in any judicial district may adopt or institute a drug treatment court, pursuant to statute or court rules. However, the circuit or district court shall not adopt or institute a drug treatment court unless the circuit or district court enters into a memorandum of understanding with each participating county prosecuting attorney in the circuit or district court district, a representative of the criminal defense bar, and a representative or representatives of community treatment providers. The memorandum of understanding also may include other parties considered necessary, such as any other prosecutor in the circuit or district court district, local law enforcement, the probation departments in that circuit or district, the local substance abuse coordinating agency for that circuit or district, a domestic violence service provider program that receives funding from the state domestic violence prevention and treatment board, and community corrections agencies in that circuit or district. The memorandum of understanding shall describe the role of each party.

(2) The family division of circuit court in any judicial circuit may adopt or institute a juvenile drug treatment court, pursuant to statute or court rules. However, the family division of circuit court shall not adopt or institute a juvenile drug treatment court unless the family division of circuit court enters into a memorandum of understanding with each participating county prosecuting attorney in the circuit or district court district, a representative of the criminal defense bar specializing in juvenile law, and a representative or representatives of community treatment providers. The memorandum of understanding also may include other parties considered necessary, such as any other prosecutor in the circuit or district court district, local law enforcement, the probation departments in that circuit, the local substance abuse coordinating agency for that circuit, a domestic violence service provider program that receives funding from the state domestic violence prevention and treatment board, and community corrections agencies in that circuit. The memorandum of understanding shall describe the role of each party. A juvenile drug treatment court is subject to the same procedures and requirements provided in this chapter for drug treatment courts created under subsection (1), except as specifically provided otherwise in this chapter.

(3) A court that is adopting a drug treatment court shall participate in training as required by the state court administrative office and the bureau of justice assistance of the United States department of justice.

(4) A court that has adopted a drug treatment court pursuant to this section may accept participants from

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any other jurisdiction in this state based upon either the residence of the participant in the receiving jurisdiction or the unavailability of a drug treatment court in the jurisdiction where the participant is charged. The transfer is not valid unless it is agreed to by all of the following:

(a) The defendant or respondent.

(b) The attorney representing the defendant or respondent.

(c) The judge of the transferring court and the prosecutor of the case.

(d) The judge of the receiving drug treatment court and the prosecutor of a court funding unit of the drug treatment court.

History: Add. 2004, Act 224, Eff. Jan. 1, 2005;—Am. 2006, Act 620, Imd. Eff. Jan. 3, 2007.

600.1063 Hiring or contracting with treatment providers.

Sec. 1063. A drug treatment court may hire or contract with licensed or accredited treatment providers, in consultation and cooperation with the local substance abuse coordinating agency, and other such appropriate persons to assist the drug treatment court in fulfilling its requirements under this chapter, such as the investigation of an individual's background or circumstances, or the clinical evaluation of an individual, for his or her admission into or participation in a drug treatment court.

History: Add. 2004, Act 224, Eff. Jan. 1, 2005.

600.1064 Admission to drug treatment court; confidentiality of information obtained from preadmission screening and evaluation assessment; criminal history contained in L.E.I.N.

Sec. 1064. (1) Each drug treatment court shall determine whether an individual may be admitted to the drug treatment court. No individual has a right to be admitted into a drug treatment court. However, an individual is not eligible for admission into a drug treatment court if he or she is a violent offender.

(2) In addition to admission to a drug treatment court under this act, an individual who is eligible for admission pursuant to this act may also be admitted to a drug treatment court under any of the following circumstances:

(a) The individual has been assigned the status of youthful trainee under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11.

(b) The individual has had criminal proceedings against him or her deferred and has been placed on probation under any of the following:

(*i*) Section 7411 of the public health code, 1978 PA 368, MCL 333.7411.

(*ii*) Section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

(*iii*) Section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430.

(*iv*) Section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a.

(3) To be admitted to a drug treatment court, an individual must cooperate with and complete a preadmissions screening and evaluation assessment and must agree to cooperate with any future evaluation assessment as directed by the drug treatment court. A preadmission screening and evaluation assessment shall include all of the following:

(a) A complete review of the individual's criminal history, and a review of whether or not the individual has been admitted to and has participated in or is currently participating in a drug treatment court, whether admitted under this act or under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11, section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, section 1 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1, section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a, or section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430, and the results of the individual's participation. A review of the law enforcement information network may be considered sufficient for purposes of this subdivision unless a further review is warranted. The court may accept other verifiable and reliable information from the prosecution or defense to complete its review and may require the individual to submit a statement as to whether or not he or she has previously been admitted to a drug treatment court and the results of his or her participation in the prior program or programs.

(b) An assessment of the risk of danger or harm to the individual, others, or the community.

(c) As much as practicable, a complete review of the individual's history regarding the use or abuse of any controlled substance or alcohol and an assessment of whether the individual abuses controlled substances or alcohol or is drug or alcohol dependent. It is the intent of the legislature that this assessment should be a clinical assessment as much as practicable.

(d) A review of any special needs or circumstances of the individual that may potentially affect the individual's ability to receive substance abuse treatment and follow the court's orders.

(e) For a juvenile, an assessment of the family situation including, as much as practicable, a comparable

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review of any guardians or parents.

(4) Except as otherwise permitted in this act, any statement or other information obtained as a result of participating in a preadmission screening and evaluation assessment under subsection (3) is confidential and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be used in a criminal prosecution, unless it reveals criminal acts other than, or inconsistent with, personal drug use.

(5) The court may request that the department of state police provide to the court information contained in the law enforcement information network pertaining to an individual applicant's criminal history for the purposes of determining an individual's admission into the drug treatment court and general criminal history review, including whether the individual has previously been admitted to and participated in a drug treatment court under this act, or under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11, section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, section 1 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1, section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a, or section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430, and the results of the individual's participation. The department of state police shall provide the information requested by a drug treatment court under this subsection.

History: Add. 2004, Act 224, Eff. Jan. 1, 2005.

Compiler's note: Former MCL 600.1064, which pertained to signature by clerks of circuit court commissioners, was repealed by Act 297 of 1974, Eff. Apr. 1, 1975.

600.1066 Placement of findings or statement in court file.

Sec. 1066. Before an individual is admitted into a drug treatment court, the court shall find on the record, or place a statement in the court file pertaining to, all of the following:

(a) The individual is dependent upon or abusing drugs or alcohol and is an appropriate candidate for participation in the drug treatment court.

(b) The individual understands the consequences of entering the drug treatment court and agrees to comply with all court orders and requirements of the court's program and treatment providers.

(c) The individual is not an unwarranted or substantial risk to the safety of the public or any individual, based upon the screening and assessment or other information presented to the court.

(d) The individual is not a violent offender.

(e) The individual has completed a preadmission screening and evaluation assessment under section 1064(3) and has agreed to cooperate with any future evaluation assessment as directed by the drug treatment court.

(f) The individual meets the requirements, if applicable, under section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11, section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, section 1 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1, section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a, or section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430.

(g) The terms, conditions, and the duration of the agreement between the parties, especially as to the outcome for the participant of the drug treatment court upon successful completion by the participant or termination of participation.

History: Add. 2004, Act 224, Eff. Jan. 1, 2005.

Compiler's note: Former MCL 600.1066, which pertained to appointment of bailiffs by circuit court commissioners, was repealed by Act 194 of 1972, Eff. July 1, 1975.

600.1067 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

Compiler's note: The repealed section pertained to salary of circuit court commissioner.

600.1068 Individual charged in criminal case; factors for admission to drug treatment court.

Sec. 1068. (1) If the individual being considered for admission to a drug treatment court is charged in a criminal case or, in the case of a juvenile, is alleged to have engaged in activity that would constitute a criminal act if committed by an adult, his or her admission is subject to all of the following conditions:

(a) The offense or offenses allegedly committed by the individual must be related to the abuse, illegal use, or possession of a controlled substance or alcohol.

(b) The individual, if an adult, must plead guilty to the charge or charges on the record. The individual, if a juvenile, must admit responsibility for the violation or violations that he or she is accused of having committed.

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(c) The individual must waive, in writing, the right to a speedy trial, the right to representation at drug treatment court review hearings by an attorney, and, with the agreement of the prosecutor, the right to a preliminary examination.

(d) The individual must sign a written agreement to participate in the drug treatment court.

(2) The prosecutor must approve of the admission of the individual into the drug treatment court in conformity with the memorandum of understanding under section 1062.

(3) An individual shall not be admitted to, or remain in, a drug treatment court pursuant to an agreement that would permit a discharge or dismissal of a traffic offense upon successful completion of the drug treatment court program.

(4) In addition to rights accorded a victim under the crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, the drug treatment court must permit any victim of the offense or offenses of which the individual is charged, any victim of a prior offense of which that individual was convicted, and members of the community in which either the offenses were committed or in which the defendant resides to submit a written statement to the court regarding the advisability of admitting the individual into the drug treatment court.

(5) An individual who has waived his or her right to a preliminary examination and has pled guilty or, in the case of a juvenile, has admitted responsibility, as part of his or her application to a drug treatment court and who is not admitted to a drug treatment court, shall be permitted to withdraw his or her plea and is entitled to a preliminary examination or, in the case of a juvenile, shall be permitted to withdraw his or her admission of responsibility.

History: Add. 2004, Act 224, Eff. Jan. 1, 2005.

600.1070 Admission of individual into drug treatment court; requirements.

Sec. 1070. (1) Upon admitting an individual into a drug treatment court, all of the following apply:

(a) For an individual who is admitted to a drug treatment court based upon having criminal charges currently filed against him or her, the court shall accept the plea of guilty or, in the case of a juvenile, the admission of responsibility.

(b) For an individual who pled guilty to, or admitted responsibility for, criminal charges for which he or she was admitted into the drug treatment court, the court shall do either of the following:

(*i*) In the case of an individual who pled guilty to an offense that is not a traffic offense and who may be eligible for discharge and dismissal pursuant to the agreement with the court and prosecutor upon successful completion of the drug treatment court program, the court shall not enter a judgment of guilt or, in the case of a juvenile, shall not enter an adjudication of responsibility.

(*ii*) In the case of an individual who pled guilty to a traffic offense or who pled guilty to an offense but may not be eligible for discharge and dismissal pursuant to the agreement with the court and prosecutor upon successful completion of the drug treatment court program, the court shall enter a judgment of guilt or, in the case of a juvenile, shall enter an adjudication of responsibility.

(c) Pursuant to the agreement with the individual and the prosecutor, the court may either defer further proceedings as provided in section 1 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1, or proceed to sentencing, as applicable in that case pursuant to that agreement, and place the individual on probation or other court supervision in the drug treatment court program with terms and conditions according to the agreement and as deemed necessary by the court.

(2) The court shall maintain jurisdiction over the drug treatment court participant as provided in this act until final disposition of the case, but not longer than the probation period fixed under section 2 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.2. In the case of a juvenile participant, the court may obtain jurisdiction over any parents or guardians of the juvenile in order to assist in ensuring the juvenile's continued participation and successful completion of the drug treatment court, and may issue and enforce any appropriate and necessary order regarding the parent or guardian of a juvenile participant.

(3) The drug treatment court shall cooperate with, and act in a collaborative manner with, the prosecutor, defense counsel, treatment providers, the local substance abuse coordinating agency for that circuit or district, probation departments, and, to the extent possible, local law enforcement, the department of corrections, and community corrections agencies.

(4) The drug treatment court may require an individual admitted into the court to pay a reasonable drug court fee that is reasonably related to the cost to the court for administering the drug treatment court program as provided in the memorandum of understanding under section 1062. The clerk of the drug treatment court shall transmit the fees collected to the treasurer of the local funding unit at the end of each month.

(5) The drug treatment court may request that the department of state police provide to the court information contained in the law enforcement information network pertaining to an individual applicant's criminal history for purposes of determining the individual's compliance with all court orders. The department

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of state police shall provide the information requested by a drug treatment court under this subsection.

History: Add. 2004, Act 224, Eff. Jan. 1, 2005.

600.1071 Repealed. 1972, Act 194, Eff. July 1, 1975.

Compiler's note: The repealed section pertained to service of process by bailiffs.

600.1072 Monitoring, testing, and assessments to be provided to participants.

Sec. 1072. (1) A drug treatment court shall provide a drug court participant with all of the following:

(a) Consistent, continual, and close monitoring of the participant and interaction among the court, treatment providers, probation, and the participant.

(b) Mandatory periodic and random testing for the presence of any controlled substance or alcohol in a participant's blood, urine, or breath, using to the extent practicable the best available, accepted, and scientifically valid methods.

(c) Periodic evaluation assessments of the participant's circumstances and progress in the program.

(d) A regimen or strategy of appropriate and graduated but immediate rewards for compliance and sanctions for noncompliance, including, but not limited to, the possibility of incarceration or confinement.

(e) Substance abuse treatment services, relapse prevention services, education, and vocational opportunities as appropriate and practicable.

(2) Any statement or other information obtained as a result of participating in assessment, treatment, or testing while in a drug treatment court is confidential and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be used in a criminal prosecution, unless it reveals criminal acts other than, or inconsistent with, personal drug use.

History: Add. 2004, Act 224, Eff. Jan. 1, 2005.

Compiler's note: Former MCL 600.1072, which pertained to application for appointment as bailiff, was repealed by Act 194 of 1972, Eff. July 1, 1975.

600.1073 Repealed. 1972, Act 194, Eff. July 1, 1975.

Compiler's note: The repealed section pertained to eligibility, number, and vacancies of bailiffs.

600.1074 Continuing and completing drug treatment court program; requirements.

Sec. 1074. (1) In order to continue to participate in and successfully complete a drug treatment court program, an individual shall comply with all of the following:

(a) Pay all court ordered fines and costs, including minimum state costs.

(b) Pay the drug treatment court fee allowed under section 1070(4).

(c) Pay all court ordered restitution.

(d) Pay all crime victims rights assessments under section 5 of 1989 PA 196, MCL 780.905.

(e) Comply with all court orders, violations of which may be sanctioned according to the court's discretion.

(2) The drug treatment court must be notified if the participant is accused of a new crime, and the judge shall consider whether to terminate the participant's participation in the drug treatment program in conformity with the memorandum of understanding under section 1062. If the participant is convicted of a felony for an offense that occurred after the defendant is admitted to drug treatment court, the judge shall terminate the participant's participation in the program.

(3) The court shall require that a participant pay all fines, costs, the fee, restitution, and assessments described in subsection (1)(a) to (d) and pay all, or make substantial contributions toward payment of, the costs of the treatment and the drug treatment court program services provided to the participant, including, but not limited to, the costs of urinalysis and such testing or any counseling provided. However, if the court determines that the payment of fines, the fee, or costs of treatment under this subsection would be a substantial hardship for the individual or would interfere with the individual's substance abuse treatment, the court may waive all or part of those fines, the fee, or costs of treatment.

History: Add. 2004, Act 224, Eff. Jan. 1, 2005.

Compiler's note: Former MCL 600.1074, which pertained to oath, surety bond, and powers of bailiff, was repealed by Act 194 of 1972, Eff. July 1, 1975.

600.1075 Repealed. 1972, Act 194, Eff. July 1, 1975.

Compiler's note: The repealed section pertained to rotation of process among bailiffs, writs of restitution, and service of process.

600.1076 Completion or termination of drug treatment program; discharge and dismissal of proceedings; effect of termination.

Sec. 1076. (1) Upon completion or termination of the drug treatment court program, the court shall find on

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the record or place a written statement in the court file as to whether the participant completed the program successfully or whether the individual's participation in the program was terminated and, if it was terminated, the reason for the termination.

(2) For a participant who successfully completes probation or other court supervision and whose proceedings were deferred or who was sentenced pursuant to section 1070, the court shall comply with the agreement made with the participant upon admission into the drug treatment court, or the agreement as it was altered after admission by the court with approval of the participant and the prosecutor for that jurisdiction as provided in subsections (3) to (8).

(3) If an individual is participating in a drug treatment court under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11, section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a, or section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430, the court shall proceed pursuant to the applicable section of law. There may only be 1 discharge or dismissal under this subsection.

(4) Except as provided in subsection (5), the court, with the agreement of the prosecutor and in conformity with the terms and conditions of the memorandum of understanding under section 1062, may discharge and dismiss the proceedings against an individual who meets all of the following criteria:

(a) The individual has participated in a drug treatment court for the first time.

(b) The individual has successfully completed the terms and conditions of the drug treatment court program.

(c) The individual is not required by law to be sentenced to a correctional facility for the crimes to which he or she has pled guilty.

(d) The individual is not currently charged with and has not pled guilty to a traffic offense.

(e) The individual has not previously been subject to more than 1 of any of the following:

(*i*) Assignment to the status of youthful trainee under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11.

(*ii*) The dismissal of criminal proceedings against him or her under section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a, or section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430.

(5) The court may grant a discharge and dismissal of a domestic violence offense only if all of the following circumstances apply:

(a) The individual has not previously had proceedings dismissed under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

(b) The domestic violence offense is eligible to be dismissed under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

(c) The individual fulfills the terms and conditions imposed under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, and the discharge and dismissal of proceedings are processed and reported under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

(6) A discharge and dismissal under subsection (4) shall be without adjudication of guilt or, for a juvenile, without adjudication of responsibility and are not a conviction or a finding of responsibility for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime or, for a juvenile, a finding of responsibility. There may only be 1 discharge and dismissal under subsection (4) for an individual. The court shall send a record of the discharge and dismissal to the criminal justice information center of the department of state police, and the department of state police shall enter that information into the law enforcement information network with an indication of participation by the individual in a drug treatment court. All records of the proceedings regarding the participation of the individual in the drug treatment court pursuant to subsection (4) are closed to public inspection, and are exempt from public disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, but shall be open to the courts of this state, another state, or the United States, the department of corrections, law enforcement personnel, and prosecutors only for use in the performance of their duties or to determine whether an employee of the court, department, law enforcement agency, or prosecutor's office has violated his or her conditions of employment or whether an applicant meets criteria for employment with the court, department, law enforcement agency, or prosecutor's office. The records and identifications division of the department of state police shall retain a nonpublic record of an arrest and the discharge and dismissal under this subsection.

(7) Except as provided in subsection (3), (4), or (5), if an individual has successfully completed probation or other court supervision, the court shall do the following:

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(a) If the court has not already entered an adjudication of guilt or responsibility, enter an adjudication of guilt or, in the case of a juvenile, enter a finding or adjudication of responsibility.

(b) If the court has not already sentenced the individual, proceed to sentencing or, in the case of a juvenile, disposition pursuant to the agreement.

(c) Send a record of the conviction and sentence or the finding or adjudication of responsibility and disposition to the criminal justice information center of the department of state police. The department of state police shall enter that information into the law enforcement information network with an indication of successful participation by the individual in a drug treatment court.

(8) For a participant whose participation is terminated or who fails to successfully complete the drug treatment court program, the court shall enter an adjudication of guilt, or, in the case of a juvenile, a finding of responsibility, if the entering of guilt or adjudication of responsibility was deferred pursuant to section 1070, and shall then proceed to sentencing or disposition of the individual for the original charges to which the individual pled guilty or, if a juvenile, to which the juvenile admitted responsibility prior to admission to the drug treatment court. Upon sentencing or disposition of the individual, the court shall send a record of that sentence or disposition and the individual's unsuccessful participation in the drug treatment court to the criminal justice information center of the department of state police, and the department of state police shall enter that information into the law enforcement information network, with an indication that the individual unsuccessfully participated in a drug treatment court.

History: Add. 2004, Act 224, Eff. Jan. 1, 2005.

Compiler's note: Former MCL 600.1076, which pertained to meetings, records of appointments and removals of bailiffs, and records of rules, regulations, and actions of circuit court commissioners, was repealed by Act 194 of 1972, Eff. July 1, 1975.

600.1077 Repealed. 1972, Act 194, Eff. July 1, 1975.

Compiler's note: The repealed section pertained to bailiffs as peace officers.

600.1078 Collection and maintenance of information.

Sec. 1078. (1) Each drug treatment court shall collect and provide data on each individual applicant and participant and the entire program as required by the state court administrative office.

(2) Each drug treatment court shall maintain files or databases on each individual applicant or referral who is denied or refused admission to the program, including the reasons for the denial or rejection, the criminal history of the applicant, the preadmission evaluation and assessment, and other demographic information as required by the state court administrative office.

(3) Each drug treatment court shall maintain files or databases on each individual participant in the program for review and evaluation as well as treatment, as directed by the state court administrative office. The information collected for evaluation purposes must include a minimum standard data set developed and specified by the state court administrative office. This information should be maintained in the court files or otherwise accessible by the courts and the state court administrative office and, as much as practicable, should include all of the following:

(a) Location and contact information for each individual participant, both upon admission and termination or completion of the program for follow-up reviews, and third party contact information.

(b) Significant transition point dates, including dates of referral, enrollment, new court orders, violations, detentions, changes in services or treatments provided, discharge for completion or termination, any provision of after-care, and after-program recidivism.

(c) The individual's precipitating offenses and significant factual information, source of referral, and all drug treatment court evaluations and assessments.

(d) Treatments provided, including intensity of care or dosage, and their outcomes.

(e) Other services or opportunities provided to the individual and resulting use by the individual, such as education or employment and the participation of and outcome for that individual.

(f) Reasons for discharge, completion, or termination of the program.

(4) As directed by the state court administrative office, after an individual is discharged either upon completion or termination of the program, the drug treatment court should conduct, as much as practicable, follow-up contacts with and reviews of participants for key outcome indicators, such as drug use, recidivism, and employment, as frequently and for a period of time determined by the state court administrative office based upon the nature of the drug treatment court and the nature of the participant. These follow-up contacts and reviews of former participants are not extensions of the court's jurisdiction over the individuals.

(5) Each drug treatment court shall provide to the state court administrative office all information requested by the state court administrative office.

(6) With the approval and at the discretion of the supreme court, the state court administrative office shall

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be responsible for evaluating and collecting data on the performance of drug treatment courts in this state as follows:

(a) The state court administrative office shall provide an annual review of the performance of drug treatment courts in this state to the minority and majority party leaders in the senate and house of representatives, the state drug treatment court advisory board created under section 1082, the governor, and the supreme court.

(b) The state court administrative office shall provide standards for drug treatment courts in this state including, but not limited to, developing a list of approved measurement instruments and indicators for data collection and evaluation. These standards must provide comparability between programs and their outcomes.

(c) The state court administrative office's evaluation plans should include appropriate and scientifically valid research designs, which, as soon as practicable, should include the use of comparison and control groups.

(7) The information collected under this section regarding individual applicants to drug treatment court programs for the purpose of application to that program and participants who have successfully completed drug treatment courts shall be exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: Add. 2004, Act 224, Eff. Jan. 1, 2005.

600.1080 Disposition of funds.

Sec. 1080. (1) The supreme court is responsible for the expenditure of state funds for the establishment and operation of drug treatment courts. Federal funds provided to the state for the operation of drug treatment courts shall be distributed by the department of community health or the appropriate state agency as otherwise provided by law.

(2) The state treasurer may receive money or other assets from any source for deposit into the appropriate state fund or funds for the purposes described in subsection (1).

(3) Each drug treatment court shall report quarterly to the state court administrative office on the funds received and expended by that drug treatment court, in a manner prescribed by the state court administrative office.

History: Add. 2004, Act 224, Eff. Jan. 1, 2005.

600.1082 Drug treatment court advisory committee.

Sec. 1082. (1) A state drug treatment court advisory committee is created in the legislative council. The state drug treatment court advisory committee consists of the following members:

(a) The state court administrator or his or her designee.

(b) Sixteen members appointed jointly by the speaker of the house of representatives and the senate majority leader, as follows:

(*i*) A circuit court judge who has presided for at least 2 years over a drug treatment court.

(*ii*) A district court judge who has presided for at least 2 years over a drug treatment court.

(*iii*) A judge of the family division of circuit court who has presided for at least 2 years over a juvenile drug treatment court program.

(*iv*) A circuit or district court judge who has presided for at least 2 years over an alcohol treatment court.

(*v*) A court administrator who has worked for at least 2 years with a drug or alcohol treatment court.

(*vi*) A prosecuting attorney who has worked for at least 2 years with a drug or alcohol treatment court.

(*vii*) An individual representing law enforcement in a jurisdiction that has had a drug or alcohol treatment court for at least 2 years.

(*viii*) An individual representing drug treatment providers who has worked at least 2 years with a drug or alcohol treatment court.

(*ix*) An individual representing defense attorneys, who has worked for at least 2 years with drug or alcohol treatment courts.

(*x*) An individual who has successfully completed a drug treatment court program.

(*xi*) An individual who has successfully completed a juvenile drug treatment court program.

(*xii*) An individual who is an advocate for the rights of crime victims.

(*xiii*) An individual representing the Michigan association of drug court professionals.

(*xiv*) An individual who is a probation officer and has worked for at least 2 years for a drug or alcohol treatment court.

(*xv*) An individual representing a substance abuse coordinating agency.

(*xvi*) An individual representing domestic violence service provider programs that receive funding from the state domestic violence prevention and treatment board.

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(2) Members of the advisory committee shall serve without compensation. However, members of the advisory committee may be reimbursed for their actual and necessary expenses incurred in the performance of their duties as members of the advisory committee.

(3) Members of the advisory committee shall serve for terms of 4 years each, except that the members first appointed shall serve terms as follows:

(a) The members appointed under subsection (1)(b)(*i*) to (*v*) shall serve terms of 4 years each.

(b) The members appointed under subsection (1)(b)(*vi*) to (*x*) shall serve terms of 3 years each.

(c) The members appointed under subsection (1)(b)(*xi*) to (*xvi*) shall serve terms of 2 years each.

(4) If a vacancy occurs in an appointed membership on the advisory committee, the appointing authority shall make an appointment for the unexpired term in the same manner as the original appointment.

(5) The appointing authority may remove an appointed member of the advisory committee for incompetency, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(6) The first meeting of the advisory committee shall be called by the speaker of the house of representatives and the senate majority leader. At the first meeting, the advisory committee shall elect from among its members a chairperson and other officers as it considers necessary or appropriate. After the first meeting, the advisory committee shall meet at least quarterly, or more frequently at the call of the chairperson or if requested by 9 or more members.

(7) A majority of the members of the advisory committee constitute a quorum for the transaction of business at a meeting of the advisory committee. A majority of the members present and serving are required for official action of the advisory committee.

(8) The business that the advisory committee may perform shall be conducted at a public meeting of the advisory committee held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(9) A writing prepared, owned, used, in the possession of, or retained by the advisory committee in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(10) The advisory committee shall monitor the effectiveness of drug treatment courts and the availability of funding for those courts and shall present annual recommendations to the legislature and supreme court regarding proposed statutory changes regarding drug treatment courts.

History: Add. 2004, Act 224, Eff. Jan. 1, 2005.

CHAPTER 11
COURT STENOGRAPHERS

600.1101 Court reporters or certified court recorders; number.

Sec. 1101. Each circuit court in this state shall have as many court reporters or certified court recorders as it has judges.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1986, Act 308, Eff. Jan. 1, 1987.

600.1104 Court reporter or recorder; appointment; oath of office; appointment for more than 1 circuit.

Sec. 1104. Every reporter or recorder shall be appointed by the governor after having first been recommended by the judge or judges of the court to which he or she is appointed and he or she is an officer of that court. Before entering upon the duties of his or her office he or she shall take and subscribe the constitutional oath of office which shall be filed in the office of the secretary of state. No person may be appointed a reporter or recorder for more than 1 judicial circuit unless he or she personally performs the duties of reporter or recorder in each of the circuits for which he or she has been appointed.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1986, Act 308, Eff. Jan. 1, 1987.

600.1105 Court reporter or recorder; term; suspension.

Sec. 1105. Every reporter or recorder shall hold office at the pleasure of the governor unless suspended for incompetency or misconduct, by the court to which he or she is appointed. In the case of a suspension, the reporter or recorder shall cease to hold the office of reporter or recorder unless by order of the court his or her suspension is rescinded. If the suspension is not rescinded within 30 days of the order of suspension, the office shall become vacant.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1986, Act 308, Eff. Jan. 1, 1987.

600.1106 Court reporter or recorder; vacancy; notice; temporary absence; payment of

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reporter or recorder pro tempore.

Sec. 1106. In case of a vacancy in the office of the reporter or recorder from any cause of a permanent nature, the appointment shall be made in accordance with section 1104, after notice has been given the governor of the vacancy by the chief or only judge of the circuit or the court administrator. In case of a temporary absence of the reporter or recorder, the reporter or recorder shall appoint some competent person who has been approved by the judge to act as a reporter or recorder pro tempore and who shall be paid by the reporter or recorder in whose place he or she acts. If the temporary absence of the reporter or recorder is due to illness, the reporter or recorder pro tempore shall be paid out of the county treasury, such sum as may be approved by the county board of commissioners or in counties having a board of auditors by that board. However, such payment shall not exceed payment for 30 calendar days in any 1 calendar year.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1986, Act 308, Eff. Jan. 1, 1987.

600.1107 Appointment of assistant or additional reporter or recorder; power; compensation.

Sec. 1107. Every reporter or recorder may appoint 1 or more assistants who have first been approved by the circuit judge or judges and who shall qualify as reporters or recorders as prescribed in this statute. The assistant or additional reporter or recorder shall have the power to act in the place of the reporter or recorder and shall be paid by the reporter or recorder. The reporter or recorder or circuit judge shall have the power to revoke the appointment at any time. Whenever the chief or only judge of any judicial circuit deems it necessary for the dispatch of business of the court, he or she may authorize the reporter or recorder to employ 1 or more temporary assistants who shall receive compensation to be paid by the county, after the judge of the court certifies to the reasonableness of the compensation.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1986, Act 308, Eff. Jan. 1, 1987.

600.1111 Reporter or recorder; duties; supervision.

Sec. 1111. The reporter or recorder shall perform the duties assigned by the rules of the supreme court, and by the court to which he or she is appointed, under the supervision of a judge of the court to which he or she is appointed.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1986, Act 308, Eff. Jan. 1, 1987.

600.1114 Reporter or recorder; compensation; order.

Sec. 1114. The reporter or recorder of each circuit shall receive as compensation for his or her services the salary specified in this chapter payable in monthly installments out of the treasuries of the counties composing the circuit of which he or she is the reporter or recorder upon the order of the clerk of the court or board of county auditors who are authorized and required to draw the orders. The county treasurer shall pay an installment upon presentation of an order.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1975, Act 129, Imd. Eff. July 1, 1975;—Am. 1980, Act 438, Eff. Sept. 1, 1981;—Am. 1986, Act 308, Eff. Jan. 1, 1987;—Am. 1996, Act 374, Eff. Oct. 1, 1996.

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."

600.1115 Reporter or recorder; apportionment of salary in circuit composed of more than 1

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county.

Sec. 1115. In every circuit composed of more than 1 county, unless some other method of apportionment is prescribed in this act to make up the salary of the reporter or recorder, each county board of commissioners in the circuit shall appropriate annually such portion of the amount of the salary as shall be assigned to it by the chief or only circuit judge in proportion to the number of civil actions commenced in the circuit court for those counties respectively during the preceding year. It shall be the duty of the chief or only circuit judge of each circuit composed of more than 1 county on the first day of January of each year or as soon thereafter as possible, to apportion the amount of the salary to be paid by each county in his or her circuit as provided in this section and to notify the clerk of each county in the circuit of the proportion to be paid by that county. If there is only 1 county in the circuit, the salary of the reporter or recorder shall be paid out of the treasury of that county in the manner prescribed in section 1114(1).

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1986, Act 308, Eff. Jan. 1, 1987.

600.1116 Reporter or recorder; membership in retirement or social security plan.

Sec. 1116. All reporters or recorders shall be eligible for membership in and benefits of the retirement or the social security plan by the county or any 1 of the counties which pays a portion of his or her salary.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1986, Act 308, Eff. Jan. 1, 1987.

600.1121 Salary; first circuit.

Sec. 1121. In the first circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1122 Salary; second circuit.

Sec. 1122. In the second circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1123 Repealed. 1996, Act 374, Eff. Oct. 1, 1996.

Compiler's note: The repealed section pertained to third circuit salary.

600.1124 Salary; fourth circuit.

Sec. 1124. In the fourth circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1125 Salary; fifth circuit.

Sec. 1125. In the fifth circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1126 Salary; sixth circuit.

Sec. 1126. In the sixth circuit, the stenographer of each division shall be paid an annual salary of $14,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1127 Salary; seventh circuit.

Sec. 1127. In the seventh circuit, the stenographer of each division shall be paid an annual salary of $14,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1128 Salary; eighth circuit.

Sec. 1128. In the eighth circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1129 Salary; ninth circuit.

Sec. 1129. In the ninth circuit, the stenographer of each division shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1130 Salary; tenth circuit.

Sec. 1130. In the tenth circuit, the stenographer of each division shall be paid an annual salary of $12,000.00.

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History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1131 Salary; eleventh circuit.

Sec. 1131. In the eleventh circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1132 Salary; twelfth circuit.

Sec. 1132. In the twelfth circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1133 Salary; thirteenth circuit.

Sec. 1133. In the thirteenth circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1134 Salary; fourteenth circuit.

Sec. 1134. In the fourteenth circuit, each stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1135 Salary; fifteenth circuit.

Sec. 1135. In the fifteenth circuit, each stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1136 Salary; sixteenth circuit.

Sec. 1136. In the sixteenth circuit, each stenographer shall be paid an annual salary of $14,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1137 Salary; seventeenth circuit.

Sec. 1137. In the seventeenth circuit, the stenographer of each division shall be paid an annual salary of $14,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1138 Salary; eighteenth circuit.

Sec. 1138. In the eighteenth circuit, each stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1139 Salary; nineteenth circuit.

Sec. 1139. In the nineteenth circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1140 Salary; twentieth circuit.

Sec. 1140. In the twentieth circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1141 Salary; twenty-first circuit.

Sec. 1141. In the twenty-first circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1142 Salary; twenty-second circuit.

Sec. 1142. In the twenty-second circuit, each stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1143 Salary; twenty-third circuit.

Sec. 1143. In the twenty-third circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1144 Salary; twenty-fourth circuit.

Sec. 1144. In the twenty-fourth circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

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600.1145 Salary; twenty-fifth circuit.

Sec. 1145. In the twenty-fifth circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1146 Salary; twenty-sixth circuit.

Sec. 1146. In the twenty-sixth circuit, each stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1972, Act 325, Imd. Eff. Jan. 2, 1973;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1147 Salary; twenty-seventh circuit.

Sec. 1147. In the twenty-seventh circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1148 Salary; twenty-eighth circuit.

Sec. 1148. In the twenty-eighth circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1149 Salary; twenty-ninth circuit.

Sec. 1149. In the twenty-ninth circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1150 Salary; thirtieth circuit.

Sec. 1150. In the thirtieth circuit, the stenographer of each division shall be paid an annual salary of $14,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1151 Salary; thirty-first circuit.

Sec. 1151. In the thirty-first circuit, each stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1152 Salary; thirty-second circuit.

Sec. 1152. In the thirty-second circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1153 Salary; thirty-third circuit.

Sec. 1153. In the thirty-third circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1154 Salary; thirty-fourth circuit.

Sec. 1154. In the thirty-fourth circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1155 Salary; thirty-fifth circuit.

Sec. 1155. In the thirty-fifth circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1156 Salary; thirty-sixth circuit.

Sec. 1156. In the thirty-sixth circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1157 Salary; thirty-seventh circuit.

Sec. 1157. In the thirty-seventh circuit, the stenographer of each division shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1158 Salary; thirty-eighth circuit.

Sec. 1158. In the thirty-eighth circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

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600.1159 Salary; thirty-ninth circuit.

Sec. 1159. In the thirty-ninth circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1160 Salary; fortieth circuit.

Sec. 1160. In the fortieth circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1161 Salary; forty-first circuit.

Sec. 1161. In the forty-first circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1162 Salary; forty-second circuit.

Sec. 1162. In the forty-second circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: Add. 1966, Act 304, Eff. Jan. 1, 1967;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1162a Salary; forty-third circuit.

Sec. 1162a. In the forty-third circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: Add. 1972, Act 325, Imd. Eff. Jan. 2, 1973;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1162b Salary; forty-fourth circuit.

Sec. 1162b. In the forty-fourth circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: Add. 1972, Act 325, Imd. Eff. Jan. 2, 1973;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1162c Salary; forty-fifth circuit.

Sec. 1162c. In the forty-fifth circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: Add. 1972, Act 325, Imd. Eff. Jan. 2, 1973;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1162d Salary; forty-sixth circuit.

Sec. 1162d. In the forty-sixth circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: Add. 1972, Act 325, Imd. Eff. Jan. 2, 1973;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

600.1162e Salary; forty-seventh circuit.

Sec. 1162e. In the forty-seventh circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: Add. 1974, Act 145, Imd. Eff. June 7, 1974;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

Compiler's note: Sections 2 to 7 of Act 145 of 1974 provide:

"Effective date of changes.

"Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

"Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating petitions; incumbent judges.

"Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

"Nominating petitions.

"Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

"Nomination, election, and terms of candidates for new circuit judgeships.

"Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10 years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

"Terms of additional circuit judges.

"Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the

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additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

"Terms of additional district judges in certain districts.

"Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years."

600.1162f Salary; forty-eighth circuit.

Sec. 1162f. In the forty-eighth circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: Add. 1974, Act 145, Imd. Eff. June 7, 1974;—Am. 1975, Act 129, Imd. Eff. July 1, 1975.

Compiler's note: Sections 2 to 7 of Act 145 of 1974 provide:

"Effective date of changes.

"Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

"Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating petitions; incumbent judges.

"Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

"Nominating petitions.

"Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

"Nomination, election, and terms of candidates for new circuit judgeships.

"Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10 years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

"Terms of additional circuit judges.

"Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

"Terms of additional district judges in certain districts.

"Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years."

600.1162g Salary; forty-ninth circuit.

Sec. 1162g. In the forty-ninth circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: Add. 1976, Act 125, Imd. Eff. May 21, 1976.

600.1162h Salary; fiftieth judicial circuit.

Sec. 1162h. In the fiftieth judicial circuit, the stenographer shall be paid an annual salary of $12,000.00.

History: Add. 1976, Act 125, Imd. Eff. May 21, 1976.

600.1162i Judicial circuit stenographer; salary.

Sec. 1162i. In a judicial circuit created after May 1, 1978, the stenographer shall be paid an annual salary of $12,000.00.

History: Add. 1978, Act 164, Imd. Eff. May 25, 1978.

Compiler's note: Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the

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Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

600.1165 Repealed. 1980, Act 57, Imd. Eff. Apr. 1, 1980.

Compiler's note: The repealed section pertained to filing statement of fees and additional compensation.

600.1168 Salary supplement.

Sec. 1168. The county board of commissioners of the counties comprising any judicial circuit may appropriate annually from the general fund additional amounts to supplement the salary of any reporter or recorder.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1980, Act 438, Eff. Sept. 1, 1981;—Am. 1986, Act 308, Eff. Jan. 1, 1987;—Am. 1996, Act 374, Eff. Oct. 1, 1996.

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.

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"(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."

600.1171 Expenses.

Sec. 1171. The reporters or recorders shall be entitled to receive in addition to the salary provided for in this act the necessary and actual expenses incurred in attending court in the counties other than the county in which the reporter or recorder resides. Upon filing with the clerk of the county in which the reporter or recorder has attended a sworn statement that the money was expended by the reporter or recorder and that the expenditures were necessary in the performance of his or her service in that county, the clerk shall draw an order for payment and the treasurer of the county shall pay the ordered sum to the person entitled to it on the presentation of an order for payment properly drawn by the clerk. If the reporter or recorder does not reside within the circuit to which he or she is appointed, he or she shall be considered for the purpose of this section to reside in the county where the chief or only circuit judge of that circuit resides.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1986, Act 308, Eff. Jan. 1, 1987.

600.1175 Wayne and Kent counties; offices.

Sec. 1175. In the counties of Wayne and Kent, the county auditor shall provide a suitable office for the use of the reporters or recorders contiguous to the office of the clerk of the county.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1986, Act 308, Eff. Jan. 1, 1987.

600.1179 Assignment of reporter or recorder.

Sec. 1179. Upon the request of the judge to which the reporter or recorder is assigned, the court administrator may assign a reporter or recorder to a circuit other than the circuit to which the reporter or recorder was appointed. The reporter or recorder shall continue to receive his or her salary from the circuit to which he or she was appointed. If the salary listed in this chapter for the circuit visited is higher than the regular salary of the reporter or recorder, the circuit visited shall pay the difference to the reporter or recorder.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1986, Act 308, Eff. Jan. 1, 1987.

CHAPTER 12
JURORS

600.1201-600.1239 Repealed. 1968, Act 326, Eff. Nov. 15, 1968.

JURY COMMISSIONERS

600.1241-600.1250 Repealed. 1968, Act 326, Eff. Nov. 15, 1968.

UPPER PENINSULA

600.1255-600.1260 Repealed. 1968, Act 326, Eff. Nov. 15, 1968.

WAYNE COUNTY

600.1265-600.1297 Repealed. 1968, Act 326, Eff. Nov. 15, 1968.

CHAPTER 13
JURORS

600.1300 Definitions.

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Sec. 1300. As used in this chapter:

(a) “Driver's license list” means a compilation of names of individuals who are 18 years of age or older, addresses, zip codes, dates of birth, and sexes of persons licensed in Michigan as motor vehicle operators and chauffeurs under the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.

(b) “Personal identification cardholder list” means a compilation of names of individuals who are 18 years of age or older, addresses, zip codes, dates of birth, and sexes of Michigan residents who have received an official state personal identification card under Act No. 222 of the Public Acts of 1972, being sections 28.291 to 28.295 of the Michigan Compiled Laws.

History: Add. 1986, Act 104, Eff. Jan. 1, 1987.

600.1301 Jury board; appointment; qualifications; terms; existing boards; vacancies.

Sec. 1301. (1) In counties having a population of less than 2,000,000, the jury board consists of 3 qualified electors of the county appointed by the county board of commissioners on recommendation of the circuit judges of the judicial circuit in which the county is situated, not more than 2 of whom shall be members of the same political party. The appointments shall be for 6-year terms.

(2) In counties having a population of 2,000,000 or more, the jury board consists of 7 qualified electors of the county appointed for 6-year terms by the county executive, with the concurrence of the county board of commissioners, on recommendation of the circuit judges of the judicial circuit in which the county is situated, not more than 4 of whom shall be members of the same political party. The executive secretary and stenographer shall receive compensation in an amount fixed by the county board of commissioners.

(3) A jury board member who was appointed under this section and is serving as a member on the effective date of the 2000 amendatory act that amended this section shall continue to serve as a member of that jury board until a vacancy is created by expiration of term or otherwise. A new appointment or an appointment to fill a vacancy in a jury board shall be made as provided in subsections (1) and (2).

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 1969, Act 326, Eff. Sept. 1, 1969;—Am. 2000, Act 454, Imd. Eff. Jan. 9, 2001.

600.1301a Courts in which selection of juries governed by chapter; exceptions.

Sec. 1301a. (1) Except as provided in subsection (2), this chapter governs the selection of juries in the following courts:

(a) Circuit court.

(b) Probate court.

(c) District court.

(2) Sections 1310, 1311, 1312, 1321(1), 1322, 1323, 1330, 1338, and 1343 do not apply to a court that adopts a method of jury selection described in section 1371.

History: Add. 1969, Act 326, Eff. Sept. 1, 1969;—Am. 1978, Act 11, Imd. Eff. Feb. 8, 1978;—Am. 1986, Act 104, Eff. Jan. 1, 1987;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1301b Modified system of jury selection; development of plan; goals; review, approval, adoption, and implementation of plan; exceptions.

Sec. 1301b. (1) Within 2 years after the effective date of this section each circuit of the circuit court shall develop a plan for the implementation of a modified system of jury selection in their respective courts.

(2) Each plan shall specify methods for utilizing eligible jurors to further the following goals:

(a) Lessening the inconvenience to citizens of serving as a juror.

(b) Broadening citizen participation in the jury system.

(c) Distributing the responsibility for participation in the jury system among the people in as fair a manner as possible.

(d) Increasing the efficiency and effectiveness of circuit court activity.

(e) Reducing the length of the term of service of a juror.

(f) Reducing the number of trials on which an individual juror serves during the juror's term.

(3) Each circuit of the circuit court shall submit their plan to the supreme court for review to determine that the plan serves to further the goals listed in subsection (2).

(4) Upon approval of the plan by the supreme court, and within 3 years after the effective date of this section, each circuit of the circuit court shall adopt and implement their plan.

(5) A district of the district court, county or probate court district of the probate court, or a common pleas court may develop and implement a plan for a modified system consistent with this section. If a court develops a plan, it may submit the plan to the supreme court for approval. If a court adopts a plan, the

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provisions of this section and those rules which the supreme court shall develop pursuant to this section, shall apply to that court.

(6) This section shall not apply to circuits of the circuit court which have a population of less than 250,000 based on 1970 census.

History: Add. 1978, Act 12, Imd. Eff. Feb. 8, 1978.

600.1302 Jury board; election of president and secretary; salary of members; quorum.

Sec. 1302. The jury board shall elect annually from its members a president and secretary. The members of the board shall be paid an annual salary in an amount fixed by the board of commissioners or, instead of an annual salary, be paid an amount fixed by the board of commissioners for each day of service. A majority of the board constitutes a quorum.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 1972, Act 303, Eff. Jan. 1, 1973;—Am. 1980, Act 438, Eff. Sept. 1, 1981;—Am. 1996, Act 374, Eff. Oct. 1, 1996.

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."

600.1303 Jury board; authorization and salaries of assistants.

Sec. 1303. The county board of commissioners of each county may authorize assistants to the jury board and fix their salaries.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 1980, Act 438, Eff. Sept. 1, 1981;—Am. 1996, Act 374, Eff. Oct. 1, 1996.

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."

600.1303a Jury board; oath; filing.

Sec. 1303a. Before members of a jury board begin their duties, they shall take a constitutional oath of

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office before the chief circuit judge and file it with the county clerk.

History: Add. 1969, Act 326, Eff. Sept. 1, 1969;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1304 Selection of jurors; list.

Sec. 1304. The jury board shall select from a list that combines the driver's license list and the personal identification cardholder list the names of persons as provided in this chapter to serve as jurors.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 1986, Act 104, Eff. Jan. 1, 1987;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1304a Use of electronic and mechanical devices by jury; other method.

Sec. 1304a. (1) The jury board may use electronic and mechanical devices in carrying out its duties under this chapter.

(2) The jury board may use the historic method of preparing separate slips of paper for the second jury list and drawing slips from a jury board box to determine a panel or array of jurors.

History: Add. 1974, Act 52, Imd. Eff. Mar. 26, 1974;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1305 Jury board; meetings; records; use as evidence.

Sec. 1305. The jury board shall meet annually in the month of May. The chief circuit judge shall fix the time and place of the annual meeting and may direct the board to meet at other times and places. The board may meet at other times and places necessary to carry out its duties. The secretary of the board shall keep a record of the proceedings of the board. The members of the board shall sign the record, attested by the secretary, which record shall then be evidence in all courts and places of the proceedings of the board.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1306, 600.1307 Repealed. 1978, Act 11, Eff. Feb. 8, 1981.

Compiler's note: The repealed sections pertained to qualifications of jurors. Subsequent to its repeal, MCL 600.1306 was amended by Act 438 of 1980.

600.1307a Qualifications of juror; exemption; effect of payment for jury service; "felony" defined.

Sec. 1307a. (1) To qualify as a juror a person shall:

(a) Be a citizen of the United States, 18 years of age or older, and a resident in the county for which the person is selected, and in the case of a district court in districts of the second and third class, be a resident of the district.

(b) Be able to communicate in the English language.

(c) Be physically and mentally able to carry out the functions of a juror. Temporary inability shall not be considered a disqualification.

(d) Not have served as a petit or grand juror in a court of record during the preceding 12 months.

(e) Not have been convicted of a felony.

(2) A person more than 70 years of age may claim exemption from jury service and shall be exempt upon making the request.

(3) For the purposes of this section and sections 1371 to 1376, a person has served as a juror if that person has been paid for jury service.

(4) For purposes of this section, "felony" means a violation of a penal law of this state, another state, or the United States for which the offender, upon conviction, may be punished by death or by imprisonment for more than 1 year or an offense expressly designated by law to be a felony.

History: Add. 1978, Act 11, Imd. Eff. Feb. 8, 1978;—Am. 1986, Act 104, Eff. Jan. 1, 1987;—Am. 2002, Act 739, Eff. Oct. 1, 2003;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1308 Jurors; estimate of number needed.

Sec. 1308. On or before each May 1, the chief judge of each court of record in the county shall estimate the number of jurors that will be needed by their courts for a 1-year period beginning the following September. This estimate shall be entered on the record of the court, and a copy of the estimate shall be certified by the clerk of the court and delivered to the board. In making the estimate, the judge shall consider the number of names available for the period for which the estimate is made.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 1969, Act 326, Eff. Sept. 1, 1969;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1309 Jurors; list of those who have served.

Sec. 1309. The board shall secure from the clerk of each court of record in the county, and each clerk shall provide, a list of persons who have served as jurors, pursuant to this chapter, in their courts during the

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preceding 1 year.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 1969, Act 326, Eff. Sept. 1, 1969;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1310 Voter registration lists and combined driver's license and personal identification cardholder list; procurement; alternatives; costs.

Sec. 1310. (1) The secretary of state shall transmit annually before April 15 to the clerk of each county at no expense a full, current, and accurate copy of a list that combines the driver's license list and personal identification cardholder list pertaining to persons residing in the county. At the request of the board before March 1, the secretary of state shall transmit only a first jury list consisting of the names and addresses of persons selected at random, based on the total number of jurors required as submitted to the secretary of state by the board, using electronic or other mechanical devices. Upon request, the secretary of state shall furnish additional lists to any federal, state, or local governmental agency, other than the clerk of each county, for the purpose of jury selection. An agency which requests and receives a list shall reimburse the secretary of state for actual costs incurred in the preparation and transmittal of the list and all reimbursements shall be deposited in the state general fund.

(2) If an agency uses electronic or mechanical devices to carry out its duties, the agency may request and receive a copy of the combined driver's license and personal identification cardholder list on any electronically produced medium under specifications prescribed by the secretary of state. The secretary of state shall establish specifications standardizing the size, format, and content of media utilized to transmit information used for jury selection.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 1969, Act 326, Eff. Sept. 1, 1969;—Am. 1986, Act 104, Eff. Jan. 1, 1987;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1311 Determination of key number.

Sec. 1311. The board shall arrive at a key number as follows:

(a) Add the number of jurors the judge has estimated will be needed to the number that experience has shown will be eliminated because of disqualification or exemption. Example: If the judge estimates 100 jurors will be needed and the board has found that to select finally 100 jurors, 50 persons will usually be found to be exempt or disqualified, including those who have moved from the county or died, the board shall add 50 to the 100.

(b) Divide the number equal to the total number of names which appear on the list received pursuant to section 1310 by the result, obtaining the nearest integral quotient. Example: If there are 50,000 names on the combined list, divide 50,000 by 150.

(c) The result is the key number for the period for which jurors are to be selected. Example: 50,000 divided by 150 equals 333-1/3, so 333 would be the key number in the example.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 1986, Act 104, Eff. Jan. 1, 1987.

600.1312 Key number; first jury list; compilation.

Sec. 1312. The board shall apply the key number uniformly to the names on the list received pursuant to section 1310 and compile a list or card index, to be known as the first jury list, which shall include every name and only those names as the application of the key number has designated. The board shall do this as follows:

(a) Select by a random method a starting number between 0 and the key number.

(b) Count down the list the number of names to reach the starting number. That name shall be placed on the first jury list.

(c) Continue from that name counting down the list, beginning to count again with the number 1, until the key number is reached. That name shall be placed on the first jury list.

(d) Repeat the process provided in subdivision (c) until the whole list has been counted and the names placed on the first jury list.

(e) The board shall then remove from the first jury list the name of any person who its records show served, pursuant to the provisions of this chapter, as a petit or grand juror in any court of record in the county at any time in the preceding 1 year.

(f) The board, with the approval of the chief circuit judge, may remove from the first jury list the name of any person who has been convicted of a felony and is therefore disqualified from serving as a juror pursuant to section 1307a(1)(e).

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 1969, Act 326, Eff. Sept. 1, 1969;—Am. 1986, Act 104, Eff. Jan. 1, 1987;—Am. 2004, Act 12, Eff. June 1, 2004;—Am. 2005, Act 6, Imd. Eff. Apr. 7, 2005.

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600.1313 Juror qualifications questionnaire; contents; completion; mailing; removal of deceased person from list.

Sec. 1313. (1) The board shall supply a juror qualifications questionnaire to persons on the first jury list. This questionnaire shall contain blanks for the information the board desires, concerning qualifications for, and exemptions from, jury service. Persons on the first jury list are required to return the questionnaire fully answered to the jury board within 10 days after it is received.

(2) In any county, the jury questionnaire described in this section and the written summons notice described in section 1332 may be provided together in the same mailing.

(3) If a qualifying questionnaire is returned with an indication by the United States postal service that the person to whom the questionnaire is addressed is deceased, the name of the person shall be removed from the first juror list and that name and circumstance may be forwarded to the local clerk.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1314 Excusal of exempt persons; investigations.

Sec. 1314. On the basis of answers to the juror qualifications questionnaires the board may excuse from service persons on the first jury list who claim exemption and give satisfactory proof of such right, and all persons who are not qualified for jury service. The board may investigate the accuracy of the answers to the questionnaires and may call upon all law enforcement agencies for assistance in the investigation.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968.

600.1315 Juror qualifications questionnaires; retention; confidentiality.

Sec. 1315. The juror qualifications questionnaires shall be kept on file by the board for a period of 3 years but the chief circuit judge may order them to be kept on file for a longer period. The answers to the qualifications questionnaires shall not be disclosed except that the chief circuit judge may order that access be given to the questionnaires and the answers.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1316 Jurors; appearance before board; notice; evening sessions.

Sec. 1316. The chief circuit judge, or the board, may require any person on the first jury list to appear before a board member at a specified time, for the purpose of testifying under oath or affirmation concerning his or her qualification to serve as a juror, in addition to completing the questionnaire. Notice shall be given, personally or by mail, to a person required to appear not less than 7 days before he or she is to appear before the board. The board shall hold evening sessions as necessary for the examination of prospective jurors who are unable to attend at other times.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1317 Jurors; personal attendance excused.

Sec. 1317. The board may dispense with the personal attendance of a person notified to appear before the board when another person cognizant of facts which will qualify or disqualify the person from service or which prevent the person from appearing is produced and testifies in his or her stead or when a board member has personal knowledge of facts and enters them in the board member's report on that person's qualifications.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1318 Jurors; oaths, administration.

Sec. 1318. A board member may administer an oath or affirmation in relation to the examination of any matter embraced in this act.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968.

600.1319 Record of persons examined.

Sec. 1319. The board shall keep a record of the board member's report on each person examined, and a record showing the qualifications to serve as a juror of each person on the first jury list.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1320 Preliminary screening of prospective jurors; excused persons; removal of deceased person's name from list; hardship.

Sec. 1320. (1) The board shall make a preliminary screening of the qualifications and exemptions of prospective jurors and shall not include in the second jury list the names of persons it finds not qualified or exempt; but the court may decide upon the qualifications and exemptions of prospective jurors upon a written

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application and satisfactory legal proof at any time after the jurors attend court.

(2) If a prospective juror without legal disqualification or exemption applies to the board to be excused from jury service, the jury board may, with the written approval of the chief circuit judge, exclude his or her name from the second jury list when it appears that the interests of the public or of the prospective juror will be materially injured by his or her attendance or the health of the juror or that of a member of his or her family requires his or her absence from court.

(3) If the name of a person who is deceased is selected for jury service, the name shall be removed from the second jury list and that fact may be forwarded to the local clerk.

(4) The trial judge, at his or her discretion, may grant a deferral of jury service to a person if the person claims that serving on the date he or she is called creates a hardship. If the trial judge grants a deferral, the judge shall determine a future date on which the person may serve without hardship, and shall direct the board to call the person on that date.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 1969, Act 326, Eff. Sept. 1, 1969;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1321 Second jury list; sealing; jurisdiction of district court district.

Sec. 1321. (1) The names of those persons on the first jury list whom the board accepts as persons qualified for and not exempt from jury service shall be compiled into a list to be known as the second jury list. The list shall remain sealed until otherwise ordered by the chief circuit judge.

(2) The board shall make an additional list consisting of the names on the second jury list segregated by the geographical area of the jurisdiction of each district court district. If there are not sufficient names on the segregated list for any district court district, the board shall apply again the key number to that district only and obtain as many additional jurors as needed for that district.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 1969, Act 326, Eff. Sept. 1, 1969;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1322 Juror names; depositing; withdrawal; record.

Sec. 1322. The first deposit of names shall take place as soon as the second jury list is prepared. Subsequent deposits shall be made when the supply of names is exhausted. An earlier deposit may be ordered by the chief circuit judge. The board shall keep a record of the number of names deposited, and the number withdrawn, and upon request shall inform the chief circuit judge of the number of names remaining. Nothing in this section affects the validity of a panel of jurors that was drawn for a term of court before the first deposit of names as provided in this section.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1323 Names not used; sealing.

Sec. 1323. If the names are not to be immediately used, they shall be sealed up by the board and remain in the custody of the board until additional names are needed or when ordered by the chief circuit judge.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1324 Jurors; selection; information; contents; district court district.

Sec. 1324. (1) From time to time, the chief judge of each court of record in the county shall order the board to select jurors for jury service. Each such order shall contain all of the following information:

(a) A time limit within which the selection shall be completed.

(b) The number of jurors to be selected for a panel.

(c) The number of panels to be selected.

(d) The court or courts in which each panel shall serve.

(e) The period of service of each panel, subject to section 1343.

(2) Upon the order of the chief circuit judge, jury panels or parts of jury panels selected for any court in the county may be used for jury selection in any court of record in the county, if jurors on the panel or part of a panel selected for such use are otherwise eligible to serve as jurors in the particular court.

(3) If a city located in more than 1 county is placed entirely within a single district of the district court pursuant to chapter 81, the supreme court by rule shall specify the procedure for compiling the second jury list for that district court district so as to include names and addresses of residents from the parts of the counties which comprise that district.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 1968, Act 354, Eff. Nov. 15, 1968;—Am. 1969, Act 326, Eff. Sept. 1, 1969;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1325 Repealed. 1969, Act 326, Eff. Sept. 1, 1969.

Compiler's note: The repealed section required presiding judge to notify board as to number of jurors required.

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600.1326 Grand jurors; selection; term.

Sec. 1326. If a grand jury is ordered by the court, or required by statute, the board shall select the names of a sufficient number of persons, as determined by the chief circuit judge, to serve as grand jurors in accordance with the provisions of section 11 of chapter VII of the code of criminal procedure, 1927 PA 175, MCL 767.11. The names shall be selected in the same manner and from the same source as petit jurors. The term of service of grand jurors shall be as prescribed by section 7a of chapter VII of the code of criminal procedure, 1927 PA 175, MCL 767.7a.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 1972, Act 69, Imd. Eff. Mar. 3, 1972;—Am. 2004, Act 12, Eff. June 1, 2004
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600.1327 Jurors; selection; time; notice; witnesses.

Sec. 1327. The selection of jurors shall take place in public within the time limit fixed by the chief circuit judge and at a time and place designated by the board. At the time and place appointed, the clerk or the clerk's deptuy and a judge or an elected official other than the clerk, as designated by the chief judge, shall attend to witness and assist in the selection of jurors.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 1969, Act 326, Eff. Sept. 1, 1969;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1328 Jurors; selection; procedure.

Sec. 1328. The board shall proceed in the selection of jurors in a random manner as ordered by the chief circuit judge as provided in this section. A board member or an employee of the board shall keep a record of the selection process, listing the names of jurors selected. If the name of a person is selected who is not qualified to serve as a juror to the knowledge of any member of the board, an entry of this fact shall be made on the record and that person shall be excused. A record of the selection process shall then be signed by the board member and filed in the office of the board. The signature constitutes a certificate that the record is correct and that all provisions of law have been complied with.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1329 Selection of jurors; legality; challenges; grounds.

Sec. 1329. (1) The legality or regularity of the selection of jurors shall not be questioned if the record of the selection is properly signed. If the name of any person not qualified to serve as a juror is included in the names selected, this fact shall not be a ground of challenge to the array, but only a ground of personal challenge to the person shown to be so disqualified.

(2) If the jurors were selected in accordance with this act and the rules of the court, it is not a ground of challenge to a panel or array of jurors that the person who selected them was a party or interested in the cause or was counsel or attorney for, or related to, either party in the cause.

(3) If the jurors were selected in accordance with this act and the rules of the court, it is not a ground of challenge to a panel or array of jurors that they were summoned by the sheriff who was a party or interested in the cause, or related to either party in the cause, unless it is alleged in the challenge and satisfactorily shown that some of the jurors selected were not summoned and that this omission was intentional.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1330 Board box; closing, custody.

Sec. 1330. When the drawing is finished, the board box shall be closed and sealed in the presence of the officers. All slips drawn out of the board box, unless destroyed as provided in this chapter, shall be delivered to the clerk of the court for which the jurors were drawn. The board box shall be kept in the custody of the board at all times, and shall not be opened nor the seal be broken until another drawing, unless ordered by the court.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968.

600.1331 Lists of jurors; delivery to clerk.

Sec. 1331. The board shall deliver to the clerk lists containing the names and addresses of the jurors selected.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 1969, Act 326, Eff. Sept. 1, 1969;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1332 Jurors; summons for service; method; record; evidence.

Sec. 1332. The clerk, jury board, or sheriff shall summon jurors for court attendance at such times and in such manner as directed by the chief judge or by the judge to whom the action in which jurors are being called for service is assigned. For a juror's first required court appearance, service shall be by a written notice

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addressed to the juror at the juror's place of residence as shown by the records of the board, which notice may be by ordinary mail or by personal service. For subsequent service notice may be in any manner directed by the judge. The officer giving notice to jurors shall keep a record of the service of the notice and shall make a return if directed by the court. The return shall be presumptive evidence of the fact of service.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 1969, Act 326, Eff. Sept. 1, 1969;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1333 Jurors; excuse or postponement of services; application.

Sec. 1333. A person who is notified to attend as a juror may apply to the chief judge of the court to be excused or have his or her term of service postponed on any ground provided in this chapter. He or she may apply in person or by a person capable of making the necessary proof of his or her claim. An entry of the action of the chief judge upon the application and of the reason for that action shall be made on the records of the court.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1334 Jurors; temporary excuse; duty to report.

Sec. 1334. (1) The chief judge may excuse any juror or jurors from attendance without pay for any portion of the term. The chief judge shall excuse jurors from attendance on days when it is not expected that they will be required. The chief judge may postpone the service of a juror to a later term of court if the juror has not been called for voir dire examination in any action.

(2) The judge presiding at the trial of an action may excuse jurors from attendance at that trial for cause.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 1969, Act 326, Eff. Sept. 1, 1969;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1335 Grounds for excusing person from jury service; postponing jury service of student.

Sec. 1335. (1) The chief judge of the court to which a person is returned as a juror may excuse the person from serving when it appears that the interests of the public or of the individual juror will be materially injured by his or her attendance or the health of the juror or that of a member of his or her family requires his or her absence from court.

(2) The chief judge of the court to which a person is returned as a juror shall postpone the person's term of service until the end of the school year if the person is a full-time student enrolled in and attending high school.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 1972, Act 69, Imd. Eff. Mar. 3, 1972;—Am. 2004, Act 12, Eff. June 1, 2004
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600.1336 Jurors; excess; discharge; effect.

Sec. 1336. If the chief judge finds that the number of jurors in attendance is greater than that needed, the chief judge may order the panel or any part of the panel discharged for the balance of its term or excused until a day certain in the term. Any juror discharged, but not excused, under this section is considered to have served his or her term of service but shall receive compensation only for the time of his or her actual service on the panel.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1337 Jurors; unqualified or exempt; discharge.

Sec. 1337. When the court finds that a person in attendance at court as a juror is not qualified to serve as a juror, or is exempt and claims an exemption, the court shall discharge him or her from further attendance and service as a juror.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1338 Jurors; excused; removal of name from list.

Sec. 1338. When any person is excused from serving on the ground that he or she is exempt by law from serving on juries or is not qualified to serve as a juror, the clerk of the court shall remove the name of that person from the second jury list.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1339 Jurors; service postponed; disposition.

Sec. 1339. The chief judge shall report to the board the names of all jurors whose service has been postponed to a subsequent time, and the names shall be placed upon the list of jurors selected for that time.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 1969, Act 326, Eff. Sept. 1, 1969;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1340 Report of court clerk.

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Sec. 1340. The clerk of the court or the clerk's designee, within 10 days after the close of each term for which jurors have been selected, shall certify as follows:

(a) The name and residence of each juror who was excused or discharged by the court, with the reason for the excuse or discharge.

(b) The name and residence of each person notified who did not attend or serve.

(c) The name and residence of each person punished for contempt as provided in this chapter.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1341 Additional jurors; procedure.

Sec. 1341. The chief judge of a court may order additional jurors selected by the board for service during the period of service of a jury panel or a part of a panel. A judge of a court of record may order additional jurors selected by the board for immediate service in a particular case. The order shall specify the number to be selected and the time and place of selection. If additional jurors are needed for immediate service in a particular case, any member of the jury board may conduct the selection if witnessed by the clerk or the clerk's deputy and by the judge ordering the selection. Jurors whose names are so selected shall be given notice to attend court in the manner that the court directs. Additional jurors so selected shall become members of the panel then serving unless otherwise directed by the chief judge.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 1969, Act 326, Eff. Sept. 1, 1969;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1342 Jurors; new list; court order.

Sec. 1342. If the board fails to meet and return the second jury list at the time prescribed or if any list of jurors becomes exhausted or declared illegal, the chief circuit judge may order the board to meet and make a new list of jurors.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1343 Jurors; term of service.

Sec. 1343. The term of service of petit jurors shall be determined by local court rule but shall not exceed the term of court, unless at the end of this period a juror is serving in connection with an unfinished case, in which event the juror shall continue to serve, in that case only, until the case in which he or she is serving is finished. Once commenced, the term of service shall be continuous except as provided in sections 1334 to 1336.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 1969, Act 326, Eff. Sept. 1, 1969;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1344 Jurors; mileage and compensation; payment of jury fee where action removed from circuit court to lower court; fraudulent issuance of certificate of attendance as misdemeanor; penalty.

Sec. 1344. (1) A juror shall be reimbursed for his or her traveling expenses at a rate, determined by the county board of commissioners, that is not less than 10 cents per mile for traveling from the juror's residence to the place of holding court and returning for each day or 1/2 day of actual attendance at sessions of the court.

(2) A juror also shall be compensated at a rate, determined by the county board of commissioners, as follows:

(a) Until October 1, 2003, not less than $15.00 per day and $7.50 per 1/2 day of actual attendance at the court.

(b) Beginning October 1, 2003, a rate determined as follows:

(*i*) For the first day or 1/2 day of actual attendance at the court, not less than $25.00 per day and $12.50 per 1/2 day.

(*ii*) For each subsequent day or 1/2 day of actual attendance at the court, not less than $40.00 per day and $20.00 per 1/2 day.

(3) If an action is removed from the circuit court to a lower court, the jury fee shall be paid to the circuit court whether paid before or after removal of the action to the lower court, and the circuit court shall be responsible for payment of the compensation to the juror involved.

(4) A clerk or deputy clerk of the court who fraudulently issues a certificate of attendance of a juror on which the juror receives pay, except as allowed by law, is guilty of a misdemeanor, punishable by imprisonment for not more than 6 months, or a fine of not more than $500.00, or both.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 1969, Act 326, Eff. Sept. 1, 1969;—Am. 1980, Act 190, Imd. Eff. July 8, 1980;—Am. 1982, Act 226, Imd. Eff. Sept. 16, 1982;—Am. 2002, Act 739, Eff. Oct. 1, 2003.

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600.1345 Attempts to influence board; report.

Sec. 1345. A board member shall report to the prosecuting attorney and the chief circuit judge the name of any person who in any manner seeks by request, hint, or suggestion to influence the board or its members in the selection of any juror.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1346 Acts punishable as contempts.

Sec. 1346. The following acts are punishable by the circuit court as contempts of court:

(a) Failing to answer the questionnaire provided for in section 1313.

(b) Failing to appear before the board or a member of the board, without being excused at the time and place notified to appear.

(c) Refusing to take an oath or affirmation.

(d) Refusing to answer questions pertaining to his or her qualifications as a juror, when asked by a member of the board.

(e) Failing to attend court, without being excused, at the time specified in the notice, or from day to day, when summoned as a juror.

(f) Giving a false certificate, making a false representation, or refusing to give information that he or she can give affecting the liability or qualification of a person other than himself or herself to serve as a juror.

(g) Offering, promising, paying, or giving money or anything of value to, or taking money or anything of value from, a person, firm, or corporation for the purpose of enabling himself or herself or another person to evade service or to be wrongfully discharged, exempted, or excused from service as a juror.

(h) Tampering unlawfully in any manner with a jury list or the jury selection process.

(i) Willfully doing or omitting to do an act with the design to subvert the purpose of this act.

(j) Willfully omitting to put on the jury list the name of a person qualified and liable for jury duty.

(k) Willfully omitting to prepare or file a list or slip.

(*l*) Doing or omitting to do an act with the design to prevent the name of a person qualified and liable to serve as a juror from being placed on a jury list or from being selected for service as a juror.

(m) Willfully placing the name of a person upon a list who is not qualified as a juror.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1347 Jurors; bribery; penalty; embracery; civil liability.

Sec. 1347. (1) A person selected or summoned as a juror who takes anything to give his or her verdict or receives any gift or gratuity from any party to an action for the trial of which he or she has been selected or summoned is liable to the party aggrieved for actual damages sustained plus 10 times the amount or value of the thing which he or she has taken, in addition to any criminal punishment to which he or she may be subject by law.

(2) An embraceor who procures a person selected or summoned as a juror to take gain or profit as prohibited under subsection (1) is liable to the aggrieved party for the actual damages sustained plus 10 times the amount or value of the thing which was taken.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1348 Jurors; threats, discharge, or discipline by employer; requiring additional hours of work; misdemeanor; penalty.

Sec. 1348. (1) An employer or the employer's agent, who threatens to discharge or discipline or who discharges, disciplines, or causes to be discharged from employment or to be disciplined a person because that person is summoned for jury duty, serves on a jury, or has served on a jury, is guilty of a misdemeanor, and may also be punished for contempt of court.

(2) An employer or the employer's agent who requires a person having jury duty to work any number of hours during a day which, if added to the number of hours which the person spends on jury duty during that day, exceeds the number of hours normally and customarily worked by the person during a day, or the number of hours normally and customarily worked by the person during a day which extends beyond the normal and customary quitting time of that person unless voluntarily agreed to by that person, or as provided in a collective bargaining agreement is guilty of a misdemeanor, and may also be punished for contempt of court.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 1982, Act 234, Eff. Mar. 30, 1983.

600.1349 Jurors; nonliability for verdict; exception.

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Sec. 1349. No juror may be subject to an action, civil or criminal, on account of any verdict except for corrupt conduct in rendering such verdict in the cases prescribed by law.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968.

600.1350 Selection and impaneling of juries for condemnation and grade separation cases.

Sec. 1350. Juries for condemnation cases and grade separation damage cases shall be selected and impaneled from the persons summoned to serve as petit jurors at that term of the court having jurisdiction over such proceedings in the same manner as petit juries are selected and impaneled in other civil cases in the same court. Juries for such cases shall not be selected and impaneled in the manner prescribed by the provisions of the statute under which the proceedings were instituted. A jury for such cases shall consist of 6 persons.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 1972, Act 69, Imd. Eff. Mar. 3, 1972.

600.1351 Repealed. 1970, Act 118, Imd. Eff. July 23, 1970.

Compiler's note: The repealed section provided that in civil cases by 12 jurors, verdict shall be received when 10 jurors agree.

600.1352 Trial by jury of 6 in civil cases; verdict.

Sec. 1352. In civil cases commenced in a court governed by this chapter, when a trial by jury is requested in accordance with rules of the supreme court, the trial shall be by a jury of 6. Except in cases involving the possible commitment of a person to a mental, correctional or training institution, a verdict in any civil case including condemnation and grade separation cases shall be received when 5 jurors agree. In civil cases involving the possible commitment to a mental, correctional or training institution, the court shall receive only a unanimous verdict.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968;—Am. 1970, Act 118, Imd. Eff. July 23, 1970;—Am. 1972, Act 69, Imd. Eff. Mar. 3, 1972.

600.1353 Court rules.

Sec. 1353. The judges of each circuit court may establish rules, not inconsistent with the provisions herein, necessary to carry out these provisions and to insure the proper conduct of the work of the board members. The judges of each circuit court may provide by rule that the terms of jury service herein provided need not commence at the same time for all members of a panel.

History: Add. 1968, Act 326, Eff. Nov. 15, 1968.

600.1354 Noncompliance with chapter as grounds for requesting continuance or claiming invalidity of verdict; data processing error as grounds for questioning list selected.

Sec. 1354. (1) Failure to comply with the provisions of this chapter shall not be grounds for a continuance nor shall it affect the validity of a jury verdict unless the party requesting the continuance or claiming invalidity has made timely objection and unless the party demonstrates actual prejudice to his cause and unless the noncompliance is substantial. An objection made at the day of a scheduled trial shall not be considered timely unless the objection, with the exercise of reasonable diligence, could not have been made at an earlier time.

(2) If a data processing error occurs, that error shall not constitute grounds for questioning the entire list selected but only the specific person affected.

History: Add. 1969, Act 326, Eff. Sept. 1, 1969;—Am. 1978, Act 11, Imd. Eff. Feb. 8, 1978.

600.1355 Practices governed by supreme court rules.

Sec. 1355. With respect to the selection and impaneling of jurors, any examination, challenge, replacement, oath or other practice not otherwise governed by the provisions of this chapter shall be governed by rules adopted by the supreme Court.

History: Add. 1972, Act 69, Imd. Eff. Mar. 3, 1972.

600.1371 "One day, one trial system" defined.

Sec. 1371. As used in sections 1371 to 1376, "one day, one trial system" means a system of selection of jurors which incorporates either of the following:

(a) A system of jury selection whereby:

(*i*) Jury service is completed when the first trial to which the juror is sworn is concluded regardless of the length of the trial or the manner in which the case is disposed.

(*ii*) A juror who is challenged shall be returned to the jury pool and shall be subject to voir dire examination in other cases for the remainder of that day.

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(*iii*) A juror who remains unseated and unchallenged at voir dire examination shall be excused at the end of that day. A juror may be held over for another day for continuation of voir dire examination at the discretion of the trial judge.

(b) A system of jury selection established pursuant to section 1301b.

History: Add. 1978, Act 11, Imd. Eff. Feb. 8, 1978.

600.1372 Applicability of MCL 600.1371 to 600.1376; adoption of 1 day, 1 trial jury system.

Sec. 1372. (1) Sections 1371 to 1376 apply only to those districts of the district court, circuits of the circuit court, and county or probate court districts of the probate court that adopt the 1 day, 1 trial jury system.

(2) Any court in this state may adopt a 1 day, 1 trial jury system.

History: Add. 1978, Act 11, Imd. Eff. Feb. 8, 1978;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1374 Repealed. 2004, Act 12, Eff. June 1, 2004.

Compiler's note: The repealed section pertained to removing name of deceased person from qualifed jurors' list and voter registration list.

600.1375 Combined driver's license and personal identification cardholder list; first jury list; costs.

Sec. 1375. (1) The secretary of state shall transmit annually, before April 15, to the clerk of each county a full, current, and accurate copy of a list that combines the driver's license and personal identification cardholder lists pertaining to persons residing in the county. At the request of the board before March 1, the secretary of state shall transmit only a first jury list consisting of the names and addresses of persons selected at random, based on the total number of jurors required as submitted to the secretary of state by the board, using electronic or other mechanical devices. Upon request, the secretary of state shall furnish additional lists to any other federal, state, or local governmental agency, other than the clerk of each county, for the purpose of jury selection. An agency which requests and receives a list shall reimburse the secretary of state for actual costs incurred in the preparation and transmittal of the list and all reimbursements shall be deposited in the state general fund.

(2) If an agency uses electronic or mechanical devices to carry out its duties, the agency may request and receive a copy of the combined driver's license and personal identification cardholder list on computer tape or another electronically produced medium under specifications prescribed by the secretary of state. The secretary of state shall establish specifications standardizing the size, format, and content of computer tapes and other media utilized to transmit information used for jury selection.

History: Add. 1978, Act 11, Imd. Eff. Feb. 8, 1978;—Am. 1986, Act 104, Eff. Jan. 1, 1987;—Am. 2004, Act 12, Eff. June 1, 2004.

600.1376 Plan for selection of persons for jury service with aid of mechanical or electronic means; adoption; requirements.

Sec. 1376. (1) Upon recommendation of the district court judge or a majority of the judges of a district, circuit judge or a majority of the circuit judges of a circuit, probate court judge or a majority of the judges of the county or probate court district, or a judge of a municipal court of record or a majority of the judges of a municipal court of record, the court may adopt a plan for the selection of persons for jury service with the aid of mechanical or electronic means.

(2) A plan adopted pursuant to subsection (1) shall conform to the following requirements:

(a) For jurors summoned for trials beginning before September 1, 1987, it shall specify that the sources from which names are to be taken for jury purposes are all voter registration lists from all precincts in the district, circuit, county, or probate court district, or city. For jurors summoned for trials beginning after August 31, 1987, it shall specify that the source from which names are to be taken for jury purposes is the combined driver's license and personal identification cardholder list pertaining to all precincts in the district, circuit, county, or probate court district, or city.

(b) It shall provide a fair, impartial, and objective method of selecting persons for jury service with the aid of mechanical or electronic equipment.

(c) It shall designate the official to be in charge of the selection and management of jurors and shall define his or her duties.

(d) It shall specify that a true and complete written list showing the names and addresses of the persons summoned to begin jury service on a particular date shall be filed of record with the county clerk at least 10 days before the date the persons are to begin jury service.

History: Add. 1978, Act 11, Imd. Eff. Feb. 8, 1978;—Am. 1986, Act 104, Eff. Jan. 1, 1987.

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CHAPTER 14
GENERAL PROVISIONS

600.1401 Seal unnecessary on bonds, deeds and contracts.

Sec. 1401. No bond, deed of conveyance or other contract heretofore or hereafter executed in writing, signed by any party, his agent or attorney, is invalid for want of a seal or scroll annexed thereto by such party.

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

600.1403 Nonage as defense.

Sec. 1403. Whenever, in a suit brought for the recovery of goods, wares, merchandise or chattels, or for the value thereof, or for the balance remaining due thereon, or upon a note or promise for the recovery of a loan of money, against a person who pleads as a defense that he was under age of 18 years at the time of purchase or loan thereof, the defense shall not be available, nor shall the person upon attaining majority be permitted to disaffirm the contract of purchase or loan thereof, nor recover any money paid thereon, if:

(1) It appears upon the trial that the person against whom the action is brought wilfully represented his age to be over 18 years to the seller or his assignee of the goods, wares, merchandise or chattels for the purpose of securing them, or securing the loan of money, knowing it to be false and that the seller had no actual knowledge of the actual age of such minor.

(2) The representation was made in writing in a separate instrument containing only the statement of age, date of signing and the signature, or the representation is admitted in open court.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1972, Act 87, Imd. Eff. Mar. 20, 1972.

600.1404 Educational loans; definitions; minors, enforceability.

Sec. 1404. (1) As used in this section:

(a) "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(b) "Educational institution" means a university, college, community college, junior college, high school or technical, vocational or professional school, wherever located, approved or accredited by the state department of education for the purposes of this section, or by the appropriate official, department or agency of the state in which the institution is located.

(c) "Educational loan" means a loan or other aid or assistance for the purpose of furthering the obligor's education at an educational institution.

(2) Any written obligation signed by a minor 18 or more years of age in consideration of an educational loan received by him from any person is enforceable as if he were an adult at the time of execution if prior to the making of the educational loan, an educational institution has certified in writing to the person making the educational loan that the minor is enrolled, or has been accepted for enrollment, in the educational institution.

History: Add. 1970, Act 107, Imd. Eff. July 23, 1970.

600.1405 Rights of third party beneficiaries; contracts included; time promise becomes legally binding; exceptions; promisee's rights; retroactive construction of section.

Sec. 1405. Any person for whose benefit a promise is made by way of contract, as hereinafter defined, has the same right to enforce said promise that he would have had if the said promise had been made directly to him as the promisee.

(1) A promise shall be construed to have been made for the benefit of a person whenever the promisor of said promise has undertaken to give or to do or refrain from doing something directly to or for said person.

(2)(a) The rights of a person for whose benefit a promise has been made, as defined in (1), shall be deemed to have become vested, subject always to such express or implied conditions, limitations, or infirmities of the contract to which the rights of the promisee or the promise are subject, without any act or knowledge on his part, the moment the promise becomes legally binding on the promisor, unless there is some stipulation, agreement or understanding in the contract to the contrary.

(b) If such person is not in being or ascertainable at the time the promise becomes legally binding on the promisor then his rights shall become vested the moment he comes into being or becomes ascertainable if the promise has not been discharged by agreement between the promisor and the promisee in the meantime.

(c) If the promisee is indebted or otherwise obligated to the person for whose benefit the promise was made and the promise in question is intended when performed to discharge that debt or obligation, then the promisor and the promisee may, by mutual agreement, divest said person of his rights, if this is done without intent to hinder, delay or defraud said person in the collection or enforcement of the said debt or other obligation which the promisee owes him and before he has taken any legal steps to enforce said promise made

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for his benefit.

(3) Nothing herein contained shall be held to abridge, impair or destroy the rights which the promisee of a promise made for the benefit of another person would otherwise have as a result of such promise.

(4) The provisions of this section shall be construed to be applicable to contracts made prior to its enactment as well as to those made subsequent thereto, unless such construction is held to be unconstitutional, in which case they shall be held to be applicable only to contracts made subsequent to its enactment.

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

600.1410 Legal impediment to marriage as bar to action.

Sec. 1410. If 2 person have lived together as husband and wife, and a legal impediment existed to the marriage of either of the persons, their issue and the person that entered the relation in the good faith belief that the marriage was lawful are entitled to the same damages in a civil action as though no such impediment existed, when the other of such persons or their issue is injured or dies as a result of the negligent act or omission of another.

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

600.1412 Eastern Orthodox faith; recognition as major faith.

Sec. 1412. (1) The Eastern Orthodox faith is hereby recognized as a major faith in this state.

(2) In all forms and official papers of the government of this state and of local units of government within this state, which refer to the major faiths, the Eastern Orthodox faith shall be included as 1 of the major religious faiths in this state.

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

600.1414 Style of process.

Sec. 1414. The style of process from courts of record shall be: “In the Name of the People of the State of Michigan.”

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

600.1416 Courts of record; seals.

Sec. 1416. (1) The following courts are courts of record and possess seals:

(a) the supreme court,

(b) the several circuit courts,

(c) the several probate courts,

(d) the recorder's court of Detroit,

(e) the court of claims, and

(f) any other courts the legislature designates as courts of record.

(2) Whenever the seal of any court becomes unusable the court shall have that seal destroyed.

(3) Whenever the seal of any court is lost or destroyed that court shall have a duplicate made which then shall become the seal of that court.

(4) The expense of a new seal for a court shall be paid from the state treasury.

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

600.1417 Repealed. 1996, Act 374, Eff. Oct. 1, 1996.

Compiler's note: The repealed section pertained to courtroom security in recorder's court.

600.1418 Courts of record; discontinuance, vacancy, new commission.

Sec. 1418. No court of record shall discontinue any matter before it because of a vacancy in the office of any or all of its judges nor because of any judge being issued a new commission. Judges assigned temporarily or persons appointed in any new commissions, have power to continue, hear, determine and sign all matters that their respective predecessors could have continued, heard, determined, and signed.

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

600.1419 Continuances and postponements to assure adequate representation; “nonmeeting day” defined.

Sec. 1419. (1) In order to assure adequate representation for the people of this state, when the court knows that a party in a civil action is a member of the legislature of this state, and the legislature is in session, the action shall be continued to a nonmeeting day.

(2) In order to assure adequate representation for the people of this state, when the court knows that a party in a civil action is a member of the legislature of this state who serves on a legislative committee,

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subcommittee, commission, or council that is scheduled to meet during the legislative session while the legislature is temporarily adjourned, or that is meeting during the interim between legislative sessions after the legislature has adjourned sine die, or when the partisan caucus of which the legislator is a member is scheduled to meet, the action shall be continued to a nonmeeting day.

(3) In order to assure adequate representation for the people of this state, when the court knows that a witness in a civil action is a member of the legislature of this state, and the legislature is in session, or when the member is serving on a legislative committee, subcommittee, commission, or council that is scheduled to meet during the legislative session while the legislature is temporarily adjourned or during the interim between legislative sessions after the legislature has adjourned sine die, or when the partisan caucus of which the witness is a member is scheduled to meet, the action need not be continued, but the taking of the legislator's testimony, as a witness, shall be postponed to the earliest practicable nonmeeting day.

(4) As used in this section, “nonmeeting day” means a day on which there is not a scheduled meeting of the house of which the party or witness is a member nor a legislative committee meeting or public hearing scheduled by a committee, subcommittee, commission, or council of which he or she is a member, nor a scheduled partisan caucus of the members of the house of which he or she is a member.

History: Add. 1984, Act 29, Imd. Eff. Mar. 12, 1984.

600.1420 Courts; sittings to be public, exceptions.

Sec. 1420. The sittings of every court within this state shall be public except that a court may, for good cause shown, exclude from the courtroom other witnesses in the case when they are not testifying and may, in actions involving scandal or immorality, exclude all minors from the courtroom unless the minor is a party or witness. This section shall not apply to cases involving national security.

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

Constitutionality: The statute authorizing suppression of a court file containing the name of a victim of criminal sexual conduct, the name of the defendant, and the details of the offense until the defendant is arraigned, the charge is dismissed, or the case is otherwise concluded is not a prior restraint upon publication, but a valid legislative restriction on the common-law right of access to public records and the statutory right of access to court proceedings. In re Midland Publishing, 420 Mich 148; 362 NW2d 580 (1984).

600.1422 Judicial officers; fees.

Sec. 1422. Except in those situations where fees are expressly authorized by law, no judge, commissioner, or other judicial officer shall demand or receive any fee or compensation for giving advice in any matter or suit pending before him or which he has reason to believe will be brought before him for his decision, or for drafting or preparing any papers or other proceedings relating to any such suit or matter.

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

600.1425 Sunday court.

Sec. 1425. Courts shall not transact any business on Sunday unless it is for the purpose of instructing or discharging a jury, or of receiving a verdict, or for a pressing matter; but this section shall not prevent the exercise of the jurisdiction of any court or judge when it is necessary.

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

600.1427 Writs, process and records; use of English, paper, abbreviations.

Sec. 1427. All writs, process, proceedings and records in any court within this state, shall be in the English language (except that the proper and known names of process, and technical words, may be expressed in the language heretofore and now commonly used), and shall be made out on paper, in a fair, legible character, in words at length, and not abbreviated; but such abbreviations as are now commonly used in the English language may be used, and numbers may be expressed by Arabic figures, or Roman numerals, in the customary manner.

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

600.1430 Appearance in court by attorney or in person; exception.

Sec. 1430. Every person of full age and sound mind, may prosecute or defend civil actions in any court by an attorney, or may, at his election, prosecute or defend civil actions in person. No person shall be permitted to prosecute or defend any civil action in person, when he has an attorney in such case.

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

600.1432 Mode of administering oaths; commencement of oath; administration of oath or affirmation by electronic or electromagnetic means.

Sec. 1432. (1) The usual mode of administering oaths now practiced in this state, by the person who swears

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holding up the right hand, shall be observed in all cases in which an oath may be administered by law except as otherwise provided by law. The oath shall commence, “You do solemnly swear or affirm”.

(2) If an oath or affirmation is administered by electronic or electromagnetic means of communication pursuant to section 1 of Act No. 189 of the Public Acts of 1966, being section 780.651 of the Michigan Compiled Laws, or pursuant to section 1 of chapter IV of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 764.1 of the Michigan Compiled Laws, the oath or affirmation is considered to be administered before the justice, judge, or district court magistrate.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1990, Act 45, Imd. Eff. Mar. 29, 1990.

600.1434 Opposition to oath; affirmation.

Sec. 1434. Every person conscientiously opposed to taking an oath may, instead of swearing, solemnly and sincerely affirm, under the pains and penalties of perjury.

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

600.1436 Witness; competency as affected by religion.

Sec. 1436. No person may be deemed incompetent as a witness, in any court, matter or proceeding, on account of his opinions on the subject of religion. No witness may be questioned in relation to his opinions on religion, either before or after he is sworn.

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

600.1438 Oath by mental incompetent.

Sec. 1438. (1) Whenever any pleading is required to be verified by the party, or accompanied by the affidavit of the party, or whenever any other oath is required in order that the party may sue or be sued, and the party is, or is alleged to be, mentally incompetent, such incompetency shall not bar the administration of the oath or affirmation for the purpose of allowing the incompetent party to sue or be sued.

(2) Instead of, or in addition to, the verification or affidavit by the party, the guardian, guardian ad litem, or next friend may make the verification or affidavit, and may do so on information and belief.

(3) This section does not affect the competency of the witness to testify, nor does it affect the civil or criminal liability of the party for his statements under oath.

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

600.1440 Oath, affidavit, or affirmation; administration; certification by military officer; force and effect of instrument sworn or affirmed before military officer; form of certificate; oath or affirmation administered by electronic or electromagnetic means of communication.

Sec. 1440. (1) An oath or affidavit other than an oath taken by a witness or a juror in a trial, or an oath required by law to be taken before a particular officer, may be taken before a justice, judge, or clerk of a court, or before a notary public.

(2) If the person making the oath, affidavit, or an affirmation is serving in or with the armed forces of the United States, or is a civilian employee of the armed forces, or is a dependent of a person serving in or with the armed forces or of a civilian employee thereof, whether serving in or outside of the territorial limits of the United States, such oath or affirmation may be administered by any commissioned officer in active service of the armed forces of the United States.

(3) An instrument sworn or affirmed before a military officer pursuant to this section is not invalid because the instrument fails to state the place where the oath or affirmation was taken. An authentication of a military officer's authority to administer the oath or affirmation is not required, but the officer administering the oath or affirmation shall indorse and attach to the instrument a certificate containing all of the following:

(a) A statement that the affiant or affirmant is known to be, or has satisfactorily proved to the officer that he or she is, a member of the armed forces of the United States or the dependent of a member, or a civilian employee of the armed forces or the dependent of a civilian employee.

(b) A statement that the officer is a commissioned officer in active service with the armed forces.

(c) A statement of the officer's rank, and the command to which he or she is attached.

(4) An instrument sworn or affirmed before a military officer pursuant to this section has the same force and effect as an instrument sworn or affirmed before any officer authorized by law to administer an oath or affirmation.

(5) If an acknowledgment is taken before a military officer, the certificate shall be substantially in the following form:

On this, the _____ day of _____, 19____, before me, _____, the undersigned officer, personally appeared _____, known to me (or satisfactorily proved) to be serving in

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or with the armed forces of the United States, or who is known to be or has satisfactorily proved that he or she is the dependent of a member, a civilian employee of the armed forces or the dependent of a civilian employee, and who is the person whose name is subscribed to the foregoing _____ and made oath that he or she knows the contents of the foregoing, and the foregoing is true to the best of his or her knowledge, except as to matters stated to be of information and belief, and as to those matters _____ he or she _____ believes them to be true. I am a commissioned officer of the rank stated below, and I am a member of the armed forces of the United States.

_____

Signature of officer

_____

Rank of officer, and command to which attached

(6) If an oath or affirmation is administered by electronic or electromagnetic means of communication pursuant to section 1 of Act No. 189 of the Public Acts of 1966, being section 780.651 of the Michigan Compiled Laws, or pursuant to section 1 of chapter IV of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 764.1 of the Michigan Compiled Laws, the oath or affirmation is considered to be administered before the justice, judge, or district court magistrate.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1964, Act 1, Eff. Aug. 28, 1964;—Am. 1974, Act 297, Eff. Apr. 1, 1975;—Am. 1990, Act 44, Imd. Eff. Mar. 29, 1990.

600.1442 Oaths or affidavits; court appointee; stipulation.

Sec. 1442. Oaths, affidavits and depositions, in any cause, matter or proceeding in any court of record, may also be taken before any person appointed by the court for that purpose or before any person upon whom the parties agree by stipulation in writing or on the record.

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

600.1445 Physical examination of person ordered by court, board or commission, or other public body or officer.

Sec. 1445. (1) If a court, board or commission, or other public body or officer orders an individual to submit to a physical examination, the order shall notify the individual that he or she has the right to have his or her attorney present at the physical examination.

(2) Except as otherwise determined by the court, board or commission, or other public body or officer, the order may provide that the individual shall, at least 3 days prior to the date set for the examination, be paid a fee of $2.00 per diem for attendance and paid a mileage fee of 10 cents per mile, 1 way, estimated from the individual's residence. The court, board or commission, or other public body or officer may determine the per diem fees and mileage fees that the individual is entitled to receive.

(3) A copy of any written report and findings rendered by the examining licensed physician, licensed physician's assistant, or certified nurse practitioner relative to the condition of the individual shall be delivered forthwith to the individual or his or her attorney. X-rays, cardiograms, and like diagnostic aids shall be made available for inspection by the individual or his or her designated representative, upon reasonable notice. This subsection does not require new or additional third party reimbursement or worker's compensation benefits for services rendered.

(4) Notwithstanding any provision of this section, the rules of the supreme court shall govern in appropriate cases.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 2006, Act 49, Imd. Eff. Mar. 9, 2006.

600.1450 Judicial meetings; court administration.

Sec. 1450. The court administrator, under the supervision and direction of the supreme court, shall call an annual statewide meeting of the circuit judges and the judges of the recorder's court of the city of Detroit and an annual statewide meeting of the probate judges of the state, and such additional statewide and regional meetings of such judges, or any number of them, as he may at the direction of the supreme court, from time to time determine, for the purpose of studying the organization, rules, methods of procedure and practice of the judicial system of this state, the problems of administration confronting the courts and the judicial system in general and making recommendations for the modification or amelioration of existing conditions, for harmonizing and improving laws or for amendments to the rules and statutes relating to practice and procedure in the judicial system of the state.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1970, Act 238, Imd. Eff. Jan. 1, 1971.

600.1451 Judicial meetings; presiding officer, secretary.

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Sec. 1451. The chief justice of the supreme court, or such person as shall be designated by him, shall preside over such meetings, and the court administrator of the supreme court or his deputy shall act as secretary therefor.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1970, Act 238, Imd. Eff. Jan. 1, 1971.

600.1452 Judicial meetings; expenses of attendance, payment.

Sec. 1452. The judges shall attend such meetings when and as directed by the court administrator. Each justice of the supreme court, judges of the court of appeals, the circuit judges, judges of the recorder's court of the city of Detroit, the probate judges, and the court administrator who shall be in attendance at such meetings shall be reimbursed from the state treasury, upon the warrant of the state treasurer, for their actual and necessary expenses incurred in attending such meetings.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1970, Act 238, Imd. Eff. Jan. 1, 1971.

600.1455 Courts of record; powers.

Sec. 1455. The courts of record of this state have the power:

(1) To issue process of subpoena, requiring the attendance of any witness in accordance with court rules, to testify in any matter or cause pending or triable in such courts;

(2) To administer oaths to witnesses in any such matter or cause, and in all other cases where it may be necessary in the exercise of the powers and duties of such courts;

(3) To devise and make such new orders as may be necessary to carry into effect the powers and jurisdiction possessed by them.

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

600.1461 Newspaper; definition; publication of notices.

Sec. 1461. (1) The term “newspaper” as used in the revised judicature act of 1961 shall be construed to refer only to a newspaper published in the English language for the dissemination of local or transmitted news and intelligence of a general character or for the dissemination of legal news, which

(a) has a bona fide list of paying subscribers or has been published at not less than weekly intervals in the same community without interruption for at least 2 years,

(b) has been established, published, and circulated at not less than weekly intervals without interruption for at least 1 year in the county where the court is situated. A newspaper shall not lose eligibility for interruption of continuous publication because of acts of God, labor disputes or military service of the publisher for a period of not to exceed 2 years, and provided publication is resumed within 6 months following the termination of such military service,

(c) annually averages at least 25% news and editorial content per issue. The term “news and editorial content” for the purpose of this section means any printed matter other than advertising.

(2) If no newspaper so qualifies in the county where the court is situated, the term “newspaper” shall include any newspaper in an adjoining county which by this section is qualified to publish notice of actions commenced therein.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, Act 246, Eff. Sept. 6, 1963.

600.1465 Funds deposited with county officer unavailable for payment; appropriation for restitution; audit of claims; allowance; limitation; right of action.

Sec. 1465. (1) Whenever any funds shall be deposited with or paid to, or which heretofore have been deposited with or paid to any court, county officer, or the clerk or employee of such court or county officer by virtue of a judgment, decree or order of any court of record or division thereof in this state, or pursuant to any statute of this state, and for any reason such funds shall have become unavailable for payment, the board of supervisors of the county concerned may appropriate such sums of money as are required to make restitution to the lawful owner of such funds.

(2) Claims for moneys by the lawful owner shall be audited as provided by law; and no claim shall be allowed unless filed within 6 years from the date when the right to payment or repayment of such funds arose.

(3) Upon payment by the county it shall have a right of action for the recovery of such money paid, against the person or persons responsible for such funds being unavailable for payment.

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

600.1471 Law clerks; employment; qualifications; compensation; period of employment; duties.

Sec. 1471. (1) The circuit court in each circuit and the district court in each district may employ law clerks

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for the court or for each judge of the court.

(2) Each law clerk shall be a resident of the state of Michigan, and shall be either licensed to practice law in this state, or be a graduate of or a student at a reputable and qualified law school.

(3) The compensation of a law clerk shall be fixed by the judges of the court within the sum appropriated for that purpose by the county board of commissioners or by the governing body of the district control unit. Effective September 1, 1981, in the thirty-sixth district, the compensation of a law clerk shall be paid by the state and fixed as provided in section 8272. In the third judicial circuit, the compensation of a law clerk shall be paid by the state and fixed as provided in section 592. If a circuit has 2 or more counties, the salary of the law clerk shall be paid by that county which contributes the greater portion of the judges' salaries, unless the county board of commissioners of the respective counties elect to share in paying the compensation of the law clerk.

(4) The period of employment of a law clerk shall be 1 year, subject to renewal for a similar period. The court may discharge a law clerk at any time.

(5) A law clerk shall conduct legal research and prepare memoranda under the direction of the judges of the court, and under the general supervisory control of the chief judge of the court. The court may prescribe other duties by local rule.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1980, Act 438, Eff. Sept. 1, 1981.

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."

600.1475 Collection on judgment; restitution on reversal; interest.

Sec. 1475. In case any amount is collected on any judgment or decree, if such judgment or decree be afterward reversed the court shall award restitution of the amount so collected, with interest from the time of collection.

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

600.1481 Judicial assistant; appointment; oath; certificate; qualifications; duties; compensation; term; public officer; civil service regulation or compulsory retirement inapplicable; removal.

Sec. 1481. (1) In every state court of record in Michigan inferior to the supreme court which has 10 or more judges, the judges may appoint an attorney to serve as judicial assistant to their court. A judicial assistant shall subscribe a constitutional oath of office administered by the presiding judge of the court and shall file the oath with the secretary of state, whereupon the governor shall issue to the judicial assistant an official certificate of appointment under seal. A judicial assistant shall be an attorney in good standing, licensed to practice in all courts of the state of Michigan and in the United States supreme court, shall have at least 5 years of active practice, including appellate experience, and preferably shall have had prior experience in government service in a legal capacity.

(2) A judicial assistant, acting under the direction of the judges, shall confer with the judges upon pending matters of procedure and substantive law; conduct legal research, analyze briefs submitted and referred to the judicial assistant for comment and recommendation; study pending legislation and current decisions for their possible impact on court problems, and keep the judges and court officers advised thereon; recommend

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remedial legislation and draft that legislation, and draft legislation suggested or requested by judges or court officials; act as official legal advisor to all departments of the court; represent the court, the judges or court officers in court matters arising out of their official duties in situations wherein the prosecuting attorney or attorney general has conflicting interest or responsibilities, or is otherwise disqualified; including court matters of original, as well as appellate jurisdiction affecting the court; and act as amicus curiae in appellate matters of interest to the court.

(3) The compensation of a judicial assistant shall be fixed by the recommending judges within the sum appropriated therefor by the legislative body of the governmental unit, other than the state of Michigan, which pays the compensation of those judges. In case 2 or more governmental units contribute to the compensation of those judges, the salary of the judicial assistant shall be paid by the unit, other than the state of Michigan, which contributes the greater portion of such salaries, unless the legislative bodies of the respective units elect to share in paying the compensation of the judicial assistant.

(4) The term of office of the judicial assistant shall be coextensive with the term of the recommending judges, subject to reappointments for like terms. The assistant shall be a public officer. The judicial assistant shall not be subject to civil service regulation, nor to compulsory retirement. Removal during any given term shall be by the governor upon recommendation by the judges of the court.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1980, Act 438, Eff. Sept. 1, 1981;—Am. 1996, Act 374, Eff. Oct. 1, 1996.

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."

600.1483 Action for damages alleging medical malpractice; limitation on noneconomic damages; exceptions; itemizing damages into economic and noneconomic loss; "noneconomic loss" defined; adjusting limitation on noneconomic loss.

Sec. 1483. (1) In an action for damages alleging medical malpractice by or against a person or party, the total amount of damages for noneconomic loss recoverable by all plaintiffs, resulting from the negligence of all defendants, shall not exceed $280,000.00 unless, as the result of the negligence of 1 or more of the defendants, 1 or more of the following exceptions apply as determined by the court pursuant to section 6304, in which case damages for noneconomic loss shall not exceed $500,000.00:

(a) The plaintiff is hemiplegic, paraplegic, or quadriplegic resulting in a total permanent functional loss of 1 or more limbs caused by 1 or more of the following:

(*i*) Injury to the brain.

(*ii*) Injury to the spinal cord.

(b) The plaintiff has permanently impaired cognitive capacity rendering him or her incapable of making independent, responsible life decisions and permanently incapable of independently performing the activities of normal, daily living.

(c) There has been permanent loss of or damage to a reproductive organ resulting in the inability to procreate.

(2) In awarding damages in an action alleging medical malpractice, the trier of fact shall itemize damages into damages for economic loss and damages for noneconomic loss.

(3) As used in this section, "noneconomic loss" means damages or loss due to pain, suffering, inconvenience, physical impairment, physical disfigurement, or other noneconomic loss.

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(4) The state treasurer shall adjust the limitation on damages for noneconomic loss set forth in subsection (1) by an amount determined by the state treasurer at the end of each calendar year to reflect the cumulative annual percentage change in the consumer price index. As used in this subsection, “consumer price index” means the most comprehensive index of consumer prices available for this state from the bureau of labor statistics of the United States department of labor.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986;—Am. 1993, Act 78, Eff. Apr. 1, 1994.

Compiler's note: Enacting section 3 of Act 178 of 1986 provides:

“(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

“(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

“(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

“(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

“(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

“(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988.”

Enacting section 4 of Act 78 of 1993 provide;

"Section 4. (1) Sections 1483, 2912a, 5838a, 5851, and 5856 of Act No. 236 of the Public Acts of 1961, as amended by by this amendatory act, do not apply to causes of action arising before October 1, 1993.

"(2) Section 2912f of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, applies to causes of action arising on or after October 1, 1993.

"(3) Sections 2169, 2912d, 2912e, 6013, and 6304 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, do not apply to cases filed before October 1, 1993.

"(4) Sections 2912b, 2912g, and 2912h of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, apply to cases filed on or after October 1, 1993."

600.1485 Indigent civil legal assistance.

Sec. 1485. (1) The money in the state court fund created in section 151a that is designated for indigent civil legal assistance shall be expended as provided in this section.

(2) The money designated for indigent civil legal assistance shall be administered by the state court administrator upon the recommendation of the Michigan state bar foundation. Subject to the standards and requirements prescribed in this section, the Michigan state bar foundation annually shall receive bids for the awarding of contracts to service providers for the provision of those legal services and shall, subject to the approval of the state court administrator, award the contracts. Upon approval of the contracts, the state treasurer shall distribute the entire amount available each fiscal year for indigent legal services as follows:

(a) To service providers pursuant to contracts, to be distributed according to the schedule, eligibility criteria, and fund distribution criteria set forth in this section.

(b) Subject to approval by the state court administrator, to the Michigan state bar foundation for reimbursement for performing its duties under this section, in an amount equal to 1% of the total amount distributed each year for indigent legal services, or $40,000.00, whichever is greater.

(3) Except as provided in subsection (6), an organization that provides legal services within this state may bid to be awarded a contract under this section for the provision of legal services during the calendar year following the calendar year in which the bid is submitted. Except as provided in subsection (6), an applicant shall bid for a contract not later than November 1 of the calendar year immediately before the calendar year to which the contract applies. The application shall include all of the following:

(a) Evidence that the provision of legal services will be on a nonprofit basis.

(b) The proposed budget of the applicant for the funds for the calendar year to which the contract applies.

(c) A summary of the services to be offered by the applicant in the calendar year to which the contract applies.

(d) Evidence that the applicant provides a client grievance procedure to investigate any claim of discrimination, poor quality of service, or inappropriate denial of service.

(e) A specific description of the area to be served by the applicant.

(f) An estimate of the number of indigents to be served by the applicant during the calendar year for which financial assistance is requested.

(g) A general description of additional sources of funds available to the applicant.

(h) The amount of the applicant's total budget for the calendar year in which the application is filed and the amount that the applicant will expend in that calendar year for legal services to indigents in the area to be served by the applicant.

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(i) A specific description of any services, programs, training, or legal technical assistance to be delivered by private attorneys or through programs using private attorneys including, but not limited to, reduced fee plans, judicare panels, and organized pro bono programs. The description shall include a detailed list of the conditions, if any, pursuant to which compensation will be provided to private attorneys for providing the services, programs, training, or legal technical assistance.

(j) A general description of the ability of the applicant to provide the legal services required by the contract, including the ability to provide any necessary training and supervision for persons providing those services, supported by any evidence of those abilities as the Michigan state bar foundation considers necessary.

(k) An explanation of the procedures to be used by the service providers to establish the legal services priorities described in subsection (8)(d).

(*l*) Any other information the Michigan state bar foundation considers necessary.

(4) Except as provided in subsection (6), and subject to the approval of the state court administrator under subsection (2), on or before December 15 of each calendar year, the Michigan state bar foundation shall notify each applicant that submitted a bid under subsection (3), in writing, whether the applicant has been awarded a contract under this section. If a contract is awarded, the Michigan state bar foundation shall estimate the amount that will be available for that applicant for each 3-month distribution period, as determined under subsection (5).

(5) The state court administrator shall allocate money under this section quarterly for distribution to service providers. Except as provided in subsection (6), the state court administrator shall allocate all money available for indigent legal assistance on January 1 of a calendar year to service providers and the state treasurer shall distribute the money to the service providers on or before January 15 of that calendar year. Except as provided in subsection (6), the state court administrator shall allocate all money available for indigent legal assistance on April 1 of a calendar year to service providers and the state treasurer shall distribute the money to the service providers on or before April 15 of that calendar year. Except as provided in subsection (6), the state court administrator shall allocate all money available for indigent legal assistance on July 1 of a calendar year to service providers and the state treasurer shall distribute the money to service providers on or before July 15 of that calendar year. Except as provided in subsection (6), the state court administrator shall allocate all money available for indigent legal assistance on October 1 of a calendar year to service providers and the state treasurer shall distribute the money to the service providers on or before October 15 of that calendar year.

(6) For the awarding of contracts for the provision of legal services during the calendar year 1994, the following special provisions apply:

(a) The period of provision of legal services shall be from July 1, 1994 to December 31, 1994, and the bids for those contracts shall be submitted not later than May 1, 1994.

(b) On or before June 15, 1994, the Michigan state bar foundation shall notify each applicant that submitted a bid for a contract for the provision of legal services, in writing, whether the applicant has been awarded a contract.

(c) The state court administrator shall allocate all money available for indigent legal services on July 1, 1994, to service providers and the state treasurer shall distribute the money to service providers on or before July 15, 1994.

(7) A service provider shall provide civil legal assistance to indigents under this section in compliance with the standards described in the standards for providers of civil legal services to the poor first approved by the American bar association delegates in August, 1986.

(8) The Michigan state bar foundation and the state court administrator, in awarding contracts, shall comply with all of the following:

(a) The contracts awarded, taken together, shall provide for indigent legal services to be provided in every area of the state, on a nonprofit basis.

(b) A contract shall provide that funds paid under a contract shall be expended only for the provision of civil legal services to indigent persons, as described in subsection (9).

(c) Contracts shall be awarded so that civil legal services are provided on a statewide basis for support and training for other service providers, civil legal services for persons who are Native Americans, and civil legal services for persons who are migrant agricultural workers. Ten percent of the total amount awarded under all contracts, taken together, shall be earmarked for services described in this subdivision.

(d) A contract shall require that a service provider shall have a procedure for determining priorities among the civil legal services needed by the indigent population in its service area, which procedure shall include obtaining regular input from those indigent persons as to those priorities. The priorities among legal needs shall include, at a minimum, legal services related to residential housing and domestic violence, except for

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legal services funded by contract awarded to meet the requirements of subdivision (c).

(e) A contract shall require that the service provider include the participation of the private bar, on a pro bono basis, in its provision of legal services.

(f) The amount of funding provided under any contract shall be proportional to the number of indigent persons residing in that service area, as a percentage of all indigent persons in the state, according to the most recent federal decennial census.

(9) A service provider that receives money under this section shall use the money for 1 or more of the following purposes:

(a) To defray the costs of providing legal services to indigents.

(b) To provide legal training and legal technical assistance to other eligible legal aid societies.

(c) If the service provider has entered into an agreement with a local bar association, a private attorney, or a group of private attorneys pursuant to subsection (15) and pursuant to the description and list of conditions set forth in the service provider's application under subsection (3)(i), to provide funds for the services, programs, training, and legal technical assistance provided by the local bar association, private attorney, or group of private attorneys.

(10) A service provider shall not use money received under this section to provide legal services in relation to any criminal case or proceeding or in relation to any fee-generating case.

(11) A service provider shall not do either of the following:

(a) Use money received under this section to provide legal services in relation to any lawsuit against the state of Michigan unless the claim against the state had been the subject of an administrative proceeding.

(b) Use money received under this section for cases that are not permissible under the legal services corporation act, title X of the economic opportunity act of 1964, Public Law 88-452, 42 U.S.C. 2996 to 2996 *l* , and related regulations.

(12) In providing legal assistance to indigents, each service provider that receives money under this section shall ensure all of the following:

(a) That quality service and professional standards are maintained.

(b) That no person interferes with any attorney funded in whole or in part by this section in carrying out his or her professional responsibility to his or her client as established by the rules of professional responsibility.

(c) That the funds received pursuant to this section are expended only in accordance with this act.

(d) That client confidentiality is preserved.

(13) A service provider that receives money under this section shall file an annual report with the Michigan state bar foundation detailing the number and types of cases handled and the amount and types of legal training and legal technical assistance provided, by means of that money. The information contained in the report shall not identify or enable the identification of any person served by the service provider or in any other way breach client confidentiality.

(14) The Michigan state bar foundation, with the assistance of the state court administrator and the state treasurer, shall make an annual report to the governor, the legislature, and the supreme court on the distribution and use of money distributed under this section. The information contained in the report shall not identify or enable the identification of any person served by a service provider, or in any way breach client confidentiality.

(15) A service provider may enter into an agreement with a local bar association, a private attorney, or a group of private attorneys pursuant to which the bar association, private attorney, or group of private attorneys provide services, programs, training, or legal technical assistance for the service provider or to indigent persons.

(16) As used in this section:

(a) “Fee-generating case” means a case or matter that, if undertaken on behalf of an indigent by an attorney in private practice, reasonably would be expected to result in payment of a fee for legal services from an award to a client, from public funds, or from the opposing party. A case shall not be considered a fee generating case if adequate representation is unavailable and if any of the following circumstances exist concerning the case:

(*i*) The service provider that represents an indigent in the case has determined that free referral is not possible for any of the following reasons:

(A) The case has been rejected by the local lawyer referral service or, if there is no such service, by 2 attorneys in private practice who have experience in the subject matter of the case.

(B) Neither the local lawyer referral service, if one exists, nor an attorney in private practice will consider the case without payment of a consultation fee.

(C) The case is of a type that an attorney in private practice in the area ordinarily does not accept or does not accept without initial payment of a fee.

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(D) Emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.

(*ii*) Recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other nonpecuniary relief, or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims.

(*iii*) A court has appointed the service provider or its employee to represent the indigent in the case pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction.

(*iv*) The case involves the right of a claim under a publicly supported benefit program for which entitlement is based on need.

(b) "Indigent" means either of the following:

(*i*) An individual whose income is not greater than 125% of the official poverty line established in the poverty guidelines issued by the secretary of health and human services under authority of section 673(2) of the community services block grant act, subtitle B of title VI of the omnibus budget reconciliation act of 1981, Public Law 97-35, 42 U.S.C. 9902.

(*ii*) An organizational client or group of clients if 1 or more of the following apply:

(A) The client is composed of a minimum of 75% of persons eligible for legal assistance under this section.

(B) The client is organized for the purpose of furthering the interests of indigent persons.

(C) The client provides information showing it lacks and has no practical means of obtaining funds to retain private counsel.

History: Add. 1993, Act 189, Imd. Eff. Oct. 8, 1993.

600.1486 Hiring member of immediate family as court employee or process server.

Sec. 1486. A judge or justice shall not hire or employ a member of his or her immediate family as a court employee or a process server or in any judicial support-related capacity. As used in this section, "member of his or her immediate family" means a person related to the judge or justice by blood or affinity to the third degree. This section does not apply to employees hired before the effective date of this section.

History: Add. 1996, Act 374, Imd. Eff. July 17, 1996.

600.1487 Contract for good or service.

Sec. 1487. A court of this state shall not enter into a contract for $10,000.00 or more for a good or service, but excluding a contract for indigent legal assistance, unless the court first follows the competitive bid procedures described in section 261 of the management and budget act, Act No. 431 of the Public Acts of 1984, being section 18.1261 of the Michigan Compiled Laws. This section does not apply to the basic grant money from the family independence agency.

History: Add. 1996, Act 374, Imd. Eff. July 17, 1996.

Compiler's note: Another Sec. 1487, as added by Act 428 of 1996, was originally compiled at MCL 600.1487[1], to distinguish it from this Sec. 1487, as added by Act 374 of 1996. Former MCL 600.1487[1], which pertained to creation of state court information management commission, was repealed by Act 225 of 2006, Imd. Eff. June 26, 2006.

600.1487[1] Repealed. 2006, Act 225, Imd. Eff. June 26, 2006.

Compiler's note: Sec. 1487, as added by Act 428 of 1996, appears here as MCL 600.1487[1] to disguinguish the section from another sec. 1487, deriving from Act 374 of 1996.

The repealed section pertained to creation of state court information management system.

600.1490 Definitions; court reporter, court recorder, stenomask reporter, or owner of firm; familial relationship with party or attorney; disclosure required; financial interest.

Sec. 1490. (1) As used in this section and sections 1491, 1492, and 1493:

(a) "Blanket contract" means a contract under which a court reporter, court recorder, stenomask reporter, or court reporting firm agrees to perform all court reporting or court recording services for a client for 2 or more cases at a rate of compensation fixed in the contract.

(b) "Court reporting firm" means a business entity that provides the services of court reporters, court recorders, or stenomask reporters.

(c) "Owner" means a person who has any ownership interest in a court reporting firm.

(2) A court reporter, court recorder, stenomask reporter, or owner of a court reporting firm shall not provide or arrange to provide court reporting or recording services if he or she is a relative, employee, attorney, or counsel of any of the parties, or is a relative or employee of an attorney or counsel of any of the parties, without disclosing that familial relationship.

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(3) A court reporter, court recorder, stenomask reporter, or owner of a court reporting firm shall not provide or arrange to provide court reporting or recording services if he or she is financially interested in the action.

History: Add. 1998, Act 249, Imd. Eff. July 10, 1998.

Compiler's note: Enacting section 1 of Act 249 of 1998 provides:

"Enacting section 1. By enacting this legislation, the legislature does not intend to unduly interfere with fair competition between and among certified court reporters, court recorders, stenomask recorders, or court reporting firms, where that competition does not involve financial arrangements that tend to, or appear to, compromise that impartiality. This amendatory act is to be construed and applied in a manner consistent with this purpose."

600.1491 Court reporter, court recorder, stenomask reporter, or owner of firm; prohibited conduct.

Sec. 1491. (1) A court reporter, court recorder, stenomask reporter, or owner of a court reporting firm shall not do either of the following:

(a) Enter into or arrange for any financial relationship that compromises the impartiality of court reporters, court recorders, or stenomask reporters or that may result in the appearance that the impartiality of a court reporter, court recorder, or stenomask reporter has been compromised.

(b) Enter into a blanket contract with parties, litigants, attorneys, or their representatives unless all parties to the action are informed on the record in every deposition of the fees to be charged to all parties for original transcripts, copies of transcripts, and any other court reporting services to be provided. This subdivision does not apply to contracts for court reporting or recording services for the courts, agencies, or instrumentalities of local units of government, this state, or the United States.

(2) A court reporter, court recorder, stenomask reporter, or owner of a court reporting firm shall not do any of the following:

(a) Give, directly or indirectly, any incentive, reward, or anything else of value to attorneys, clients, or their representatives or agents, except for nominal items that do not exceed $25.00 per transaction or $100.00 in the aggregate per recipient each year.

(b) Charge more than 2/3 of the price of an original transcript for a copy of that transcript.

History: Add. 1998, Act 249, Imd. Eff. July 10, 1998.

Compiler's note: Enacting section 1 of Act 249 of 1998 provides:

"Enacting section 1. By enacting this legislation, the legislature does not intend to unduly interfere with fair competition between and among certified court reporters, court recorders, stenomask recorders, or court reporting firms, where that competition does not involve financial arrangements that tend to, or appear to, compromise that impartiality. This amendatory act is to be construed and applied in a manner consistent with this purpose."

600.1492 Court reporter, court recorder, stenomask reporter; duties.

Sec. 1492. (1) A court reporter, court recorder, or stenomask reporter shall do all of the following in the performance of his or her duties:

(a) Deliver a transcript or statement of facts to a client or court in a timely manner as determined by law, by court order, or by agreement of the parties.

(b) Produce an accurate transcript or statement of facts.

(c) Produce complete transcripts or statements of facts, unless an excerpt of a transcript is authorized by court order, agreement of the parties, or request of a party.

(d) Before accepting an assignment as an independent contractor or employee to provide court reporting or recording services, request information from the person, employer, or entity engaging his or her services as to the existence and nature of the contract between the person, employer, or entity and the client to confirm that the contract is not a blanket contract in violation of section 1491(1)(b). A person, employer, or entity who is party to a blanket contract and who knowingly provides false information in reply to an inquiry required under this subdivision shall be considered to have committed an act that is grounds for discipline or censure under section 1493. This subdivision does not apply to contracts for court reporting or recording services for the courts, agencies, or instrumentalities of local units of government, this state, or the United States.

(e) Advertise or represent truthfully that he or she is a certified court reporter, court recorder, or stenomask reporter and that only a certified individual will be making the record.

(f) Charge all parties or their attorneys to an action the same price for an original transcript or statement of facts and charge all parties or their attorneys the same price for a copy of a transcript or statement of facts or for like services performed in an action.

(g) Stay "on the record" during a deposition unless agreed to by all parties or their attorneys or unless otherwise ordered by the court.

(2) All court reporting firms and court reporters, recorders, and stenomask reporters, including out-of-state

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court reporting firms and court reporters, recorders, and stenomask reporters, shall register with the state court administrative office by completing an application in a form adopted by the state court administrative office. Rules applicable to court reporters and court recorders are also applicable to court reporting firms. If a court reporting firm or a court reporter, recorder, or stenomask reporter fails to comply with this subsection, the state court administrative office may assess a reasonable administrative fine that is prescribed by rule of the supreme court, that does not exceed $500.00, and that is payable to the state general fund.

History: Add. 1998, Act 249, Imd. Eff. July 10, 1998.

Compiler's note: Enacting section 1 of Act 249 of 1998 provides:

"Enacting section 1. By enacting this legislation, the legislature does not intend to unduly interfere with fair competition between and among certified court reporters, court recorders, stenomask recorders, or court reporting firms, where that competition does not involve financial arrangements that tend to, or appear to, compromise that impartiality. This amendatory act is to be construed and applied in a manner consistent with this purpose."

600.1493 Enforcement of MCL 600.1490, 600.1491, and 600.1492; violation.

Sec. 1493. (1) The state court administrative office is responsible for enforcing sections 1490, 1491, and 1492 through the court recording and reporting board of review or by other administrative means.

(2) Any violation of section 1490, 1491, or 1492 shall be cause for refusal of the state court administrative office's board of review to issue renewal certificates to certified court reporters, court recorders, or stenomask reporters. Any willful violation of section 1490, 1491, or 1492 shall be grounds for discipline or censure, or suspension or revocation of certification as a Michigan certified court reporter, court recorder, stenomask reporter, or court reporting firm.

History: Add. 1998, Act 249, Imd. Eff. July 10, 1998.

Compiler's note: Enacting section 1 of Act 249 of 1998 provides:

"Enacting section 1. By enacting this legislation, the legislature does not intend to unduly interfere with fair competition between and among certified court reporters, court recorders, stenomask recorders, or court reporting firms, where that competition does not involve financial arrangements that tend to, or appear to, compromise that impartiality. This amendatory act is to be construed and applied in a manner consistent with this purpose."

600.1494 Applicability of MCL 600.1490 to 600.1493; exception.

Sec. 1494. Sections 1490 to 1493 do not apply to official court stenographers, recorders, reporters, or stenomask reporters appointed under chapter 8, 11, or 86 while in the performance of their official duties or to a court stenographer, recorder, or reporter appointed to serve in a municipal court while in the performance of his or her official duties.

History: Add. 1998, Act 249, Imd. Eff. July 10, 1998.

Compiler's note: Enacting section 1 of Act 249 of 1998 provides:

"Enacting section 1. By enacting this legislation, the legislature does not intend to unduly interfere with fair competition between and among certified court reporters, court recorders, stenomask recorders, or court reporting firms, where that competition does not involve financial arrangements that tend to, or appear to, compromise that impartiality. This amendatory act is to be construed and applied in a manner consistent with this purpose."

CHAPTER 15
TIME AND PLACE OF HOLDING CIRCUIT COURTS

600.1501 Terms of court; continuance; adjournment; sessions.

Sec. 1501. (1) There shall be at least 4 terms of court annually in every county, held at the times designated by the judge or judges of the circuit. The court in its discretion may hold special or adjourned terms.

(2) All causes, matters, and proceedings pending at any court term which is not held because of the absence of the circuit judge are continued until the next term. All persons bound by recognizance or otherwise to appear during such court term shall appear at the next term, and all such recognizances shall continue in force and be as binding and obligatory on the parties thereto as if no failure of a term had occurred, unless a new recognizance, approved according to law, is entered for such appearance.

(3) Whenever the judge of any circuit or superior court fails to attend a court session, the court shall stand adjourned until a judge authorized to hold court is in attendance. The judge authorized to hold court has full power to hear, try, and determine all causes, matters, and proceedings lawfully brought before him within the jurisdiction of the court. Notwithstanding any formal adjournment, the courts shall on all regular dates be deemed to be in actual session from the first day of any term until the first day of the next succeeding term. Judges of circuit courts may hold court for each other.

(4) The court may hold evening and weekend sessions.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1996, Act 374, Imd. Eff. July 17, 1996.

600.1511 Terms of court; Ingham county circuit court; place of sitting.

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Sec. 1511. (1) Regular terms of the circuit court for the county of Ingham in the thirtieth judicial circuit may be designated and held both in the city of Lansing and at the county seat of Ingham county in each calendar year, and special or adjourned terms of the court may be designated or ordered and held at either the county seat of the county of Ingham or the city of Lansing. Any hearings, trials or proceedings of the circuit court of the thirtieth judicial circuit may be held at either the county seat of Ingham county or the city of Lansing.

(2) The common council of the city of Lansing, or the citizens thereof, shall furnish and provide, free of expense to Ingham county, a suitable place for holding court within the city, and transacting the business thereof, and a suitable and sufficient jail for the incarceration of prisoners during the sittings of the circuit court in Lansing.

(3) A deputy clerk shall be appointed by the county clerk of Ingham county, as provided by law, who shall attend upon each session of the court held in the city of Lansing, and shall maintain an office at the city of Lansing in the place appointed for holding court.

(4) There shall be furnished by the secretary of state to the deputy clerk to be used by him in his official capacity and for the use of the court at Lansing, 1 copy of the compiled laws of the state of Michigan, and 1 copy each of the public and local acts of the state of Michigan as published.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1970, Act 49, Imd. Eff. Jan. 1, 1971.

600.1513 Terms of court; Calhoun county.

Sec. 1513. (1) Two of the regular terms of the circuit court for the thirty-seventh judicial circuit shall be held each year within the city of Battle Creek, and 2 of the regular terms shall be held within the city of Marshall, the county seat of Calhoun county.

(2) The terms of court to be held at the city of Battle Creek shall be respectively alternated with the terms of the court to be held at the city of Marshall. The judge of the circuit court shall designate in writing which of the regular terms thereof shall be held within the city of Battle Creek, and shall transmit the designation to the clerk of Calhoun county.

(3) The circuit court may adjourn any session of the court while sitting at one place, and continue the court at the other place of holding court.

(4) The common council of the city of Battle Creek, or the citizens thereof, shall furnish and provide, free of expense to Calhoun county, a suitable place for holding court within the city of Battle Creek and transacting the business thereof, and a suitable and sufficient jail for the incarceration of prisoners during the sittings of the circuit court, and a fireproof safe or vault within which to keep the files and records of the court.

(5) At each term of the circuit court designated to be held in the city of Battle Creek, the county clerk of Calhoun county shall deposit in the building designated for the holding of the court, under the direction of the circuit judge, all of the records and files in all cases noticed for trial or hearing at such term on or before the first day of the term and when such term is finished, such records and files shall be returned to the office of the county clerk.

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

600.1515 Second judicial circuit; site of hearings, trials, or proceedings; disposition of records and files; naturalization of new citizens; educational ceremonies.

Sec. 1515. (1) The hearings, trials, or proceedings of the circuit court of the second judicial circuit may be held at the county seat of the county in St. Joseph, in the city of Niles, or in the courthouse at Berrien Springs as provided in subsection (3).

(2) The county clerk of Berrien county shall deposit in the building designated for the holding of the court in the city of Niles, at the time directed by the circuit judge, all the records and files in all cases, causes, or proceedings, noticed for trial or hearing by the circuit judge at the city of Niles, and when the case, cause, or proceeding is finished, the records and files shall be returned to the office of the county clerk.

(3) The courthouse in Berrien Springs may be used for the naturalization of new citizens and for ceremonies of an educational nature at the discretion of the circuit judges or for other purposes when the county board of commissioners considers it advisable.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 173, Imd. Eff. June 23, 1974;—Am. 1980, Act 149, Imd. Eff. June 10, 1980.

600.1517 Designation of places where regular terms of circuit court and family division sessions may be held; hearings.

Sec. 1517. (1) Subject to the approvals required under subsections (2) and (3), the chief judge of a circuit

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may designate 1 or more places in the county or counties in that circuit, in addition to the county seat and places otherwise designated by law, where regular terms of circuit court may be held. The designation shall be in writing and shall be delivered to the state court administrator and to the county clerk of each county in the circuit.

(2) A designation made under subsection (1) shall not take effect unless the designation is approved by the state court administrator and by the county board of commissioners of each county in the circuit. The approval by a county board of commissioners and the state court administrator may be for a specific period of time and may require that the designation be subject to reapproval by that county board of commissioners and the state court administrator at intervals determined by that county board of commissioners and the state court administrator.

(3) The family division of circuit court may hold sessions of court at an alternative primary location designated under section 816.

(4) If the family division has ancillary jurisdiction in the case, a judge of the family division may hold sessions of the court at the regional diagnostic and treatment center assigned to his or her court if sessions are approved by the state court administrator. The center shall provide an area for court sessions to which the public has access.

(5) Nothing in this section prohibits a judge from holding a hearing regarding an allegedly incapacitated individual or an allegedly mentally ill person at a site considered appropriate by the court as provided by section 5304 of the estates and protected individuals code, 1998 PA 386, MCL 700.5304, or section 456 of the mental health code, 1974 PA 258, MCL 330.1456. Nothing in this section prohibits a judge from holding a hearing regarding an individual alleged to need protection at a site the court considers appropriate as provided by section 5406 of the estates and protected individuals code, 1998 PA 386, MCL 700.5406.

History: Add. 1992, Act 12, Imd. Eff. Mar. 10, 1992;—Am. 1996, Act 388, Eff. Jan. 1, 1998;—Am. 2000, Act 56, Eff. Apr. 1, 2000.

600.1521 Terms of court; special terms in other counties of circuit; triable issues.

Sec. 1521. Every term in any county is a special term for every other county in the same circuit. At any term in any county which is by law a special term for any other county or counties, all business may be done arising in such other county or counties, which might be done at a term in the county where the business arose, except the trial of issues of fact by a jury in cases other than those arising in actions of quo warranto and mandamus, and excepting also the trial of issues of fact in actions made local by law and arising in some county other than the one in which such special term is held. All orders, judgments, findings, proofs, testimony and other proceedings had or made at any such special term, being authenticated by the clerk of such court, shall be filed and entered of record in the office of the clerk of the circuit court in the county where the action or proceeding shall be pending; and no entries need be made in the office of the clerk of the circuit court of any other county.

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

600.1522 Terms of court; special terms, transfer of files and papers.

Sec. 1522. For the purpose of the trial or hearing of any action or proceeding at any special term the clerk of the court shall, at the request of either of the parties, transmit all the papers on file in such action or proceeding, under his official certificate, certifying the same to be all the original files and papers therein on file in his office. Such papers, so certified, shall be enclosed by such clerk in an envelope, sealed by him, directed to the clerk of the circuit court of the county where such special term is to be or is being held, and may be transmitted by mail or by the hand of any person selected by such clerk; and after the trial or hearing of such action or proceeding the clerk last above named shall in like manner remit the same to the clerk of the court in which such action or proceeding is pending; but before any clerk shall be obliged to transmit any such papers he shall be paid all necessary postage, and the clerk remitting same shall also be paid his fees in such action or proceeding.

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

600.1531 Alternative time and place of court; notice.

Sec. 1531. Whenever good cause therefor exists, the judge or judges of the circuit may designate a temporary alternative time and place in the same county for holding court. The designation shall be by written order, signed by the judge or judges making the designation, and disseminated to provide reasonable notice. The order shall state the manner in which such notice is to be disseminated.

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

CHAPTER 16

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600.1601 Venue.

Sec. 1601. The provisions of this chapter relate to venue and are not jurisdictional.

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

600.1605 Venue; real actions; replevin.

Sec. 1605. The county in which the subject of action, or any part thereof, is situated, is a proper county in which to commence and try the following actions:

(a) the recovery of real property, or of an estate or interests therein, or for the determination in any form of such right or interest;

(b) the partition of real property;

(c) the foreclosure of all liens or mortgages on real property; and

(d) the recovery of tangible personal property.

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

600.1611 Venue; action on probate bond.

Sec. 1611. The county in which a probate bond is filed is a proper county in which to commence and try actions upon the bond.

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

600.1615 Venue; actions against governmental units.

Sec. 1615. Any county in which any governmental unit, including but not limited to a public, municipal, quasi-municipal, or governmental corporation, unincorporated board, public body, or political subdivision, exercises or may exercise its governmental authority is the proper county in which to commence and try actions against such governmental units, except that if the cause of action arose in the county of the principal office of such governmental unit, that county is the proper county in which to commence and try actions against such governmental units.

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

600.1621 Venue; determination; exceptions.

Sec. 1621. Except for actions provided for in sections 1605, 1611, 1615, and 1629, venue is determined as follows:

(a) The county in which a defendant resides, has a place of business, or conducts business, or in which the registered office of a defendant corporation is located, is a proper county in which to commence and try an action.

(b) If none of the defendants meet 1 or more of the criteria in subdivision (a), the county in which a plaintiff resides or has a place of business, or in which the registered office of a plaintiff corporation is located, is a proper county in which to commence and try an action.

(c) An action against a fiduciary appointed by court order shall be commenced in the county in which the fiduciary was appointed.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1969, Act 333, Imd. Eff. Nov. 4, 1969;—Am. 1974, Act 52, Imd. Eff. Mar. 26, 1974 ;—Am. 1976, Act 375, Eff. Jan. 1, 1977;—Am. 1986, Act 178, Eff. Oct. 1, 1986;—Am. 1995, Act 161, Eff. Mar. 28, 1996.

600.1625 Repealed. 1976, Act 375, Eff. Jan. 1, 1977.

Compiler's note: The repealed section defined “established” for purposes of all matters pertaining to venue.

600.1627 Venue; county where cause of action arose; exceptions; suits against surety of public officers or their appointees.

Sec. 1627. Except for actions founded on contract and actions provided for in sections 1605, 1611, 1615, and 1629, the county in which all or a part of the cause of action arose is a proper county in which to commence and try the action. Suits against the surety of a public officer or his or her appointees are not excepted from the application of this section.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1986, Act 178, Eff. Oct. 1, 1986;—Am. 1995, Act 161, Eff. Mar. 28, 1996.

600.1629 Provisions applicable in action based on tort; grounds for motion for change in venue; determination of venue in product liability action.

Sec. 1629. (1) Subject to subsection (2), in an action based on tort or another legal theory seeking damages for personal injury, property damage, or wrongful death, all of the following apply:

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(a) The county in which the original injury occurred and in which either of the following applies is a county in which to file and try the action:

(*i*) The defendant resides, has a place of business, or conducts business in that county.

(*ii*) The corporate registered office of a defendant is located in that county.

(b) If a county does not satisfy the criteria under subdivision (a), the county in which the original injury occurred and in which either of the following applies is a county in which to file and try the action:

(*i*) The plaintiff resides, has a place of business, or conducts business in that county.

(*ii*) The corporate registered office of a plaintiff is located in that county.

(c) If a county does not satisfy the criteria under subdivision (a) or (b), a county in which both of the following apply is a county in which to file and try the action:

(*i*) The plaintiff resides, has a place of business, or conducts business in that county, or has its corporate registered office located in that county.

(*ii*) The defendant resides, has a place of business, or conducts business in that county, or has its corporate registered office located in that county.

(d) If a county does not satisfy the criteria under subdivision (a), (b), or (c), a county that satisfies the criteria under section 1621 or 1627 is a county in which to file and try an action.

(2) Any party may file a motion to change venue based on hardship or inconvenience.

(3) For the purpose of this section only, in a product liability action, a defendant is considered to conduct business in a county in which the defendant's product is sold at retail.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986;—Am. 1995, Act 161, Eff. Mar. 28, 1996;—Am. 1995, Act 249, Eff. Mar. 28, 1996.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.1631 Venue; action by attorney general; other actions.

Sec. 1631. The county in which the seat of state government is located is a proper county in which to commence and try the following actions:

(a) when the action is commenced by the attorney general in the name of the state or of the people of the state for the use and benefit thereof;

(b) when venue cannot be laid under any other of the venue provisions.

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

600.1635 Venue; transportation lines; plaintiff's residence.

Sec. 1635. Notwithstanding the provisions of sections 1621 and 1627 actions against any individual or company owning, operating or leasing a street railway or line of railroad or motor bus or truck route, for the transportation of passengers or freight in this state, shall be commenced either in the county where the cause of action arose or in the county of the plaintiff's residence, if the line or route of such individual or company traverses either the county where the cause of action arose or the county of the plaintiff's residence. If such line or route does not traverse in either such county, then suits against such individual or company may be started in any county in which such individual or company has its principal place of business or owns, operates or leases a line or route.

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

600.1641 Venue; joinder of causes of action; separation.

Sec. 1641. (1) Except as provided in subsection (2), if causes of action are joined, whether properly or not, venue is proper in any county in which either cause of action, if sued upon separately, could have been commenced and tried, subject to separation and change as provided by court rule.

(2) If more than 1 cause of action is pleaded in the complaint or added by amendment at any time during the action and 1 of the causes of action is based on tort or another legal theory seeking damages for personal injury, property damage, or wrongful death, venue shall be determined under the rules applicable to actions in

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tort as provided in section 1629.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1995, Act 161, Eff. Mar. 28, 1996;—Am. 1995, Act 249, Eff. Mar. 28, 1996.

600.1645 Improper venue; judgment.

Sec. 1645. No order, judgment, or decree shall be void or voidable solely on the ground that there was improper venue.

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

600.1651 Improper venue; transfer of action to proper county.

Sec. 1651. An action brought in a county not designated as a proper county may nevertheless be tried therein, unless a defendant moves for a change of venue within the time and in the manner provided by court rule, in which case the court shall transfer the action to a proper county on such conditions relative to expense and costs as provided by court rule and section 1653. The court for the county to which the transfer is made shall have full jurisdiction of the action as though the action had been originally commenced therein.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.1653 Motion for change of venue in action based on tort; awarding expenses and costs.

Sec. 1653. If a party brings a motion for a change of venue in an action based on tort alleging improper venue, the court shall award expenses and costs as follows:

(a) If the motion is granted, the court shall, after opportunity for a hearing, require the party who opposed the motion to pay to the moving party the reasonable expenses, including reasonable attorney fees, incurred in obtaining the order and to pay the statutory filing fee applicable to the court to which the action is transferred unless the court orders the change of venue for the convenience of the parties and witnesses or when an impartial trial cannot be had where the action is pending.

(b) If the motion is denied, the court shall, after opportunity for a hearing, require the moving party to pay to the party who opposed the motion the reasonable expenses, including reasonable attorney fees, incurred in opposing the motion, unless the court maintains venue for the convenience of the parties and witnesses.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.1655 Venue; change; conditions; expense of trial.

Sec. 1655. On such grounds and conditions as may be provided by court rule, the venue of any civil action brought in a proper county may be changed to any other county, and the action there tried. The court of the county to which the transfer is made shall thereupon have full jurisdiction of the action as though the action had been originally commenced therein. In every such case all expenses of the trial which would be chargeable to the county in which the action originated had the action been tried therein, as determined by the

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circuit judge of the county to which the action has been transferred, shall be a charge upon the county in which the action originated.

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

600.1659 Transfer of judgments in action affecting real or tangible personal property.

Sec. 1659. When a civil action affecting the title to or possession of real or tangible personal property has been tried in a county other than the county in which all of the real or tangible personal property is situated, the clerk of the court, after final judgment therein, must certify under his seal of office and transmit a copy of the judgment to the corresponding court of any county in which real or tangible personal property affected by the action is situated. The clerk of the court receiving the copy must file and record the judgment in the records of the court, briefly designating it as a judgment transferred from ..... (naming the court).

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

CHAPTER 17
CONTEMPTS

600.1701 Neglect or violation of duty or misconduct; power to punish by fine or imprisonment.

Sec. 1701. The supreme court, circuit court, and all other courts of record, have power to punish by fine or imprisonment, or both, persons guilty of any neglect or violation of duty or misconduct in all of the following cases:

(a) Disorderly, contemptuous, or insolent behavior, committed during its sitting, in its immediate view and presence, and directly tending to interrupt its proceedings or impair the respect due to its authority.

(b) Any breach of the peace, noise, or disturbance directly tending to interrupt its proceedings.

(c) All attorneys, counselors, clerks, registers, sheriffs, coroners, and all other persons in any manner elected or appointed to perform any judicial or ministerial services, for any misbehavior in their office or trust, or for any willful neglect or violation of duty, for disobedience of any process of the court, or any lawful order of the court, or any lawful order of a judge of the court or of any officer authorized to perform the duties of the judge.

(d) Parties to actions for putting in fictitious bail or sureties or for any deceit or abuse of the process or proceedings of the court.

(e) Parties to actions, attorneys, counselors, and all other persons for the nonpayment of any sum of money which the court has ordered to be paid.

(f) Parties to actions, attorneys, counselors, and all other persons for disobeying or refusing to comply with any order of the court for the payment of temporary or permanent alimony or support money or costs made in any action for divorce or separate maintenance.

(g) Parties to actions, attorneys, counselors, and all other persons for disobeying any lawful order, decree, or process of the court.

(h) All persons for assuming to be and acting as officers, attorneys, or counselors of any court without authority; for rescuing any property or persons that are in the custody of an officer by virtue of process issued from that court; for unlawfully detaining any witness or party to an action while he or she is going to, remaining at, or returning from the court where the action is pending for trial, or for any other unlawful interference with or resistance to the process or proceedings in any action.

(i) All persons who, having been subpoenaed to appear before or attend, refuse or neglect to obey the subpoena, to attend, to be sworn, or when sworn, to answer any legal and proper interrogatory in any of the following circumstances:

(*i*) As a witness in any court in this state.

(*ii*) Any officer of a court of record who is empowered to receive evidence.

(*iii*) Any commissioner appointed by any court of record to take testimony.

(*iv*) Any referees or auditors appointed according to the law to hear any cause or matter.

(*v*) Any notary public or other person before whom any affidavit or deposition is to be taken.

(j) Persons summoned as jurors in any court, for improperly conversing with any party to an action which is to be tried in that court, or with any other person in regard to merits of the action, or for receiving communications from any party to the action or any other person in relation to the merits of the action without immediately disclosing the communications to the court.

(k) All inferior magistrates, officers, and tribunals for disobedience of any lawful order or process of a superior court, or for proceeding in any cause or matter contrary to law after the cause or matter has been removed from their jurisdiction.

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(*l*) The publication of a false or grossly inaccurate report of the court's proceedings, but a court shall not punish as a contempt the publication of true, full, and fair reports of any trial, argument, proceedings, or decision had in the court.

(m) All other cases where attachments and proceedings as for contempts have been usually adopted and practiced in courts of record to enforce the civil remedies of any parties or to protect the rights of any party.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1987, Act 99, Imd. Eff. July 6, 1987;—Am. 2005, Act 326, Imd. Eff. Dec. 27, 2005.

600.1711 Summary punishment; hearing.

Sec. 1711. (1) When any contempt is committed in the immediate view and presence of the court, the court may punish it summarily by fine, or imprisonment, or both.

(2) When any contempt is committed other than in the immediate view and presence of the court, the court may punish it by fine or imprisonment, or both, after proof of the facts charged has been made by affidavit or other method and opportunity has been given to defend.

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

600.1715 Contempt; punishment; fine; probation; performance of act or duty.

Sec. 1715. (1) Except as otherwise provided by law, punishment for contempt may be a fine of not more than $7,500.00, or imprisonment which, except in those cases where the commitment is for the omission to perform an act or duty which is still within the power of the person to perform shall not exceed 93 days, or both, in the discretion of the court. The court may place an individual who is guilty of criminal contempt on probation in the manner provided for persons guilty of a misdemeanor as provided in chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1 to 771.14a.

(2) If the contempt consists of the omission to perform some act or duty that is still within the power of the person to perform, the imprisonment shall be terminated when the person performs the act or duty or no longer has the power to perform the act or duty, which shall be specified in the order of commitment, and pays the fine, costs, and expenses of the proceedings, which shall be specified in the order of commitment.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1983, Act 228, Imd. Eff. Nov. 28, 1983;—Am. 2006, Act 544, Eff. Mar. 30, 2007.

600.1721 Payment of damages; effect.

Sec. 1721. If the alleged misconduct has caused an actual loss or injury to any person the court shall order the defendant to pay such person a sufficient sum to indemnify him, in addition to the other penalties which are imposed upon the defendant. The payment and acceptance of this sum is an absolute bar to any action by the aggrieved party to recover damages for the loss or injury.

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

600.1725 Witnesses; refusal to testify; penalty.

Sec. 1725. If any witness attending pursuant to a subpoena, or brought before any court, judge, officer, commissioner, or before any person before whom depositions may be taken, refuses without reasonable cause

(1) to be examined, or

(2) to answer any legal and pertinent question, or

(3) to subscribe his deposition after it has been reduced to writing, the officer issuing the subpoena shall commit him, by warrant, to the common jail of the county in which he resides. He shall remain there until he submits to be examined, or to answer, or to subscribe his deposition, as the case may be, or until he is discharged according to law.

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

600.1731 Publication as to court of record; hearing by judge of another court.

Sec. 1731. In proceedings for contempt arising out of the publication of any news, information, or comment concerning a court of record, except the supreme court, or any judge of that court the defendant has the right to have the proceedings heard by the judge of another court of record.

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

600.1735 Arrest on bench warrant; duties of sheriff.

Sec. 1735. Upon arresting any defendant, on a bench warrant, to answer for any alleged misconduct, the sheriff shall keep such person in his actual custody, and shall bring him personally before the court issuing the warrant, and shall keep and detain him in his custody, until such court orders otherwise, or until the defendant is entitled to be discharged on bond.

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

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600.1741 Arrest on bench warrant; illness of arrested person.

Sec. 1741. Whenever an officer is required to keep any person arrested upon a bench warrant in actual custody, and to bring him personally before any court, the inability, from sickness or otherwise, of such person to attend such court personally, is a sufficient excuse for not bringing him before such court.

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

600.1745 Indictment for contemptuous conduct; sentence.

Sec. 1745. Persons proceeded against according to the provisions of this chapter, shall also be liable to indictment for the same misconduct, if it be an indictable offense; but the court before which a conviction shall be had on such indictment shall take into consideration the punishment before inflicted, in imposing sentence.

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

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

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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.

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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 foreign process; order.

Sec. 1852. (1) Any court of record of this state as provided in subsection (2) may order service upon any person who is domiciled or can be found within this state 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

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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.

(2) Any court of record of this state may order a person who is domiciled or is found within this state to give his testimony or statement or to produce documents or other things for use in a proceeding in a tribunal outside this state. The order may be made upon the application of any interested person or in response to a letter rogatory and may prescribe the practice and procedure, which may be wholly or in part the practice and procedure of the tribunal outside this state, for taking the testimony or statement or producing the documents or other things. The order shall be issued upon petition to a court of record in the county in which the deponent resides or is employed or transacts his business in person or is found for a subpoena to compel the giving of testimony by him. The court may hear and act upon the petition with or without notice as the court directs. To the extent that the order does not prescribe otherwise, the practice and procedure shall be in accordance with that of the court of this state issuing the order. The order may direct that the testimony or statement be given, or document or other thing produced, before a person appointed by the court. The person appointed shall have power to administer any necessary oath. A person within this state may voluntarily give his testimony or statement or produce documents or other things for use in a proceeding before a tribunal outside this state.

History: Add. 1967, Act 178, Eff. Nov. 2, 1967.

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.

CHAPTER 19
COMMENCEMENT OF ACTION AND SERVICE OF PROCESS

600.1901 Civil action; commencement; filing of complaint.

Sec. 1901. A civil action is commenced by filing a complaint with the court.

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

600.1902 "Victim" defined; civil action against victim of criminal sexual conduct or assault with intent to commit criminal sexual conduct; dismissal; period of limitations; applicability of section.

Sec. 1902. (1) As used in this section, "victim" means any 1 of the following:

(a) The person alleging to have been subjected to a crime described in subsection (2).

(b) The parent, guardian, or custodian of the person described in subdivision (a), if the person is less than 18 years of age.

(c) The parent, guardian, or custodian of the person described in subdivision (a), if the person is so mentally incapacitated that he or she cannot meaningfully understand or participate in the legal process.

(2) A defendant in a criminal action for criminal sexual conduct in any degree or assault with intent to commit criminal sexual conduct shall not commence or maintain a civil action against a victim of the crime for which the defendant is charged if both of the following circumstances exist:

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(a) The criminal action is pending in a trial court of this state, of another state, or of the United States.

(b) The civil action is based upon statements or reports made by the victim that pertain to an incident from which the criminal action is derived.

(3) The court shall dismiss without prejudice a civil action commenced or maintained in violation of subsection (2).

(4) The period of limitations for the bringing of a civil action described in subsection (2) is tolled for the period of time during which the criminal action is pending in a trial court of this state, of another state, or of the United States.

(5) This section does not apply if the victim files a civil action based upon an incident from which the criminal action is derived against the defendant in the criminal action.

(6) This section shall apply only if the criminal action against the defendant is based upon a crime allegedly committed after the effective date of the amendatory act that added this section.

History: Add. 1990, Act 28, Eff. Mar. 28, 1991.

600.1905 Summons; issuance; duplicate; form; contents; amendment of process or proof of service.

Sec. 1905. (1) Upon the filing of the complaint the clerk of the court in which the complaint is filed shall forthwith issue summons. Separate summons may issue against any defendant. Duplicate summons may be issued from time to time with like effect as the original summons.

(2) The form of all summons shall be “In the name of the people of the state of Michigan.” The summons shall be under the seal of the court, contain the name of the court, the names of the parties and name of the court clerk, be directed to the defendant or defendants, state the name and address of the plaintiff's attorney, if any, otherwise the plaintiff's address, and the time within which these rules require the defendant to answer or take such other action as may be permitted by law, and shall notify the defendant that in case of his or her failure to do so judgment will be rendered against him or her for the relief demanded in the complaint.

(3) At any time and upon such terms as it deems just, the court may in its discretion allow any process or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1984, Act 109, Imd. Eff. May 24, 1984.

600.1908 Process; persons to make service.

Sec. 1908. (1) Process in civil actions may be served by any person of suitable age and discretion who is not a party nor an officer of a corporate party.

(2) If service of process is to be made in the manner prescribed by section 1912, on a person in a governmental institution, hospital, or home, the service of process shall be made by the person in charge of such institution or by some member of his staff.

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

600.1910 Proof of service; methods; failure to make proof of service.

Sec. 1910. (1) Proof of service shall be made by 1 of the following methods:

(a) Written acknowledgment of receipt of a summons and a copy of the complaint, dated and signed by the person authorized under this act to receive them.

(b) A certificate, stating the facts of service if service is made within the state of Michigan by:

(*i*) A sheriff.

(*ii*) A deputy sheriff, medical examiner, bailiff, constable, or a deputy of these officers if the officers held office in a county in which the court issuing the process is held.

(c) An affidavit, stating the facts of service, if service is made by any other person, and indicating his or her official capacity, if any.

(2) Failure to make proof of service does not affect the validity of the service.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1978, Act 317, Imd. Eff. July 10, 1978;—Am. 1994, Act 403, Eff. Apr. 1, 1995.

600.1912 Process; personal service on individual.

Sec. 1912. Service of process may be made upon an individual by leaving a summons and a copy of the complaint with the defendant personally.

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

600.1913 Process; substituted service.

Sec. 1913. (1) Service of process may be made,

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(a) upon an individual nonresident defendant having any of the contacts, ties or relations with this state as specified in chapter 7 of this act, by service of a summons and a copy of the complaint upon such agent, employee, representative, salesman or servant of the defendant as may be found within the state, and by sending a summons and a copy of the complaint by registered mail addressed to the defendant at his last known address.

(b) upon an infant defendant, by leaving a summons and a copy of the complaint with a person having the care and control of him with whom he resides, or with his legal guardian, or

(c) upon a defendant who has been judicially declared incompetent and for whom a guardian has been appointed and is acting, by leaving a summons and a copy of the complaint with the guardian.

(2) If the individual defendant is in a state institution a copy of the complaint shall also be mailed to the attorney general.

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

600.1917 Process; service on partnership or limited partnership.

Sec. 1917. Service of process upon a partnership or limited partnership may be made by

(1) leaving a summons and a copy of the complaint with any general partner personally, or

(2) leaving a summons and a copy of the complaint with a person in charge of a partnership office or business establishment at such office or place of business and sending a summons and a copy of the complaint by registered mail, addressed to any general partner at his usual place of abode or last known address.

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

600.1918 Civil action; service of process on person doing business under assumed name.

Sec. 1918. Process issued from any court of record against an individual doing business under an assumed name may be served upon the individual, or by leaving the process during regular office or business hours at the office or place of business of the individual with any person in charge thereof.

History: Add. 1962, Act 187, Imd. Eff. May 24, 1962.

600.1920 Process; service on corporation; insurers.

Sec. 1920. Service of process upon a corporation, whether domestic or foreign, may be made by

(1) leaving a summons and a copy of the complaint with any officer or the resident agent, or

(2) leaving a summons and a copy of the complaint with any director, trustee, or person in charge of any office or business establishment and sending a summons and a copy of the complaint by registered mail, addressed to the principal office of the corporation, or

(3) leaving a summons and a copy of the complaint with any of the persons who may have been the last presiding officer, president, cashier, secretary, or treasurer, in the case of any corporation which may have ceased to do business by failing to keep up its organization by the appointment of officers or otherwise, or whose term of existence may have expired by limitation, or

(4) mailing a summons and a copy of the complaint by registered mail to the corporation or an appropriate corporation officer and to the Michigan corporation and securities commission if:

(a) the corporation has failed to appoint and maintain a resident agent or to file a certificate of such appointment as by law required; or

(b) the corporation has failed to keep up its organization by the appointment of officers or otherwise, or the term of whose existence has expired by limitation.

In all cases in which an insurer is a defendant, service shall not be made by leaving a summons and a copy of the complaint with a resident agent; and in cases in which a defendant is a foreign insurer, 2 summonses and a copy of the complaint shall be delivered to or mailed to the office of the commissioner of insurance by registered mail.

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

600.1923 Process; service on partnership association or unincorporated voluntary association.

Sec. 1923. Service of process upon a partnership association or unincorporated voluntary association may be made by leaving a summons and a copy of the complaint with any officer, director, trustee, agent, or person in charge of an office or business establishment, and sending a summons and a copy of the complaint by registered mail, addressed to any office of the partnership association or unincorporated voluntary association. If no office can be found, a summons and a copy of the complaint shall be mailed by registered mail to a member of such association other than the person with whom a summons and complaint was left.

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

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600.1925 Process; service on public, municipal or governmental corporation, boards, or bodies.

Sec. 1925. Service of process upon public, municipal, quasi-municipal, or governmental corporations, unincorporated boards, or public bodies, may be made by leaving a summons and a copy of the complaint with

(1) the chairman of the board of supervisors or the county clerk, in the case of counties;

(2) the mayor, city clerk, or city attorney, in the case of cities;

(3) the president or village clerk, or in their absence with any of the trustees, in the case of villages;

(4) the supervisor or township clerk, in the case of townships;

(5) the president, secretary, or treasurer, in the case of school districts;

(6) the president or secretary, in the case of the state board of education;

(7) the president, secretary, or other member of the governing body, in the case of any corporate body or unincorporated board, now or hereafter having charge or control of any state institution;

(8) The president, chairman, secretary, manager, or clerk, in the case of any other public body organized or existing under the constitution or any law of this state, when by statute no other method of service is specially provided.

The service of process may be made on any officer having substantially the same duties as those named or described irrespective of their titles. In any case, service may be made by leaving a summons and a copy of the complaint with a person in charge of the office of any of the above-described officers upon whom service may be made and sending by registered mail a summons and a copy of the complaint addressed to such officer at his office.

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

600.1930 Process; service on individual's agent or public officer.

Sec. 1930. Service of process upon any defendant may be made by leaving a summons and a copy of the complaint with an agent authorized by written appointment or by law to receive service of process. Whenever, pursuant to statute, service of process is to be made on a nongovernmental defendant by service on a public officer, the service on the public officer may be made by registered mail addressed to his office.

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

600.1940 Process; personal jurisdiction not required; service of process.

Sec. 1940. In all civil actions in which personal jurisdiction over a defendant is not required, the court may order the defendant to answer or take such other action as may be permitted by law. The order shall be made after the plaintiff, his attorney, or an agent having knowledge of the facts files an affidavit dated not more than 10 days prior thereto showing 1 or more of the following facts:

(1) the defendant resides outside the state;

(2) the whereabouts of the defendant and his residence are unknown;

(3) a summons has been returned showing that service of process cannot be made in the county where the action is pending.

Every such affidavit shall state either the defendant's address, the defendant's last known address, or that no address of the defendant is known.

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

600.1945 Process; order for substituted service; contents; unknown defendants.

Sec. 1945. The order shall contain the name of the court, the names of the parties, directions as to where and when to answer or take such other action as may be permitted by law, a statement describing the nature of the proceedings, and a statement as to the effect of failure to take the indicated steps. If the names of some or all of the defendants are unknown, the order shall describe the relationship of the unknown defendants to the matter to be litigated in the best way possible, as for example, unknown claimant, unknown owners, unknown heirs, devisees, legatees, or assigns of a named person.

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

600.1947 Notice of pendency of action; publication.

Sec. 1947. The defendant may be notified of the pendency of the action and his obligation thereto by:

(1) publishing a copy of the order in a newspaper at least once each week for 4 consecutive weeks or for such further time as the court may require, and

(2) mailing on or before the date of the second publication a copy of the order to the defendant at his address which the plaintiff knows or should by diligent inquiry be expected to know. When the address of any

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defendant is not known and cannot be ascertained upon diligent inquiry, a copy of the order shall be mailed to the defendant at his last known address. If the plaintiff does not know, and cannot ascertain, upon diligent inquiry, the present or last known address of the defendant, mailing a copy of the order is not required.

Publication is not necessary if a copy of the order has been served upon the defendant in person or by registered mail at least 20 days before the time prescribed for the answer of such defendant, and in case of service by registered mail an official return receipt signed by the defendant is attached to the affidavit of service.

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

600.1950 Newspaper; definition.

Sec. 1950. (1) The term "newspaper" is limited to a newspaper published in the English language for the dissemination of local or transmitted news and intelligence of a general character or for the dissemination of legal news, which has a bona fide list of paying subscribers or has been published at not less than weekly intervals in the same community without interruption for at least 2 years, and has been established, published, and circulated at not less than weekly intervals without interruption for at least 1 year in the county where the court is situated.

(2) If no newspaper so qualifies in the county where the court is situated, the term "newspaper" shall include any newspaper in an adjoining county which by this section is qualified to publish notice of actions commenced therein.

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

600.1951 Mailing of service; manner.

Sec. 1951. Mailing under section 1947 shall be accomplished by complying with the following:

(1) Enclosing a copy of the order as above described in a sealed envelope with first class postage fully prepaid addressed to the defendant at the address hereinbefore required, on which envelope there is listed a return address to which it can be returned in case delivery cannot be made.

(2) Depositing the envelope and contents in the United States government mail.

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

600.1955 Substituted service; proof.

Sec. 1955. Service of process made pursuant to sections 1940 to 1960 shall be proved as follows:

(1) If made by publication, by an affidavit of the publisher or his agent

(a) stating facts establishing the qualification of the newspaper in which the order was published,

(b) setting out a copy of the published order,

(c) stating the dates on which it was published.

(2) If made by mailing, by an affidavit of 1 or more persons who are not parties to the litigation

(a) setting out a copy of the order mailed,

(b) stating facts to establish that such order was sealed in an envelope addressed to the defendant, setting out the name of the defendant and the address to which it was sent,

(c) stating facts to establish where and when the envelope was deposited in the United States government mail,

(d) stating the amount of postage placed on the envelope and that this was sufficient as required by postal regulations to permit first class passage of the envelope,

(e) stating the facts to establish the return address on the envelope.

(3) Whenever mailing is not required under section 1947, an affidavit by the plaintiff or his attorney or the agent of either having knowledge of the facts shall be filed within 10 days after the date of the second publication of a copy of the order. The affidavit shall set forth facts justifying the failure to mail and shall include a showing of diligent inquiry. The person to whom an envelope, mailed under section 1947, is returned shall report to the court by affidavit the fact of the return together with the returned envelope.

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

600.1960 Substituted service; jurisdiction on defendant's interest.

Sec. 1960. Service of process pursuant to sections 1940 to 1960 does not give personal jurisdiction over the person of the defendant but is a reasonable means of notice to the defendant to subject the appropriate interest of the defendant in the matters described in chapter 7 of this act to the jurisdiction of the court.

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

600.1965 Pleader; service of papers; default; effect.

Sec. 1965. (1) Unless otherwise specifically provided by this act, any party who has filed a pleading or

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motion shall be served with every written paper subsequently filed in the action, including a default if one has been entered against him.

(2) After a default has been served, further service of such papers need not be made upon the party against whom the default has been taken, except that

(a) further service upon him shall be made if he has filed an appearance or a demand therefor in writing, and

(b) subsequent pleadings asserting new and additional claims for relief against him shall be served in the same manner provided for service of summons and complaint.

(3) Whenever an attorney appears in behalf of a person who has not received a copy of the complaint, a copy of the complaint shall be delivered to him on his request.

(4) All papers filed on behalf of any defendant shall be served on all other defendants who are not in default.

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

600.1968 Service of papers; attorneys; contempt.

Sec. 1968. (1) Except for the original service of the complaint and summons, service required or permitted to be made upon a party represented by an attorney shall be made upon the attorney, unless service upon the party is ordered by the court.

(2) If 2 or more attorneys represent the same party or parties, service of papers upon any one of such attorneys is sufficient. If 1 attorney appears for several parties, he is entitled to only 1 copy of any paper served upon him.

(3) Whenever a party prosecutes or defends his action in person, service of papers shall be made upon him in the manner provided in section 1970.

(4) When proceedings for contempt for disobeying any order of the court are initiated, the notice or order shall be personally delivered to such party, unless otherwise specially ordered by the court.

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

600.1970 Service of papers; delivery to attorney; party; mailing.

Sec. 1970. Service upon the attorney shall be made by delivering a copy to him or by mailing a copy to him at his last known business address or, if he has no business address, then to his last known residence address. Service upon a party shall be made by delivering a copy to him or by mailing a copy to him at his address as stated in his pleadings.

(1) Delivery of a copy to an attorney means:

(a) handing it to the attorney personally; or

(b) leaving it at his office with his clerk or with some person in charge or, if no one is in charge or present, by leaving it in some conspicuous place therein; or

(c) if the office is closed or the attorney has no office, by leaving it at his usual place of abode with some person of suitable age and discretion residing therein.

(2) Delivery of a copy to a party means:

(a) handing it to the party personally; or

(b) leaving it at his usual place of abode with some person of suitable age and discretion residing therein.

(3) Mailing of a copy means enclosing it in a sealed envelope with first class postage fully prepaid addressed to the person to be served and depositing the envelope and its contents in the United States government mail. Service by mailing is complete upon mailing.

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

600.1971 Service of papers; proof of service; filing.

Sec. 1971. Except as otherwise provided by sections 1912 to 1960, proof of service of all papers required or permitted to be served may be by written acknowledgment of service, by affidavit of the person making service, or by any other proof satisfactory to the court. Proof of such service shall be filed at or prior to the time of hearing.

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

600.1972 Service of papers; inability to make; direction of court.

Sec. 1972. Whenever service of papers subsequent to the original complaint cannot reasonably be made because of lack of an attorney of record or the inability to find a party or for any other reason, the court in which the action is pending, for cause shown on ex parte application, may direct in what manner and upon whom service may be made.

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

600.1973 Service of papers; numerous parties.

Sec. 1973. In any action in which there are unusually large numbers of parties on the same side, the court upon motion or of its own initiative may order that service of their pleadings and replies thereto need not be made as between them, and that any cross claim, counterclaim, or matter constituting an avoidance or affirmative defense in such pleadings shall be deemed to be denied or avoided by the parties not served, and that the filing of any such pleading and service thereof upon an adverse party constitutes due notice of it to all parties. A copy of every such order shall be served upon all parties in such manner and form as the court directs.

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

600.1974 Filing with court; definition.

Sec. 1974. The filing of pleadings and other papers with the court shall be made by filing them with the office of the clerk of the court, except that the judge may permit the papers to be filed with him, in which event he shall note thereon the filing date and forthwith transmit them to the office of the clerk of the court.

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

CHAPTER 20
PARTIES

600.2001 Married women; actions by and against.

Sec. 2001. Actions may be brought by and against a married woman as if she were unmarried.

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

600.2005 Married women; tort; action against both spouses.

Sec. 2005. No suit may be brought against husband and wife, jointly, or against the husband alone, for any tort of the wife, unless such tort was committed under such circumstances as to render them both liable.

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

600.2011 Indians; judicial rights and privileges.

Sec. 2011. All Indians are capable of suing and being sued in any of the courts of this state in like manner and with the same effect as other inhabitants thereof, and are entitled to the same judicial rights and privileges.

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

600.2021 Foreign corporations; actions based on forbidden acts; exceptions.

Sec. 2021. (1) If a law of this state prohibits a corporation or an association of individuals from performing an act unless the act is expressly authorized by law, and the act is done by a foreign corporation, the foreign corporation shall not maintain an action based on that act, or upon any liability or obligation, express or implied, arising out of or made or entered into in consideration of that act.

(2) Subsection (1) does not apply to a foreign corporation subject to the business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098, or the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 2002, Act 438, Imd. Eff. June 11, 2002.

600.2031 Counties; actions by or against.

Sec. 2031. Whenever any controversy or cause of action exists between any of the counties of this state, or between any county and any individual or individuals, such proceedings may be had for the purpose of trying and finally settling such controversy, and the same shall be conducted in like manner, and the judgment therein shall have the like effect, as in other suits or proceedings between individuals and corporations.

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

600.2041 Real party in interest; actions on official or personal bonds; taxpayer's suit.

Sec. 2041. Every action shall be prosecuted in the name of the real party in interest; but an executor, administrator, guardian, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by statute may sue in his own name without joining with him the party for whose benefit the action was brought, and further

(1) an action upon the bond of any public officer required to give bond to the people of this state may be brought in the name of the person to whom the right thereon accrues; and

(2) an action upon any bond, contract, or undertaking lawfully made with an officer of this state or any

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governmental unit, including but not limited to a public, municipal, quasi-municipal, or governmental corporation, unincorporated board, public body, or political subdivision, may be brought in the name of the state or any such unit for whose benefit the contract was made; and

(3) an action to prevent the illegal expenditure of state funds or to test the constitutionality of a statute relating thereto may be brought in the name of a domestic nonprofit corporation organized for civic, protective, or improvement purposes, or in the names of at least 5 residents of this state who own property assessed for direct taxation by the county wherein they reside.

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

600.2045 Guardian ad litem for unborn persons.

Sec. 2045. (1) If in an action or proceeding, other than in probate court, it appears that a person not in being may become entitled to a property interest, real or personal, legal or equitable, involved in or affected by the action or proceeding, and the interest of the unborn person is not or cannot otherwise properly be represented and protected, the court, upon its own motion, or upon the motion of any party, may appoint a suitable person to appear and act as guardian ad litem of the unborn person. The guardian ad litem is authorized to engage counsel and do whatever is necessary to defend and protect the interest of the unborn person. A judgment or order made after the appointment shall be conclusive upon the unborn person for whom a guardian was appointed.

(2) The guardian ad litem may be removed by the court which appointed him, without notice, when it appears to the court to be for the best interests of the ward. The guardian ad litem may be allowed reasonable compensation by the court appointing him, to be paid and taxed as a cost of the proceedings as directed by the court.

History: Add. 1968, Act 292, Eff. Nov. 15, 1968.

600.2051 Capacity to sue or be sued; assumed name; partnerships; unincorporated voluntary associations; corporations; state; governmental units; officers.

Sec. 2051. (1) Any natural person may sue or be sued in his own name. A person conducting a business under a name subject to certification pursuant to the assumed name statute may be sued in such name in an action arising out of the conduct of such business.

(2) A partnership, partnership association, or any unincorporated voluntary association having a distinguishing name may sue or be sued in its partnership or association name, or in the names of any of its members designated as such or both.

(3) A corporation, either domestic or foreign, may sue or be sued in its corporate name, except as otherwise provided by statute.

(4) Actions to which this state or any governmental unit, including but not limited to a public, municipal, quasi-municipal, or governmental corporation, unincorporated board, public body, or political subdivision is a party may be brought by or against such party in its own name, or in the official capacity of an officer authorized to sue or be sued in its behalf, except that an officer of the state or any such unit shall be sued in his official capacity for the purpose of enforcing the performance by him of an official duty. Whenever any officer sues or is sued in his official capacity, he may be described as a party by his official title and not by name, subject to the discretion of the court, upon its own motion or that of any party, to require his name to be added.

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

CHAPTER 21
EVIDENCE

600.2101 Cases tried without jury; objections to testimony or evidence; exclusion of testimony from record; taking of excluded testimony; return of excluded testimony to court of appeals or supreme court.

Sec. 2101. In all cases tried without a jury, the court shall rule upon all objections to the competency, relevancy, or materiality of testimony, or evidence offered; and in all cases where the court is of the opinion that any testimony offered is incompetent, irrelevant, or immaterial, the same shall be excluded from the record. If the testimony so offered and excluded is brief, the court may in its discretion permit the same to be taken down by the reporter or recorder separate and apart from the testimony received in the case; and in case of appeal, the excluded testimony may be returned to the appellate court under the certificate of the trial court. If the excluded testimony is not taken and returned to the court of appeals or supreme court on appeal, and upon the hearing of the appeal, the court of appeals or supreme court shall be of the opinion that the testimony

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is competent and material, it may order that the testimony be taken by deposition or under a reference, and returned to the court.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1986, Act 308, Eff. Jan. 1, 1987.

600.2102 Affidavit taken in other state or country; authentication.

Sec. 2102. In cases where by law the affidavit of any person residing in another state of the United States, or in any foreign country, is required, or may be received in judicial proceedings in this state, to entitle the same to be read, it must be authenticated as follows:

(1) It must be certified by the consul general, deputy consul general, or some consul or deputy consul of the United States resident in such foreign country, to have been taken and subscribed before him, specifying the time and place where taken and have the consular seal attached; or

(2) It must be certified by some judge of a court having a seal to have been taken and subscribed before him, specifying the time and place where taken;

(3) The genuineness of the signature of such judge, the existence of the court and the fact that such judge is a member thereof, must be certified by the clerk of the court under the seal thereof;

(4) If such affidavit be taken in any other of the United States or in any territory thereof, it may be taken before a commissioner duly appointed and commissioned by the governor of this state to take affidavits therein, or before any notary public or justice of the peace authorized by the laws of such state to administer oaths therein. The signature of such notary public or justice of the peace, and the fact that at the time of the taking of such affidavit the person before whom the same was taken was such notary public or justice of the peace, shall be certified by the clerk of any court of record in the county where such affidavit shall be taken, under the seal of said court.

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

600.2103 Judicial records of other states or countries; use as evidence; authentication.

Sec. 2103. The records and judicial proceedings of any court in the several states and territories of the United States and of any foreign country shall be admitted in evidence in the courts of this state upon being authenticated by the attestation of the clerk of such court with the seal of such court annexed, or of the officer in whose custody such records are legally kept with the seal of his office annexed.

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

600.2104 Judicial records of foreign countries; copies as evidence.

Sec. 2104. Copies of such records and proceedings in the courts of a foreign country, may also be admitted in evidence upon due proof:

(1) That the copy offered has been compared by the witness with the original, and is an exact copy of the whole of such original;

(2) That such original was in the custody of the clerk of the court or other officer legally having charge of the same; and

(3) That such copy is duly attested by a seal, which shall be proved to be the seal of the court in which such record or proceeding shall be.

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

600.2105 Judicial records of foreign countries; proof by common law methods.

Sec. 2105. Sections 2103 and 2104 shall not prevent the proof of any record or judicial proceedings of the courts of any foreign country, according to the rules of the common law, in any other manner than that herein directed.

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

600.2106 Court order, judgment, or decree of court of record; certified copy as evidence.

Sec. 2106. A copy of any order, judgment or decree, of any court of record in this state, duly authenticated by the certificate of the judge, clerk or register of such court, under the seal thereof, shall be admissible in evidence in any court in this state, and shall be prima facie evidence of the jurisdiction of said court over the parties to such proceedings and of all facts recited therein, and of the regularity of all proceedings prior to, and including the making of such order, judgment or decree.

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

600.2107 Public records; certified transcript as evidence.

Sec. 2107. Copies of all papers, records, entries and documents, required or permitted by law to be filed by any public officer in his office, or to be entered or recorded therein and duly filed, entered or recorded

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according to law, certified by such officer to be a true transcript compared by him with the original in his office, shall be evidence in all courts and proceedings, in like manner as the original would be if produced.

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

600.2108 Secretary of state; certificate of nonexistence of record.

Sec. 2108. Whenever the secretary of state charged with the legal custody of any paper, document or record shall certify that he has made diligent examination in his office for such paper, document or record and no such paper, document or record exists, such certificate shall be prima facie evidence of the facts so certified, in all causes, matters and proceedings in the same manner and with the like effect as if such officer had personally testified to the same in the court, or before the officer before whom such cause, matter or proceeding may be pending.

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

600.2109 Recorded conveyance and instruments; certified copies.

Sec. 2109. All conveyances and other instruments authorized by law to be filed or recorded, and which shall be acknowledged or proved according to law, and if the same shall have been filed or recorded, the record, or a transcript of the record, or a copy of the instrument on file certified by the officer in whose office the same may have been filed or recorded, may be read in evidence in any court within this state without further proof thereof; but the effect of such evidence may be rebutted by other competent testimony.

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

600.2110 Recorded conveyances and instruments; record in county other than situs; certified copies.

Sec. 2110. The record of deeds or other instruments affecting the title to lands in this state heretofore recorded in counties in any state other than the county in which the lands described therein are located, or a certified copy thereof, shall be deemed prima facie evidence of the execution and delivery of such instrument, and as such shall be received in all courts in this state, and such certified copy may be recorded in the county in which such land is situated, with like effect as the original deed or other instrument.

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

600.2111 Certificate of lost paper as evidence of loss.

Sec. 2111. Whenever any officer to whom the legal custody of any paper, document or record shall belong, shall certify that he has made diligent examination in his office for such paper, document or record, and that it cannot be found, such certificate shall be presumptive evidence of the facts so certified, in all causes, matters and proceedings in the same manner and with the like effect as if such officer had personally testified to the same in the court, or before the officer before whom such cause, matter or proceeding may be pending.

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

600.2112 Certificates of justices of the peace of other states as evidence.

Sec. 2112. The official certificate of any justice of the peace within any other state of the United States, of the proceedings and judgment in any case before him as such justice, with the certificate of the clerk of any court of record in the county or district in which such justice has executed his office, attested by his official seal, setting forth that the signature to the certificate of the justice is genuine, and that he was such justice at the date of such proceedings and judgment, shall be sufficient evidence of such proceedings and judgment.

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

600.2113 Constitution, laws, and resolutions; official publication as evidence.

Sec. 2113. The printed copies of the constitution, laws and resolutions of this state, whether of a public or private nature, which shall be published under the authority of the government, shall be admitted as sufficient evidence thereof in all courts, and in all proceedings within this state.

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

600.2114 Repealed. 1967, Act 178, Eff. Nov. 2, 1967.

Compiler's note: The repealed section stated conditions under which printed copies of constitution, laws, and resolutions of any other of the United States, of territory thereof, or of any foreign state were admissible as prima facie evidence thereof and authorized Michigan courts to take judicial notice of them.

600.2114a Issues of foreign law; notice; evidence; duties of court; review on appeal.

Sec. 2114a. A party who intends to raise an issue concerning the law of any jurisdiction or governmental unit thereof outside this state shall give notice in his pleadings or other reasonable written notice. In

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determining the law of any jurisdiction or governmental unit thereof outside this state, the court may consider any relevant material or source, including testimony, whether or not submitted by a party or admissible under the rules of evidence. The court, not jury, shall determine the law of any governmental unit outside this state. Its determination is subject to review on appeal as a ruling on a question of law.

History: Add. 1967, Act 178, Eff. Nov. 2, 1967.

600.2115 Repealed. 1967, Act 178, Eff. Nov. 2, 1967.

Compiler's note: The repealed section stated conditions under which printed books or pamphlets would be admissible as prima facie evidence of session or other statutes of any of the United States, of territories thereof or of any foreign jurisdiction.

600.2116 Laws, bylaws, regulations, resolutions, and ordinances of city, village, or township as evidence.

Sec. 2116. All laws, bylaws, regulations, resolutions, and ordinances of the common council or of the board of trustees of an incorporated city or village or the township board of a township in this state may be read in evidence in all courts and in all proceedings before any officer, body, or board in which it is necessary to refer thereto, from a record thereof, kept by the clerk or recorder of the city, village, or township; or from a printed copy thereof, purporting to have been published by authority of the common council, board of trustees, or township board, in a newspaper published in such city, village, or township; or from any volume of ordinances, codification, or compilation of ordinances purporting to have been printed by authority of the common council or board of trustees of such city, village, or township; and the record, certified copy, volume, codification, or compilation shall be prima facie evidence of the existence and validity of such laws, regulations, resolutions, and ordinances, without proof of the enactment, publishing, or any other thing concerning the same.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1973, Act 140, Imd. Eff. Nov. 13, 1973.

600.2117 Device by way of seal as evidence of seal.

Sec. 2117. Any device affixed to any deed or instrument in writing by way of seal, by any person signing the same, executed since the thirty-first day of December, 1827, or hereafter to be executed, shall be received in all courts, and upon all occasions as evidence that the same deed or instrument was duly sealed, and equally valid and effectual, as if the same had been actually sealed; but this section shall not apply to official and corporate seals, in cases where, according to law, an actual sealing may be required.

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

600.2118 Repealed. 1967, Act 178, Eff. Nov. 2, 1967.

Compiler's note: The repealed section stated that common law of any other of the United States, of any territory thereof, or of any foreign state could be proved as facts by parol evidence, that books of reports of cases adjudged in their courts could be admitted as evidence of such law, and that courts could take judicial notice thereof just as in case of statutes.

600.2118a Foreign records and laws; evidence; copies, certification.

Sec. 2118a. (1) An official record kept within the United States, or any state, district, commonwealth, territory, insular possession thereof, or the Panama Canal zone, the trust territory of the Pacific islands or the Ryukyu islands, or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied by a certificate that the officer has the custody. The certificate may be made by a judge of a court of record having jurisdiction in the governmental unit in which the record is kept, authenticated by the seal of the court, or by any public officer having a seal of office and having official duties in the governmental unit in which the record is kept, authenticated by the seal of his office.

(2) A foreign official record, or an entry therein, when admissible, for any purpose, may be evidenced by an official publication or copy thereof, attested by a person authorized to make the attestation, and accompanied by a final certification as to the genuineness of the signature and official position of the attesting person, or of any foreign official whose certificate of genuineness of signature and official position either relates to the attestation or is in a chain of certificates of genuineness of signature and official position relating to the attestation. A final certification may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States. If reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of the documents, the court, for good cause shown, may admit an attested copy without final certification or permit the foreign official record to be evidenced by an attested summary with or without a final certification.

(3) The statutes, codes, written laws, executive acts or legislative or judicial proceedings of any domestic

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or foreign jurisdiction or governmental unit thereof may also be evidenced by any publication proved to be commonly accepted as proof thereof in the tribunals having jurisdiction in that governmental unit.

(4) A written statement that after diligent search no record or entry of a specified tenor is found to exist in the records designated by the statement, authenticated as provided in this act in the case of a domestic record, or complying with the requirements of this act for a summary in the case of a record in a foreign country, is admissible as evidence that the records contain no such record or entry.

(5) The proof of official records of entry or lack of entry therein may be made by any other method authorized by law.

History: Add. 1967, Act 178, Eff. Nov. 2, 1967.

600.2119 Judgment; record of certified copy as evidence.

Sec. 2119. Whenever any certified copy of a judgment or decree shall have been, or shall be recorded in any register of deeds' office, such record may be read in evidence in all courts of this state, with like force and effect as such certified copy.

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

600.2120, 600.2121 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

Compiler's note: The repealed sections pertained to proof of proceedings before justice of peace.

600.2122 Certified as evidence; United States land office records.

Sec. 2122. Copies of all papers, documents, plats, maps, entries, or records filed, entered, or recorded in any land office of the United States situated in the state of Michigan, certified by the register or receiver of such land office to be a correct transcript compared by him with the original in said land office, shall be evidence in all courts and proceedings in like manner and to the same extent as the original would be if produced.

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

600.2123 Certified copies as evidence; records of board of control of Saint Mary's Falls ship canal.

Sec. 2123. Copies of all papers, documents, maps, plats, entries, or records filed with the board of control of the Saint Mary's Falls ship canal, or entered in the records of the proceedings of the board of control, certified by the state treasurer of this state to be a true transcript compared by the state treasurer with the original in the office of the board of control, shall be evidence in all courts and proceedings in like manner and to the same extent as the original would be if produced.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 2002, Act 429, Imd. Eff. June 5, 2002.

600.2124 Certified copies as evidence; United States weather record.

Sec. 2124. Any copy of the record of observations in regard to the condition of the weather taken under the direction of the department of agriculture of the United States, or any other federal agency, when certified by the officer in charge thereof at the place where the same is taken and kept, that the same is a true copy of the record on file in said department or agency, may be received in evidence in any civil or criminal cause in any court, and shall be prima facie evidence of the facts and circumstances therein contained and stated.

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

600.2125 Proof of publication; notice of application to court or judicial officer.

Sec. 2125. When notice of any application to any court or judicial officer for any proceeding authorized by law, is required by law to be published in 1 or more newspapers, an affidavit of the publisher of any such paper, or of his agent, annexed to a printed copy of such notice taken from the paper in which it was published, and specifying the times when, and the paper in which such notice was published may be filed with the proper officer of the court, or with the judicial officer before whom such proceeding shall be pending, at any time within 6 months after the last day of the publication of such notice.

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

600.2126 Proof of publication; notice of sale of real property.

Sec. 2126. When any notice of a sale of real property is required by law to be published in any newspaper, an affidavit of the publisher of such paper, or of his agent, annexed to a printed copy of such notice taken from the paper in which it was published, may be filed at any time within 6 months after the last day of such publication, with the county clerk of the county in which the premises sold are situated, or if such sale were made in pursuance of the order of any judge of probate or circuit court, such affidavit may be filed with such

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judge of probate or with a clerk of such circuit court, as the case may be.

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

600.2127 Proof of publication; presumptive evidence.

Sec. 2127. The original affidavit so filed pursuant to the 2 last sections 2125 and 2126, and copies thereof duly certified by the officer in whose custody the same shall be, shall be presumptive evidence in all cases, of the facts contained in such affidavits.

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

600.2128 Proof of publication; prima facie evidence.

Sec. 2128. The affidavit of the publisher of a public newspaper, published in this state, or the affidavit of his agent, of the publication of any notice or advertisement, which by any law of this state shall be required to be published in such newspaper, shall be entitled to be read in all courts of justice in this state, and in all proceedings before any officer, body or board in which it shall be deemed necessary to refer thereto, and shall be prima facie evidence of such publication, and of the facts therein stated.

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

600.2129 Proof of publication; copy of record of document; certification; court orders; seal.

Sec. 2129. (1) Whenever a certified copy of any affidavit, record, document or paper, is declared by law to be evidence, such copy shall be certified by the clerk or officer in whose custody the same is by law required to be, to have been compared by him with the original, and to be a correct transcript therefrom, and of the whole of such original; and if such officer have any official seal by law, such certificate shall be attested by such seal; and if such certificate be given by the clerk of any county, in his official character as such clerk, it shall be attested by the seal of the court of which he is clerk.

(2) But this section shall not be construed to require the affixing of the seal of any court to any certified copy of any rule or order made by such court, or of any paper filed therein, when such copy is used in the same court or before any officer thereof; nor to require the seal of the supreme court to be affixed to a certified copy of any rule or order of that court, when used in any circuit court.

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

600.2130 Schedules, classifications, tariffs, and supplements filed with regulatory commissions; copies as evidence; presumption.

Sec. 2130. Printed copies of schedules and classifications and tariffs of rates, fares and charges, and supplements thereto, filed with any federal or state regulatory commission, which show respectively the number assigned to them by such commission which may be stated in abbreviated form, and an effective date, may be received in evidence without certification, and shall be presumed to be correct copies of the original schedules, classifications, tariffs, and supplements on file with such commission.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1972, Act 141, Imd. Eff. May 22, 1972.

600.2131 Written instruments; proof; acknowledgment.

Sec. 2131. Every written instrument, except promissory notes and bills of exchange, and except the last wills of deceased persons, may be proved or acknowledged in the manner now provided by law, for taking the proof or acknowledgment of conveyances of real estate, and the certificate of the proper officer endorsed thereon, shall entitle such instrument to be received in evidence on the trial of any action, with the same effect, and in the same manner, as if such instrument were a conveyance of real estate.

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

600.2132 Marriage certificates and records as evidence.

Sec. 2132. The original certificates and records of marriage made by the minister, judge, or other person authorized to solemnize marriages, as prescribed by law, and the record thereof made by the county clerk, or a copy of such record, duly certified by the clerk, shall be received in all courts and places as presumptive evidence of the fact of the marriage.

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

600.2133 Marriage license or certificate; record as evidence.

Sec. 2133. The record of any license to marry, or of any marriage certificate, in any county clerk's office, or a certified copy thereof, shall be prima facie evidence in any court or proceedings in this state, with the same force and effect as if the original were produced, both as to the facts therein contained and as to the genuineness of the signatures thereto.

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

600.2134 Purchase of public lands; certificates as evidence.

Sec. 2134. Certificates of the purchase of public lands, signed by the receiver, shall be evidence in any court in this state, that the possession of the lands described in said certificate or certificates, is in the person or persons, his, her, or their heirs or assigns, holding said certificate or certificates, as against any person or persons, not having a better title to such land than actual possession.

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

600.2135 Breed of horses; evidence.

Sec. 2135. Whenever it becomes necessary to show the breeding of any horse in any action at law or in equity, the same may be shown by Wallace's year book, Wallace's American trotting register, the American Percheron horse breeders' and importers' association, Percheron society of America, the American Percheron horse breeders' association or the Percheron stud book of America; and whenever a horse is registered in any of the registers aforesaid, or with said society or either of said associations, the record of such registration or the society's or association's certificate of such registration under its corporate seal shall be prima facie evidence of the breeding of such horse.

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

600.2136 Library record, book, or paper; copy or reproduction admissible as evidence; fee; false certification; penalty.

Sec. 2136. (1) A copy of a record, book, or paper belonging to or in the custody of a public, college, or university library, or an incorporated library society, if accompanied by a sworn statement by the librarian or other person in charge of the record, book, or paper, that the copy is a true copy of the original in his or her custody, is admissible as evidence in a court or proceeding in like manner and to the same extent as the original would be if produced.

(2) A reproduction of a record, book, paper, or document belonging to or in the custody of a public, college, or university library, or an incorporated library society, in a medium pursuant to the records media act or a reproduction consisting of a printout or other output readable by sight from such a medium, if accompanied by a sworn statement made by the librarian or other person in charge of the record, book, paper, or document, stating that the reproduction is made under his or her supervision or that of a duly authorized representative, and that nothing has been done to alter or change the original, that the reproduction is true to the original in his or her custody, is admissible as evidence in a court or proceeding in like manner as the original would be if produced.

(3) For making and certifying a copy under subsection (1), a fee of 25 cents may be charged. For making and certifying each reproduction under subsection (2), a fee of $1.00 may be charged. If the reproduction is a photocopy, the fee shall not exceed $1.00 and a further charge of 10 cents per folio and 50 cents per sheet for photocopies actually made.

(4) A person who certifies falsely under subsection (1) or (2) is guilty of a felony punishable by the same penalty provided by statute for perjury.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1992, Act 192, Imd. Eff. Oct. 5, 1992.

600.2137 Reproduction of court records; maintenance in archives; disposition or destruction of records; reproduction or copy admissible in evidence.

Sec. 2137. (1) If a public officer reproduces court records kept by him or her pursuant to the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406, the officer may offer the original records to the department or state agency responsible for maintaining the state archives for placement in the state archives. If the department or state agency responsible for maintaining the state archives accepts the offer within 30 days, the court shall transfer the records to that department or state agency. If the department or state agency responsible for maintaining the state archives does not accept the offer within 30 days, the court may dispose of or destroy the records in the manner provided for state agencies under sections 285 and 287 of the management and budget act, 1984 PA 431, MCL 18.1285 and 18.1287, and section 5 of 1913 PA 271, MCL 399.5. The record of a court shall not be disposed of or destroyed until the record has been in the custody of the court for not less than 6 years.

(2) In a county or probate court district in which the county board or boards of commissioners pass a resolution or resolutions for reproducing records pursuant to the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406, the judge of probate may have the records of the probate court reproduced in accordance with the resolution or resolutions. The judge of probate shall have a copy or a duplicate kept in a building

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outside of the probate office and shall keep a copy available in the probate office with any suitable equipment necessary for displaying the record at not less than its original size or for preparing copies for persons entitled to copies. The judge of probate then may order a record destroyed. A reproduction in a medium pursuant to the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406, or a reproduction consisting of a printout or other output readable by sight from such a medium is admissible as evidence before a court, commission, or administrative body the same as the original. The original file of an estate proceeding shall not be destroyed until 6 years after the date the discharge of the fiduciary is filed or 10 years after the last document is filed, whichever occurs first.

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

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

(a) The judgment or decree, if any, shall be reproduced pursuant to the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406, or separated and retained, and the original or reproduction shall be made available for public inspection.

(b) The circuit court shall offer the files and records, subject to the order of destruction, to the Michigan historical commission established by section 1 of 1913 PA 271, MCL 399.1, or a historical commission created under section 2 of 1957 PA 213, MCL 399.172. If the historical commission accepts the offer within 30 days, the circuit court shall transfer the files and records to the historical commission. If the historical commission does not accept the offer within 30 days, the circuit court shall issue an order of destruction.

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

(6) Except for records described in subsection (3), this section only applies to records filed with the court and maintained by the court clerk or register.

History: 1961, Act 236, Eff. Jan 1, 1963;—Am. 1964, Act 244, Eff. Aug. 28, 1964;—Am. 1975, Act 248, Imd. Eff. Sept. 4, 1975;—Am. 1984, Act 43, Imd. Eff. Mar. 26, 1984;—Am. 1986, Act 308, Eff. Jan. 1, 1987;—Am. 1992, Act 192, Imd. Eff. Oct. 5, 1992;—Am. 2001, Act 76, Imd. Eff. July 24, 2001;—Am. 2009, Act 239, Imd. Eff. Jan. 8, 2010.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries regarding state archives program to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

600.2138 Filed or recorded documents; copy or replacement; certification; admissibility as evidence; transcript or certified copy; filing or inserting correction, alteration, indorsement, or entry.

Sec. 2138. (1) If a public officer performing duties under this act is required or authorized by law to record, copy, recopy, or replace a document, plat, paper, written instrument, or book on file or of record in his or her office, the officer may do so pursuant to the records media act.

(2) If an original document, plat, paper, written instrument, record, or book of record filed or of record in the office of an officer described in subsection (1) is copied or replaced pursuant to subsection (1), and the officer is required by law to certify in or on the copy or replacement that it is a true and correct copy of the original, a copy of the certification by the officer, similarly made and included at the end of the copy or replacement, complies with the law.

(3) If produced under this or any other law, a copy, record, reproduction, or replacement or an enlarged reproduction of any of these is considered an original for all purposes and is admissible in evidence in like manner as the original.

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(4) A transcript or certified copy of a reproduction described in subsection (3) is considered a transcript or certified copy of the original.

(5) If a record or replacement of a record in the office of an officer described in subsection (1) is produced pursuant to this section, a correction, alteration, indorsement, or entry, required or authorized to be made of or on an instrument or paper or on the record of the instrument or paper, may be made by filing or inserting a copy or recopy, produced by the same process, of the page or part of the page, so corrected or altered or on which such indorsement or entry is made, next to the place where the copy or record of the instrument or paper is contained or in such other manner as the officer considers advisable or practicable.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1964, Act 244, Eff. Aug. 28, 1964;—Am. 1992, Act 192, Imd. Eff. Oct. 5, 1992.

600.2139 Seal; presumptive evidence of consideration.

Sec. 2139. In any action upon a sealed instrument, and where a counterclaim is founded on any sealed instrument, the seal thereof shall only be presumptive evidence of a sufficient consideration, which may be rebutted in the same manner, and to the same extent, as if such instrument were not sealed.

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

600.2140 Corporate existence; proof.

Sec. 2140. In any suit or proceeding, civil or criminal hereafter instituted in any of the courts of this state, wherein it shall become material or necessary to prove the incorporation of any company or corporation, or the existence of any joint stock company or association, whether the same be a foreign or domestic corporation, company, or association, evidence that such corporation, company, or association is doing business under a certain name shall be prima facie proof of its due incorporation or existence pursuant to law, and of its name.

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

600.2141 Copartnership; proof.

Sec. 2141. In any suit or proceeding hereafter instituted in any of the courts of this state, wherein it shall become material or necessary to prove the copartnership of any firm or association the plaintiffs may cause to be served upon the defendant, with a copy of the complaint filed in the cause, or with the process by which suit is commenced, an affidavit stating that the plaintiffs were the persons comprising such partnership at the time the contract in question was made, or the cause of action accrued; and such affidavit shall be prima facie evidence of such existence of such partnership or association, unless the defendant shall file with his plea an affidavit denying the existence of such partnership or association.

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

600.2142 Seal; prima facie proof of lawful execution of instruments by corporations, other firms.

Sec. 2142. Any corporation, joint stock company, or partnership association, limited, may have a common seal which it may alter at pleasure, and such seal affixed to any instrument purporting to be executed by any such corporation, joint stock company or partnership association, limited, foreign or domestic, shall be prima facie proof of the due adoption of said seal, and that it was affixed to said instrument by due authority, and that said instrument was in fact lawfully executed by such corporation, joint stock company or partnership association, limited.

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

600.2143 Subscribing witness to instrument need not be called; exception.

Sec. 2143. Whenever upon the trial of any action, civil or criminal, or upon the hearing of any judicial proceedings, a written instrument is offered in evidence, to which there is a subscribing witness, it shall not be necessary to call such subscribing witness, but such instrument may be proved in the same manner as it might be proved if there were no subscribing witness thereto, except in cases of written instruments to the validity of which 1 or more subscribing witnesses are required by law.

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

600.2144 Signature or handwriting; proof.

Sec. 2144. Whenever in any suit or proceeding in any of the courts of this state, it shall be necessary or proper to prove the signature or the handwriting of any person, it shall be competent to introduce in evidence for the purpose of comparison, any specimen or specimens of the handwriting or signature of such person, admitted or proved to the satisfaction of the court to be genuine, whether or not the paper on which such handwriting or signature appears is one admissible in evidence or connected with the case or not. If such

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paper is not one admissible in evidence for some other purpose, or connected with the case, it shall not be admissible in evidence for the purpose of comparison unless it was made before the controversy arose concerning which such suit or proceeding was brought.

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

600.2145 Open account or account stated; proof, counterclaim.

Sec. 2145. In all actions brought in any of the courts of this state, to recover the amount due on an open account or upon an account stated, if the plaintiff or someone in his behalf makes an affidavit of the amount due, as near as he can estimate the same, over and above all legal counterclaims and annexes thereto a copy of said account, and cause a copy of said affidavit and account to be served upon the defendant, with a copy of the complaint filed in the cause or with the process by which such action is commenced, such affidavit shall be deemed prima facie evidence of such indebtedness, unless the defendant with his answer, by himself or agent, makes an affidavit and serves a copy thereof on the plaintiff or his attorney, denying the same. If the defendant in any action gives notice, with his answer of a counterclaim founded upon an open account, or upon an account stated, and annexes to such answer and notice a copy of such account, and an affidavit made by himself or by someone in his behalf, showing the amount or balance claimed by the defendant upon such account, and that such amount or balance is justly owing and due to the defendant, or that he is justly entitled to have such account, or said balance thereof, set off against the claim made by said plaintiff, and serves a copy of such account and affidavit, with a copy of such answer and notice, upon the plaintiff or his attorney, such affidavit shall be deemed prima facie evidence of such counterclaim, and of the plaintiff's liability thereon, unless the plaintiff, or someone in his behalf, within 10 days after such service in causes in the circuit court, and before trial in other cases, makes an affidavit denying such account or some part thereof, and the plaintiff's indebtedness or liability thereon and serves a copy thereof upon the defendant or his attorney, and in case of a denial of part of such counterclaim, the defendant's affidavit shall be deemed to be prima facie evidence of such part of the counterclaim as is not denied by the plaintiff's affidavit. Any affidavit in this section mentioned shall be deemed sufficient if the same is made within 10 days next preceding the issuing of the writ or filing of the complaint or answer.

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

600.2146 Writing or record made in regular course of business; reproduction admissible in evidence; other circumstances; lack of entry; reproduction as evidence.

Sec. 2146. A writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum of an act, transaction, occurrence, or event is admissible in evidence in a proceeding in a court or before an officer, arbitrator, or referee in proof of the act, transaction, occurrence, or event if it was made in the regular course of business and it was the regular course of business to make such a memorandum at the time of, or within a reasonable time after, the act, transaction, occurrence, or event. Other circumstances of the making of the writing or record, including lack of personal knowledge by the entrant or maker, may be shown to affect its weight but not its admissibility. The term “business” includes a business, profession, occupation, or calling of any kind. The lack of an entry regarding an act, transaction, occurrence, or event in a writing or record so proved may be received as evidence that the act, transaction, occurrence, or event did not, in fact, take place. A reproduction of such a writing or record is admissible in evidence in a trial, hearing, or proceeding by order of the court, made within its discretion, upon motion with notice of not less than 4 days. All circumstances of the making of the reproduction may be shown upon the trial, hearing, or proceeding to affect the weight but not the admissibility of the evidence.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1992, Act 192, Imd. Eff. Oct. 5, 1992.

600.2147 Business record prepared or entered in regular course of business; reproduction as evidence; delivery of copy to adverse party.

Sec. 2147. Notwithstanding any law of this state to the contrary, an individual, firm, association, or corporation may introduce in evidence at a trial or hearing before a court, officer, arbiter, referee, board, or tribunal, a reproduction of a business record of the individual or institution prepared or entered in the regular course of business, the original of which would be admissible in evidence, including an existing record and including, but not by way of limitation, a check, bill, note, acceptance, or other type of commercial instrument, passbook, deposit slip, or statement furnished to depositors, whether or not the individual or institution regularly so reproduces any or all of such business records. The reproduction shall be in a medium pursuant to the records media act or consist of a printout or other output readable by sight from such a medium. The reproduction, if accompanied by the certificate of the individual or his or her employee or agent, or of the officer, agent, or employee of the firm, association, or corporation who supervised the making of the

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reproduction to the effect that the reproduction when made was a true, full, and complete reproduction of the original, shall be received as evidence at the trial or hearing with the same force and effect as though the original document were produced. However, the court, officer, arbiter, referee, board, or tribunal may in its discretion require that the original document be produced in evidence, and may also require the taking of testimony of the person who supervised the making of the reproduction. The reproduction is admissible only if the party offering it delivers a copy of it, or of so much of it as may relate to the controversy, to the adverse party a reasonable time before trial, unless in the opinion of the trial court, officer, arbiter, referee, board, or tribunal the adverse party has not been unfairly surprised by the failure to deliver the copy. Nevertheless, such a reproduction need not be submitted to the adverse party as herein prescribed unless the original instrument would be required to be so submitted. If necessary, the reproduction may be offered in evidence by the use of a projector or other similar device. All circumstances surrounding the making of the reproduction may be shown upon the trial, hearing, or proceeding for the purpose of affecting the weight but not the admissibility of the evidence.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1992, Act 192, Imd. Eff. Oct. 5, 1992.

600.2148 Reproduced records of business firms; disposal of original record; admissibility of reproduction in evidence; "person" defined.

Sec. 2148. (1) A person, firm, or corporation engaged in business may cause records kept by the business to be reproduced pursuant to the records media act, and the business may then dispose of the original record.

(2) A reproduction in a medium pursuant to the records media act under subsection (1) or a reproduction consisting of a printout or other output readable by sight from such a medium is considered to be an original record for all purposes and shall be treated as an original record in a court or administrative agency for the purpose of its admissibility in evidence. A facsimile, exemplification, enlargement, or certified copy of such a reproduction, for all purposes, is considered a facsimile, exemplification, or certified copy of the original record.

(3) For purposes of this section, "person" means an individual, association, firm, partnership, company, or corporation.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1964, Act 244, Eff. Aug. 28, 1964;—Am. 1992, Act 192, Imd. Eff. Oct. 5, 1992.

600.2149 Loss of instrument; proof and disproof.

Sec. 2149. Whenever a party to any instrument shall have been permitted to prove by his own oath the loss of any instrument, in order to admit other proof of the contents thereof, the adverse party may also be examined by the court on oath, to disprove such loss, and to account for such instrument.

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

600.2150 Repealed. 1962, Act 174, Eff. Jan. 1, 1964.

Compiler's note: The repealed section pertained to suit founded on lost negotiable bill or note.

600.2151 Admission of member of corporation as evidence.

Sec. 2151. In suits by or against a corporation, the admission of any member thereof not named on the record as a party to such suit shall not be received as evidence against such corporation, unless such admission was made concerning some transaction in which such member was the authorized agent of such corporation.

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

600.2152 Mental competency of testator; presumption.

Sec. 2152. In proceedings for the probate of wills, it shall not be necessary for the proponent in the first instance to introduce any proof to show the competency of the decedent to make a will, but the like presumption of mental competency shall obtain as in other cases.

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

600.2153 Public officers; administration of oaths for certain purposes.

Sec. 2153. Whenever any application is made to any public officer or board of officers to do any act in an official capacity, and such officer or board requires information or proof to enable him or them to decide on the propriety of doing such act, such information or proof may be required to be given by affidavit, and such officer or any member of such board, may administer all necessary oaths for that purpose.

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

600.2154 Witness; obligation to answer through revealing civil liability; self-incrimination.

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Sec. 2154. Any competent witness in a cause shall not be excused from answering a question relevant to the matter in issue, on the ground merely that the answer to such question may establish, or tend to establish, that such witness owes a debt, or is otherwise subject to a civil suit; but this provision shall not be construed to require a witness to give any answer which will have a tendency to accuse himself of any crime or misdemeanor, or to expose him to any penalty or forfeiture, nor in any respect to vary or alter any other rule respecting the examination of witnesses.

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

600.2155 Repealed. 1984, Act 274, Eff. Mar. 29, 1985.

Compiler's note: The repealed section pertained to obligation of witness to answer.

600.2156 Minister, priest, or Christian Science practitioner; nondisclosure of confessions.

Sec. 2156. No minister of the gospel, or priest of any denomination whatsoever, or duly accredited Christian Science practitioner, shall be allowed to disclose any confessions made to him in his professional character, in the course of discipline enjoined by the rules or practice of such denomination.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1962, Act 187, Imd. Eff. May 24, 1962.

600.2157 Physician-patient privilege; waiver.

Sec. 2157. Except as otherwise provided by law, a person duly authorized to practice medicine or surgery shall not disclose any information that the person has acquired in attending a patient in a professional character, if the information was necessary to enable the person to prescribe for the patient as a physician, or to do any act for the patient as a surgeon. If the patient brings an action against any defendant to recover for any personal injuries, or for any malpractice, and the patient produces a physician as a witness in the patient's own behalf who has treated the patient for the injury or for any disease or condition for which the malpractice is alleged, the patient shall be considered to have waived the privilege provided in this section as to another physician who has treated the patient for the injuries, disease, or condition. If a patient has died, the heirs at law of the patient, whether proponents or contestants of the patient's will, shall be considered to be personal representatives of the deceased patient for the purpose of waiving the privilege under this section in a contest upon the question of admitting the patient's will to probate. If a patient has died, the beneficiary of a life insurance policy insuring the life of the patient, or the patient's heirs at law, may waive the privilege under this section for the purpose of providing the necessary documentation to a life insurer in examining a claim for benefits.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1989, Act 102, Eff. Sept. 1, 1989;—Am. 1995, Act 205, Imd. Eff. Nov. 29, 1995.

600.2157a Definitions; consultation between victim and sexual assault or domestic violence counselor; admissibility.

Sec. 2157a. (1) For purposes of this section:

(a) “Confidential communication” means information transmitted between a victim and a sexual assault or domestic violence counselor, or between a victim or sexual assault or domestic violence counselor and any other person to whom disclosure is reasonably necessary to further the interests of the victim, in connection with the rendering of advice, counseling, or other assistance by the sexual assault or domestic violence counselor to the victim.

(b) “Domestic violence” means that term as defined in section 1501 of Act No. 389 of the Public Acts of 1978, being section 400.1501 of the Michigan Compiled Laws.

(c) “Sexual assault” means assault with intent to commit criminal sexual conduct.

(d) “Sexual assault or domestic violence counselor” means a person who is employed at or who volunteers service at a sexual assault or domestic violence crisis center, and who in that capacity provides advice, counseling, or other assistance to victims of sexual assault or domestic violence and their families.

(e) “Sexual assault or domestic violence crisis center” means an office, institution, agency, or center which offers assistance to victims of sexual assault or domestic violence and their families through crisis intervention and counseling.

(f) “Victim” means a person who was or who alleges to have been the subject of a sexual assault or of domestic violence.

(2) Except as provided by section 11 of the child protection law, Act No. 238 of the Public Acts of 1975, being section 722.631 of the Michigan Compiled Laws, a confidential communication, or any report, working paper, or statement contained in a report or working paper, given or made in connection with a consultation between a victim and a sexual assault or domestic violence counselor, shall not be admissible as evidence in any civil or criminal proceeding without the prior written consent of the victim.

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History: Add. 1984, Act 340, Eff. Mar. 29, 1985.

600.2157b Confidential communication to crime stoppers organization; definitions.

Sec. 2157b. (1) Except as provided in subsection (2) or (3), a person shall not be required to do either of the following in a civil or criminal proceeding:

(a) Disclose, by way of testimony or otherwise, a confidential communication to a crime stoppers organization.

(b) Produce, under subpoena, any records, documentary evidence, opinions, or decisions relating to a confidential communication to a crime stoppers organization by way of any discovery procedure.

(2) An individual arrested and charged with a criminal offense or an individual who is a party in a civil proceeding may petition the court for an inspection conducted in camera of the records of a confidential communication to a crime stoppers organization concerning that individual. The petition shall allege facts showing that the records would provide evidence favorable to the defendant or the party in a civil proceeding and relevant to the issue of guilt or punishment, or liability. If the court determines that the person is entitled to all or any part of those records, the court may order production and disclosure as it deems appropriate.

(3) The prosecution in a criminal proceeding may petition the court for an inspection conducted in camera of the records of a confidential communication to a crime stoppers organization that the prosecution contends was made by the defendant, or by another individual acting on behalf of the defendant, for the purpose of providing false or misleading information to the crime stoppers organization. The petition shall allege facts showing that the records would provide evidence supporting the prosecution's contention and would be relevant to the issue of guilt or punishment. If the court determines that the prosecution is entitled to all or any part of those records, the court may order production and disclosure as it deems appropriate.

(4) As used in this section:

(a) "Confidential communication to a crime stoppers organization" means a statement by any person, in any manner whatsoever, to a crime stoppers organization for the purpose of reporting alleged criminal activity.

(b) "Crime stoppers organization" means a private, nonprofit organization that distributes rewards to persons who report to the organization information concerning criminal activity and that forwards the information to the appropriate law enforcement agency.

History: Add. 2006, Act 557, Imd. Eff. Dec. 29, 2006.

600.2158 Crime; interest or relationship of witness, effect.

Sec. 2158. No person shall be excluded from giving evidence on any matter, civil or criminal, by reason of crime or for any interest of such person in the matter, suit, or proceeding in question, or in the event of such matter, suit or proceeding, in which such testimony may be offered, or by reason of marital or other relationship to any party thereto; but such interest, relationship, or conviction of crime, may be shown for the purpose of drawing in question the credibility of such witness, except as is hereinafter provided.

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

600.2159 Parties as witnesses; depositions; comment on failure of criminal defendant to testify.

Sec. 2159. On the trial of any issue joined, or in any matter, suit or proceeding, in any court, or on any inquiry arising in any suit or proceeding in any court, or before any officer or person having by law, or by consent of parties, authority to hear, receive, and examine evidence, the parties to any such suit or proceeding named in the record, and persons for whose benefit such suit or proceeding is prosecuted, or defended, may be witnesses therein in their own behalf or otherwise, in the same manner as other witnesses, except as hereinafter otherwise provided; and the deposition of any such party or person may be taken and used in evidence under the rules and statutes governing depositions, and any such party or person may be proceeded against and compelled to attend and testify, as is provided by law for other witnesses. No person shall be disqualified as a witness in any civil or criminal case or proceeding by reason of his interest in the event of the same as a party or otherwise or by reason of his having been convicted of any crime; but such interest or conviction may be shown for the purpose of affecting his credibility. A defendant in any criminal case or proceeding shall only at his own request be deemed a competent witness, and his neglect to testify shall not create any presumption against him, nor shall the court permit any reference or comment to be made to or upon such neglect.

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

600.2160 Repealed. 1967, Act 263, Eff. Nov. 2, 1967.

Compiler's note: The repealed section provided for admissibility of testimony of opposite party on matters equally within knowledge

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of deceased or mentally incompetent person.

600.2161 Cross examination of opposite party or agent.

Sec. 2161. In any suit or proceeding in any court in this state, either party, if he shall call as a witness in his behalf, the opposite party, employee or agent of said opposite party, or any person who at the time of the happening of the transaction out of which such suit or proceeding grew, was an employee or agent of the opposite party, shall have the right to cross-examine such witness the same as if he were called by the opposite party; and the answers of such witness shall not interfere with the right of such party to introduce evidence upon any issue involved in such suit or proceeding, and the party so calling and examining such witness shall not be bound to accept such answers as true.

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

600.2162 Husband or wife as witness for or against other.

Sec. 2162. (1) In a civil action or administrative proceeding, a husband shall not be examined as a witness for or against his wife without her consent or a wife for or against her husband without his consent, except as provided in subsection (3).

(2) In a criminal prosecution, a husband shall not be examined as a witness for or against his wife without his consent or a wife for or against her husband without her consent, except as provided in subsection (3).

(3) The spousal privileges established in subsections (1) and (2) and the confidential communications privilege established in subsection (7) do not apply in any of the following:

(a) In a suit for divorce, separate maintenance, or annulment.

(b) In a prosecution for bigamy.

(c) In a prosecution for a crime committed against a child of either or both or a crime committed against an individual who is younger than 18 years of age.

(d) In a cause of action that grows out of a personal wrong or injury done by one to the other or that grows out of the refusal or neglect to furnish the spouse or children with suitable support.

(e) In a case of desertion or abandonment.

(f) In a case in which the husband or wife is a party to the record in a suit, action, or proceeding if the title to the separate property of the husband or wife called or offered as a witness, or if the title to property derived from, through, or under the husband or wife called or offered as a witness, is the subject matter in controversy or litigation in the suit, action, or proceeding, in opposition to the claim or interest of the other spouse, who is a party to the record in the suit, action, or proceeding. In all such cases, the husband or wife who makes the claim of title, or under or from whom the title is derived, shall be as competent to testify in relation to the separate property and the title to the separate property without the consent of the husband or wife, who is a party to the record in the suit, action, or proceeding, as though the marriage relation did not exist.

(4) Except as otherwise provided in subsections (5) and (6), a married person or a person who has been married previously shall not be examined in a civil action or administrative proceeding as to any communication made between that person and his or her spouse or former spouse during the marriage.

(5) A married person may be examined in a civil action or administrative proceeding, with his or her consent, as to any communication made between that person and his or her spouse during the marriage regarding a matter described in subsection (3).

(6) A person who has been married previously may be examined in a civil action or administrative proceeding, with his or her consent, as to any communication made between that person and his or her former spouse during the marriage regarding a matter described in subsection (3).

(7) Except as otherwise provided in subsection (3), a married person or a person who has been married previously shall not be examined in a criminal prosecution as to any communication made between that person and his or her spouse or former spouse during the marriage without the consent of the person to be examined.

(8) In an action or proceeding instituted by the husband or wife, in consequence of adultery, the husband and wife are not competent to testify.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1994, Act 67, Imd. Eff. Apr. 11, 1994;—Am. 2000, Act 182, Eff. Oct. 1, 2000;—Am. 2001, Act 11, Imd. Eff. May 29, 2001.

Compiler's note: Section 2 of Act 67 of 1994 reads as follows:

"This amendatory act applies to criminal cases in which a complaint and warrant are authorized on or after July 1, 1994. This amendatory act applies to civil cases which are pending on or filed on or after July 1, 1994."

600.2163 Repealed. 1998, Act 323, Imd. Eff. Aug. 3, 1998.

Compiler's note: The repealed section pertained to children under 10 years as witnesses.

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600.2163a Definitions; prosecutions and proceedings to which section applicable; use of dolls or mannequins; support person; notice; videorecorded statement; special arrangements to protect welfare of witness; videotape deposition; section additional to other protections or procedures; violation as misdemeanor; penalty.

Sec. 2163a. (1) As used in this section:

(a) "Custodian of the videorecorded statement" means the family independence agency, investigating law enforcement agency, prosecuting attorney, or department of attorney general or another person designated under the county protocols established as required by section 8 of the child protection law, 1975 PA 238, MCL 722.628.

(b) "Developmental disability" means that term as defined in section 100a of the mental health code, 1974 PA 258, MCL 330.1100a, except that, for the purposes of implementing this section, developmental disability includes only a condition that is attributable to a mental impairment or to a combination of mental and physical impairments and does not include a condition attributable to a physical impairment unaccompanied by a mental impairment.

(c) "Videorecorded statement" means a witness's statement taken by a custodian of the videorecorded statement as provided in subsection (5). Videorecorded statement does not include a videorecorded deposition taken as provided in subsections (17) and (18).

(d) "Witness" means an alleged victim of an offense listed under subsection (2) who is either of the following:

(*i*) A person under 16 years of age.

(*ii*) A person 16 years of age or older with a developmental disability.

(2) This section only applies to prosecutions and proceedings under section 136b, 145c, 520b to 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, 750.520b to 750.520e, and 750.520g, or under former section 136 or 136a of the Michigan penal code, 1931 PA 328.

(3) If pertinent, the witness shall be permitted the use of dolls or mannequins, including, but not limited to, anatomically correct dolls or mannequins, to assist the witness in testifying on direct and cross-examination.

(4) A witness who is called upon to testify shall be permitted to have a support person sit with, accompany, or be in close proximity to the witness during his or her testimony. A notice of intent to use a support person shall name the support person, identify the relationship the support person has with the witness, and give notice to all parties to the proceeding that the witness may request that the named support person sit with the witness when the witness is called upon to testify during any stage of the proceeding. The notice of intent to use a named support person shall be filed with the court and shall be served upon all parties to the proceeding. The court shall rule on a motion objecting to the use of a named support person before the date at which the witness desires to use the support person.

(5) A custodian of the videorecorded statement may take a witness's videorecorded statement before the normally scheduled date for the defendant's preliminary examination. The videorecorded statement shall state the date and time that the statement was taken; shall identify the persons present in the room and state whether they were present for the entire videorecording or only a portion of the videorecording; and shall show a time clock that is running during the taking of the videorecorded statement.

(6) A videorecorded statement may be considered in court proceedings only for 1 or more of the following:

(a) It may be admitted as evidence at all pretrial proceedings, except that it may not be introduced at the preliminary examination instead of the live testimony of the witness.

(b) It may be admitted for impeachment purposes.

(c) It may be considered by the court in determining the sentence.

(d) It may be used as a factual basis for a no contest plea or to supplement a guilty plea.

(7) In a videorecorded statement, the questioning of the witness should be full and complete; shall be in accordance with the forensic interview protocol implemented as required by section 8 of the child protection law, 1975 PA 238, MCL 722.628; and, if appropriate for the witness's developmental level, shall include, but is not limited to, all of the following areas:

(a) The time and date of the alleged offense or offenses.

(b) The location and area of the alleged offense or offenses.

(c) The relationship, if any, between the witness and the accused.

(d) The details of the offense or offenses.

(e) The names of any other persons known to the witness who may have personal knowledge of the alleged offense or offenses.

(8) A custodian of the videorecorded statement may release or consent to the release or use of a videorecorded statement or copies of a videorecorded statement to a law enforcement agency, an agency

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authorized to prosecute the criminal case to which the videorecorded statement relates, or an entity that is part of county protocols established under section 8 of the child protection law, 1975 PA 238, MCL 722.628. The defendant and, if represented, his or her attorney has the right to view and hear a videorecorded statement before the defendant's preliminary examination. Upon request, the prosecuting attorney shall provide the defendant and, if represented, his or her attorney with reasonable access and means to view and hear the videorecorded statement at a reasonable time before the defendant's pretrial or trial of the case. In preparation for a court proceeding and under protective conditions, including, but not limited to, a prohibition on the copying, release, display, or circulation of the videorecorded statement, the court may order that a copy of the videorecorded statement be given to the defense.

(9) If authorized by the prosecuting attorney in the county in which the videorecorded statement was taken, a videorecorded statement may be used for purposes of training the custodians of the videorecorded statement in that county on the forensic interview protocol implemented as required by section 8 of the child protection law, 1975 PA 238, MCL 722.628.

(10) Except as provided in this section, an individual, including, but not limited to, a custodian of the videorecorded statement, the witness, or the witness's parent, guardian, guardian ad litem, or attorney, shall not release or consent to release a videorecorded statement or a copy of a videorecorded statement.

(11) A videorecorded statement that becomes part of the court record is subject to a protective order of the court for the purpose of protecting the privacy of the witness.

(12) A videorecorded statement shall not be copied or reproduced in any manner except as provided in this section. A videorecorded statement is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, is not subject to release under another statute, and is not subject to disclosure under the Michigan court rules governing discovery. This section does not prohibit the production or release of a transcript of a videorecorded statement.

(13) If, upon the motion of a party made before the preliminary examination, the court finds on the record that the special arrangements specified in subsection (14) are necessary to protect the welfare of the witness, the court shall order those special arrangements. In determining whether it is necessary to protect the welfare of the witness, the court shall consider all of the following:

(a) The age of the witness.

(b) The nature of the offense or offenses.

(c) The desire of the witness or the witness's family or guardian to have the testimony taken in a room closed to the public.

(14) If the court determines on the record that it is necessary to protect the welfare of the witness and grants the motion made under subsection (13), the court shall order both of the following:

(a) All persons not necessary to the proceeding shall be excluded during the witness's testimony from the courtroom where the preliminary examination is held. Upon request by any person and the payment of the appropriate fees, a transcript of the witness's testimony shall be made available.

(b) In order to protect the witness from directly viewing the defendant, the courtroom shall be arranged so that the defendant is seated as far from the witness stand as is reasonable and not directly in front of the witness stand. The defendant's position shall be located so as to allow the defendant to hear and see the witness and be able to communicate with his or her attorney.

(15) If upon the motion of a party made before trial the court finds on the record that the special arrangements specified in subsection (16) are necessary to protect the welfare of the witness, the court shall order those special arrangements. In determining whether it is necessary to protect the welfare of the witness, the court shall consider all of the following:

(a) The age of the witness.

(b) The nature of the offense or offenses.

(c) The desire of the witness or the witness's family or guardian to have the testimony taken in a room closed to the public.

(16) If the court determines on the record that it is necessary to protect the welfare of the witness and grants the motion made under subsection (15), the court shall order 1 or more of the following:

(a) All persons not necessary to the proceeding shall be excluded during the witness's testimony from the courtroom where the trial is held. The witness's testimony shall be broadcast by closed-circuit television to the public in another location out of sight of the witness.

(b) In order to protect the witness from directly viewing the defendant, the courtroom shall be arranged so that the defendant is seated as far from the witness stand as is reasonable and not directly in front of the witness stand. The defendant's position shall be the same for all witnesses and shall be located so as to allow the defendant to hear and see all witnesses and be able to communicate with his or her attorney.

(c) A questioner's stand or podium shall be used for all questioning of all witnesses by all parties and shall

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be located in front of the witness stand.

(17) If, upon the motion of a party or in the court's discretion, the court finds on the record that the witness is or will be psychologically or emotionally unable to testify at a court proceeding even with the benefit of the protections afforded the witness in subsections (3), (4), (14), and (16), the court shall order that a videorecorded deposition of a witness shall be taken to be admitted at a court proceeding instead of the witness's live testimony.

(18) For purposes of the videorecorded deposition under subsection (17), the witness's examination and cross-examination shall proceed in the same manner as if the witness testified at the court proceeding for which the videorecorded deposition is to be used, and the court shall order that the witness, during his or her testimony, shall not be confronted by the defendant but shall permit the defendant to hear the testimony of the witness and to consult with his or her attorney.

(19) This section is in addition to other protections or procedures afforded to a witness by law or court rule.

(20) A person who intentionally releases a videorecorded statement in violation of this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

History: Add. 1987, Act 44, Eff. Jan. 1, 1988;—Am. 1989, Act 253, Eff. Mar. 29, 1990;—Am. 1998, Act 324, Imd. Eff. Aug. 3, 1998;—Am. 2002, Act 604, Eff. Mar. 31, 2003.

600.2164 Expert witnesses; fees; contempt for excessive fees; number; application of section.

Sec. 2164. (1) No expert witness shall be paid, or receive as compensation in any given case for his services as such, a sum in excess of the ordinary witness fees provided by law, unless the court before whom such witness is to appear, or has appeared, awards a larger sum, which sum may be taxed as a part of the taxable costs in the case. Any such witness who shall directly or indirectly receive a larger amount than such award, and any person who shall pay such witness a larger sum than such award, shall be guilty of contempt of court, and on conviction thereof be punished accordingly.

(2) No more than 3 experts shall be allowed to testify on either side as to the same issue in any given case, unless the court trying such case, in its discretion, permits an additional number of witnesses to testify as experts.

(3) The provisions of this section shall not be applicable to witnesses testifying to the established facts, or deductions of science, nor to any other specific facts, but only to witnesses testifying to matters of opinion.

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

600.2165 Disclosure of students' records or communications by school teacher or employee.

Sec. 2165. No teacher, guidance officer, school executive or other professional person engaged in character building in the public schools or in any other educational institution, including any clerical worker of such schools and institutions, who maintains records of students' behavior or who has records in his custody, or who receives in confidence communications from students or other juveniles, shall be allowed in any proceedings, civil or criminal, in any court of this state, to disclose any information obtained by him from the records or such communications; nor to produce records or transcript thereof, except that testimony may be given, with the consent of the person so confiding or to whom the records relate, if the person is 18 years of age or over, or, if the person is a minor, with the consent of his or her parent or legal guardian.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1972, Act 87, Imd. Eff. Mar. 20, 1972.

600.2166 Admissibility of evidence in action by or against person incapable of testifying.

Sec. 2166. (1) In an action by or against a person incapable of testifying, a party's own testimony shall not be admissible as to any matter which, if true, must have been equally within the knowledge of the person incapable of testifying, unless some material portion of his testimony is supported by some other material evidence tending to corroborate his claim.

(2) A “person incapable of testifying” includes an individual who is incapable of testifying by reason of death or incompetency and his heirs, legal representatives, or assigns; and includes an individual, corporation, or other entity, or the successors thereof, whose agent, having material knowledge of the matter, is incapable of testifying by reason of death or incompetency. A “party's own testimony” includes the testimony of his agents, successors, assigns, predecessors, or assignors.

(3) In any such actions, all entries, memoranda, and declarations by the individual so incapable of testifying, relevant to the matter, as well as evidence of his acts and habits of dealing tending to disprove or show the improbability of the claims of the adverse party, may be received in evidence.

(4) When the deposition, affidavit, or testimony of a person incapable of testifying is taken in his lifetime

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or when he is mentally sound, and is read in evidence in the action, the affidavit or testimony of the other party shall be admitted in his own behalf on all matters mentioned or covered in the deposition, affidavit, or testimony. When the testimony or deposition of a witness has once been taken and used, or has heretofore been taken and used, upon the trial of any cause, and the same was, when so taken and used, competent and admissible under this section, the subsequent death or incompetency of the witness or of any other person shall not render the testimony incompetent under this section, but the testimony shall be received upon any subsequent trial of such cause.

History: Add. 1967, Act 263, Eff. Nov. 2, 1967;—Am. 1969, Act 63, Imd. Eff. July 21, 1969;—Am. 1974, Act 305, Imd. Eff. Dec. 9, 1974.

Compiler's note: Section 2 of Act 305 of 1974 provides: "This 1974 amendatory act shall apply to actions pending on its effective date and to actions commenced thereafter, regardless of whether the cause of action arose prior to the effective date of this act or arose thereafter."

600.2167 Preliminary examination or grand jury proceeding; receiving technician's report in evidence; furnishing copies to attorney; notice; adjournment; testimony by technician, forensic pathologist, or medical examiner; use of video or voice communication equipment.

Sec. 2167. (1) In a preliminary examination or grand jury proceeding, a report of the findings of a technician of the division of the department of state police concerned with forensic science, signed by that technician, or a notarized copy of the report, may be received in evidence in place of the technician's appearance and testimony.

(2) Before a preliminary examination at which the technician's report of findings will be introduced in evidence, 2 copies of the report shall be furnished to the prosecuting attorney. The prosecuting attorney shall immediately furnish 1 copy of the technician's report to the defense attorney or, if an appearance or appointment of defense counsel has not been filed, to the defendant.

(3) The prosecuting attorney, upon receiving copies of the technician's report, shall notify the court before which the preliminary examination will be held that copies of the technician's report are in the prosecutor's possession. If the prosecuting attorney fails to notify the court that he or she has received copies of the technician's report not less than 5 days before the day set for preliminary examination, the court shall adjourn the preliminary examination.

(4) An accused person or his or her attorney may request that the technician testify at the preliminary examination on behalf of the state by serving written notice on the prosecuting attorney not more than 5 days after receiving a copy of the technician's report of findings from the prosecuting attorney. The technician may be sworn and testify by video or voice communication equipment that permits the witness, court, all parties, and counsel to hear and speak to each other in the court, chambers, or other suitable place. A record of the testimony shall be taken in the same manner as for other testimony at the preliminary examination. If suitable video or voice communication equipment is not available, the technician shall testify in person.

(5) In a preliminary examination, the prosecuting attorney may move in writing not less than 5 days before the date set for the preliminary examination to permit a forensic pathologist or medical examiner to be sworn and testify by video or voice communication equipment that permits the witness, court, all parties, and counsel to hear and speak to each other in the court, chambers, or other suitable place. The court shall grant the motion for good cause shown. A record of the testimony shall be taken in the same manner as for other testimony at the preliminary examination.

History: Add. 1976, Act 30, Imd. Eff. Mar. 5, 1976;—Am. 1993, Act 288, Eff. Mar. 1, 1994.

600.2169 Qualifications of expert witness in action alleging medical malpractice; determination; disqualification of expert witness; testimony on contingency fee basis as misdemeanor; limitations applicable to discovery.

Sec. 2169. (1) In an action alleging medical malpractice, a person shall not give expert testimony on the appropriate standard of practice or care unless the person is licensed as a health professional in this state or another state and meets the following criteria:

(a) If the party against whom or on whose behalf the testimony is offered is a specialist, specializes at the time of the occurrence that is the basis for the action in the same specialty as the party against whom or on whose behalf the testimony is offered. However, if the party against whom or on whose behalf the testimony is offered is a specialist who is board certified, the expert witness must be a specialist who is board certified in that specialty.

(b) Subject to subdivision (c), during the year immediately preceding the date of the occurrence that is the basis for the claim or action, devoted a majority of his or her professional time to either or both of the

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following:

(*i*) The active clinical practice of the same health profession in which the party against whom or on whose behalf the testimony is offered is licensed and, if that party is a specialist, the active clinical practice of that specialty.

(*ii*) The instruction of students in an accredited health professional school or accredited residency or clinical research program in the same health profession in which the party against whom or on whose behalf the testimony is offered is licensed and, if that party is a specialist, an accredited health professional school or accredited residency or clinical research program in the same specialty.

(c) If the party against whom or on whose behalf the testimony is offered is a general practitioner, the expert witness, during the year immediately preceding the date of the occurrence that is the basis for the claim or action, devoted a majority of his or her professional time to either or both of the following:

(*i*) Active clinical practice as a general practitioner.

(*ii*) Instruction of students in an accredited health professional school or accredited residency or clinical research program in the same health profession in which the party against whom or on whose behalf the testimony is offered is licensed.

(2) In determining the qualifications of an expert witness in an action alleging medical malpractice, the court shall, at a minimum, evaluate all of the following:

(a) The educational and professional training of the expert witness.

(b) The area of specialization of the expert witness.

(c) The length of time the expert witness has been engaged in the active clinical practice or instruction of the health profession or the specialty.

(d) The relevancy of the expert witness's testimony.

(3) This section does not limit the power of the trial court to disqualify an expert witness on grounds other than the qualifications set forth in this section.

(4) In an action alleging medical malpractice, an expert witness shall not testify on a contingency fee basis. A person who violates this subsection is guilty of a misdemeanor.

(5) In an action alleging medical malpractice, all of the following limitations apply to discovery conducted by opposing counsel to determine whether or not an expert witness is qualified:

(a) Tax returns of the expert witness are not discoverable.

(b) Family members of the expert witness shall not be deposed concerning the amount of time the expert witness spends engaged in the practice of his or her health profession.

(c) A personal diary or calendar belonging to the expert witness is not discoverable. As used in this subdivision, “personal diary or calendar” means a diary or calendar that does not include listings or records of professional activities.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986;—Am. 1993, Act 78, Eff. Apr. 1, 1994.

Constitutionality: MCL 600.2169 is an enactment of substantive law. As such it does not impermissibly infringe the Supreme Court's constitutional rule-making authority over “practice and procedure.” McDougall v Schanz, 461 Mich 15; 597 NW2d 148 (1999).

Compiler's note: Section 3 of Act 178 of 1986 provides:

“(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

“(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

“(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

“(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

“(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

“(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988.”

CHAPTER 23
AMENDMENTS

600.2301 Amendment of process or pleadings before judgment.

Sec. 2301. The court in which any action or proceeding is pending, has power to amend any process, pleading or proceeding in such action or proceeding, either in form or substance, for the furtherance of justice, on such terms as are just, at any time before judgment rendered therein. The court at every stage of the action or proceeding shall disregard any error or defect in the proceedings which do not affect the substantial rights

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of the parties.

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

600.2305 Answer to amended pleading.

Sec. 2305. If such amendment is made to any pleading in matter of substance, the adverse party shall be allowed an opportunity, according to the course and practice of the court, to answer the pleading so amended.

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

600.2311 Amendment of process or pleadings after judgment.

Sec. 2311. After judgment rendered in any cause, any defect or imperfections in matter or form, contained in the record, pleadings, process, entries, returns, or other proceedings, may be rectified and amended by the court, in affirmance of the judgment, so that such judgment shall not be reversed or annulled; and any variation in the record, from any process, pleading or proceeding had in such cause, shall be reformed and amended according to such original process, pleading or proceeding.

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

600.2315 Defects not affecting judgment.

Sec. 2315. When a verdict has been rendered in a cause, the judgment thereon shall not be stayed, nor shall any judgment upon confession, or default, be reversed, impaired, or in any way affected, by reason of the following imperfections, omissions, defects, matters or things, or any of them, in the pleadings, process, record or proceedings, namely:

(1) For any default or defect in process; or for misconceiving any process, or awarding the same to a wrong officer; or for the want of a suggestion for awarding process, or for an insufficient suggestion.

(2) For an imperfect or insufficient return of a sheriff or other officer or that the name of the officer is not set to a return actually made by him.

(3) For mispleading, miscontinuance or discontinuance, insufficient pleading, or misjoining of issue.

(4) For the want of warrant of attorney by either party; except in cases of judgment by confession, where the warrant is expressly required by law.

(5) For a party under 18 years of age, having appeared by attorney, if the verdict or judgment be for him.

(6) For the want of an allegation or averment, on account of which a motion to dismiss could have been maintained.

(7) For omitting an allegation or averment of matter, without proving which the jury ought not to have given the verdict.

(8) For a mistake in the name of a party or person, or in a sum of money; or in the description of property; or in reciting or stating a day, month or year, when the correct name, time, sum or description shall have been once rightly alleged in any of the pleadings or proceedings.

(9) For a mistake in the name of a juror or officer.

(10) For an informality in entering a judgment, or making up the record thereof; or in a continuance or other entry upon the record.

(11) For any other default or negligence of a clerk or officer of the court, or of the parties, or their counselors or attorneys, by which neither party shall have been prejudiced.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1972, Act 87, Imd. Eff. Mar. 20, 1972.

600.2321 Immaterial defects; amendments to correct.

Sec. 2321. The omissions, imperfections, variances and defects in section 2315 enumerated, and all others, of the like nature, not being against the right and justice of the matter of the suit, and not altering the issue between the parties, or the trial, shall be supplied and amended by the court where the judgment shall be given, or by the court into which such judgment shall be removed.

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

600.2325 Amendment only on order of court.

Sec. 2325. No process, pleading or record, shall be amended or impaired by the clerk or other officer of any court, or by any other person, without the order of such court, or of some other court of competent jurisdiction.

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

600.2331 Imperfection in appeal.

Sec. 2331. No appeal shall be dismissed on account of any informality or imperfection in the bond, affidavit or other proceedings, for the taking of such appeal, if plaintiff shall either by amendment, or by

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furnishing a new bond, affidavit or other paper, supply the deficiency or defect.

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

CHAPTER 24
COSTS

600.2401 Taxation of costs; regulation by supreme court.

Sec. 2401. Except as otherwise provided by statute, the supreme court shall by rule regulate the taxation of costs. When costs are allowed in any action or proceeding in the supreme court, the circuit court or the district court the items and amount thereof shall be governed by this chapter except as otherwise provided in this act.

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

600.2405 Costs; items taxable.

Sec. 2405. The following items may be taxed and awarded as costs unless otherwise directed:

(1) Any of the fees of officers, witnesses, or other persons mentioned in this chapter or in chapter 25, unless a contrary intention is stated.

(2) Matters specially made taxable elsewhere in the statutes or rules.

(3) The legal fees for any newspaper publication required by law.

(4) The reasonable expense of printing any required brief and appendix in the supreme court, including any brief on motion for leave to appeal.

(5) The reasonable costs of any bond required by law, including any stay of proceeding or appeal bond.

(6) Any attorney fees authorized by statute or by court rule.

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

600.2411 Special costs in action against public officers.

Sec. 2411. In the following actions, if the defendant prevails, he shall be awarded costs and in addition, 1/2 thereof:

(1) In actions against public officers appointed or elected under the laws of this state, or against any person specially appointed according to law to execute the duties of such public officer, for or concerning the omission to do any act which it was his official duty to perform.

(2) In actions against any other person for doing any act by the commandment of such officers or persons, or in their aid or assistance, touching the duties of such office or appointment.

(3) In actions against any person for making any sale or doing any other act by authority of any statute of this state.

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

600.2415 Costs; liability of next of friend or guardian.

Sec. 2415. Any person who brings an action as next of friend for an infant, or a person who is insane or otherwise mentally incompetent, shall be responsible for the costs of the suit. However, no person who defends a suit as guardian ad litem of an infant or otherwise incompetent person shall be responsible for the costs of the suit unless specifically charged by the court for some personal misconduct in the case.

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

600.2421 Civil actions by or in name of people; liability for costs; warrant.

Sec. 2421. (1) Except as provided in sections 2421a to 2421d and as otherwise provided by law, in all civil actions by or in the name of the people of this state, except civil infraction actions, instituted by an officer duly authorized for that purpose and not for the use of a citizen, the state shall be liable for costs in the same manner and to the same extent as if the action were commenced by an individual.

(2) In all civil actions instituted in the name of the people of this state, on the relation of any citizen, the relator shall be entitled to and liable for costs as if the action had been commenced in the relator's own name.

(3) When costs are adjudged against the people of this state in a civil action or proceeding, instituted by an officer duly authorized for that purpose, the state treasurer shall issue a warrant for the amount thereof, upon the production of an authenticated copy of the record of judgment, or of the order adjudging the costs, with a taxed bill thereof, and upon the certificate of the attorney general that the action or proceeding was duly instituted, as by law required.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1978, Act 511, Eff. Aug. 1, 1979;—Am. 1984, Act 197, Imd. Eff. July 3, 1984.

600.2421a Meanings of words and phrases in MCL 600.2421c to 600.2421f.

Sec. 2421a. For the purposes of sections 2421c to 2421f, the words and phrases described in section 2421b

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have the meanings ascribed to them in that section.

History: Add. 1984, Act 197, Imd. Eff. July 3, 1984.

600.2421b Definitions.

Sec. 2421b. (1) "Costs and fees" means the normal costs incurred in being a party in a civil action after an action has been filed with the court, those provided by law or court rule, and include all of the following:

(a) The reasonable and necessary expenses of expert witnesses as determined by the court.

(b) The reasonable cost of any study, analysis, engineering report, test, or project which is determined by the court to have been necessary for the preparation of a party's case.

(c) Reasonable and necessary attorney fees including those for purposes of appeal.

(2) "Party" means a named plaintiff or defendant involved in the particular civil action, but does not include any of the following:

(a) An individual whose net worth was more than $500,000.00 at the time the civil action was commenced.

(b) The sole owner of an unincorporated business or any partnership, corporation, association, or organization whose net worth exceeded $3,000,000.00 at the time the civil action was commenced and which is not either exempt from taxation pursuant to section 501(c)(3) of the internal revenue code or a cooperative association as defined in section 15(a) of the agricultural marketing act, 12 U.S.C. 1141j(a).

(c) The sole owner of an unincorporated business or any partnership, corporation, association, or organization that had more than 250 full-time equivalent employees as determined by the total number of employees multiplied by their working hours divided by 40, at the time the civil action was commenced.

(d) As used in this subsection "net worth" means the amount remaining after the deduction of liabilities from assets as determined according to generally accepted accounting principles.

(3) "Prevailing party" means as follows:

(a) In an action involving several remedies, or issues or counts which state different causes of actions or defenses, the party prevailing as to each remedy, issue, or count.

(b) In an action involving only 1 issue or count stating only 1 cause of action or defense, the party prevailing on the entire record.

(4) "State" means an agency or department of the state, 1 or more members of an agency or department of the state, or any official of the state or of an agency or department of the state acting in his or her official capacity, but does not include an institution of higher education established pursuant to article 8 of the state constitution of 1963; the department of labor as administrator of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being sections 418.101 to 418.941 of the Michigan Compiled Laws, the Michigan employment security act, Act No. 1 of the Public Acts of Extra Session of 1936, being sections 421.1 to 421.72 of the Michigan Compiled Laws, and Act No. 176 of the Public Acts of 1939, being sections 423.1 to 423.30 of the Michigan Compiled Laws; or the department of corrections.

History: Add. 1984, Act 197, Imd. Eff. July 3, 1984.

600.2421c Awarding costs and fees; determining frivolous position of state; motion; matters to be established; reduction or denial of award; amount of costs and fees; applicability of section.

Sec. 2421c. (1) The court that conducts a civil action brought by or against the state as a party, except for a civil infraction action, shall award to a prevailing party other than the state the costs and fees incurred by that party in connection with the civil action, if the court finds that the position of the state to the civil action was frivolous. To find that the state's position was frivolous, the court shall determine that at least 1 of the following conditions has been met:

(a) The state's primary purpose in initiating the action was to harass, embarrass, or injure the prevailing party.

(b) The state had no reasonable basis to believe that the facts underlying its legal position were in fact true.

(c) The state's legal position was devoid of arguable legal merit.

(2) If the parties to an action do not agree on the awarding of costs and fees under sections 2421a to 2421f, a motion may be brought regarding the awarding of costs and fees and the amount thereof. The party seeking an award of costs and fees under sections 2421a to 2421f shall establish all of the following:

(a) That the position of the state was frivolous.

(b) That the party was the prevailing party.

(c) The amount of costs and fees sought including an itemized statement from any attorney, agent, or expert witness who represented the party showing the rate at which the costs and fees were computed.

(d) That the party is eligible to receive an award of costs and fees under sections 2421a to 2421f. For good cause shown a party may seek a protective order regarding the financial records of that party.

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(3) The court may reduce the amount of the costs and fees to be awarded, or deny an award, to the extent that the party seeking the award engaged in conduct which unduly and unreasonably protracted the civil action.

(4) Subject to subsection (5), the amount of costs and fees awarded under this section shall include those reasonable costs actually incurred by the party and any costs allowed by law or by court rule. Subject to subsection (5), the amount of fees awarded under this section shall be based upon the prevailing market rate for the kind and quality of the services furnished, except that an attorney fee shall not be awarded at a rate of more than $75.00 per hour unless the court determines that special circumstances existed justifying a higher rate or an applicable law or court rule provides for the payment of a higher rate.

(5) The costs and fees awarded under this section shall only be awarded to the extent and amount that the state caused the prevailing party to incur those costs and fees.

(6) This section does not apply to an agency or department in establishing a rate; in approving, disapproving, or withdrawing approval of a form; nor in its role of hearing or adjudicating a case. Unless an agency had discretion to proceed, this section does not apply to an agency or department acting ex rel on the information and at the instigation of a nonagency or nondepartmental person who has a private interest in the matter nor to an agency or department required by law to commence a case upon the action or request of another nonagency or nondepartmental person.

(7) This section does not apply to an agency or department that has such a minor role as a party in the case in comparison to other nonprevailing parties so as to make its liability for costs and fees under this section unreasonable, unjust, or unfair.

History: Add. 1984, Act 197, Imd. Eff. July 3, 1984.

600.2421d Judicial review of final action in contested case; award of costs and fees; finding.

Sec. 2421d. If the court awards costs and fees to a prevailing party upon judicial review of the final action of a presiding officer in a contested case pursuant to section 125 of Act No. 306 of the Public Acts of 1969, being section 24.325 of the Michigan Compiled Laws, the court shall award those costs and fees provided for in section 123 of Act No. 306 of the Public Acts of 1969, being section 24.323 of the Michigan Compiled Laws, if the court finds that the position of the state involved in the contested case was frivolous.

History: Add. 1984, Act 197, Imd. Eff. July 3, 1984.

600.2421e Annual report; payment of costs and fees; applicability of MCL 600.2421a to 600.2421d.

Sec. 2421e. (1) The director of the department of management and budget shall report annually to the legislature regarding the amount of costs and fees paid by the state during the preceding fiscal year pursuant to sections 2421 to 2421d. The report shall describe the number, nature, and amount of the awards; the claims involved; and any other relevant information which would aid the legislature in evaluating the scope and impact of the awards. Each agency or department of this state shall provide the director of the department of management and budget with information as is necessary for the director to comply with the requirements of this section.

(2) If costs and fees are awarded under sections 2421 to 2421d to a prevailing party, the agency or department over which the party prevailed shall pay those costs and fees.

(3) Sections 2421a to 2421d do not apply to a civil action which is settled, a civil action in which a consent agreement is entered into, or to a civil action based in tort.

History: Add. 1984, Act 197, Imd. Eff. July 3, 1984.

600.2421f Recovery of same costs under law or court rule prohibited.

Sec. 2421f. If a prevailing party recovers costs and fees under sections 2421a to 2421f in a civil action, that prevailing party is not entitled to recover those same costs for that civil action under any law or court rule.

History: Add. 1984, Act 197, Imd. Eff. July 3, 1984.

600.2421g Applicability of MCL 600.2421a to 600.2421f to civil actions.

Sec. 2421g. Sections 2421a to 2421f shall apply to civil actions commenced after September 30, 1984.

History: Add. 1984, Act 197, Imd. Eff. July 3, 1984;—Am. 1988, Act 203, Imd. Eff. June 29, 1988.

600.2425 Costs; abatement of public nuisance; private citizen plaintiff; intervention by attorney general or prosecuting attorney.

Sec. 2425. (1) If an action to abate a public nuisance is brought by a private citizen, whether or not the attorney general or prosecuting attorney intervenes, and the court finds that there was no reasonable ground or

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cause for the action, costs may be taxed against such citizen. In such a case, attorney's fees are proper costs.

(2) When the attorney general or prosecuting attorney intervenes, the costs incurred by such officer shall be payable by the county in which the nuisance exists and all costs collected in the action shall be paid into the treasury of such county.

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

600.2431 Costs; foreclosure of mortgage by advertisement; attorney's fee.

Sec. 2431. (1) The expenses of foreclosing any mortgage by advertisement shall be taxed in the circuit court as in civil actions upon the request of any person paying the expenses thereof, and upon such party liable to pay the same.

(2) Where an attorney is employed to foreclose a mortgage by advertisement, an attorney's fee, not to exceed any amount which may be provided for in the mortgage, may be included as a part of the expenses in the amount bid upon such sale for principal and interest due thereon in the following amounts:

(a) for all sums of $1,000.00 or less, $25.00.

(b) for all sums over $1,000.00 but less than $5,000.00, $50.00.

(c) for all sums of $5,000.00 or more, $75.00.

But if payment is made after foreclosure proceedings are commenced and before sale is made, only 1/2 of such attorney's fees shall be allowed. Both the principal and the interest due thereon shall be included in the sum on which the attorney's fee is computed.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, Act 2, Imd. Eff. Mar. 6, 1963.

600.2435 Costs; supplementary proceedings.

Sec. 2435. The court may allow to the judgment creditor, or to any person examined, whether a party to the action or not, witness fees and disbursements, and an attorney's fee in addition not to exceed $30.00 as costs, in supplementary proceedings.

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

600.2441 Costs; costs additional in civil actions in supreme court and circuit court.

Sec. 2441. (1) In all civil actions or special proceedings in the supreme court, whether heard as an original proceeding or on appeal, the following amounts shall be allowed as costs in addition to other costs unless the court otherwise directs:

(a) On motions, $20.00.

(b) On calendar causes and those given an early hearing, $50.00.

(2) In all civil actions or special proceedings in the circuit court, whether heard as an original proceeding or on appeal, the following amounts shall be allowed as costs in addition to other costs unless the court otherwise directs:

(a) For the proceedings before trial, $20.00.

(b) For motions that result in dismissal or judgment, $20.00.

(c) For the trial of the action or proceeding, $150.00.

(d) In actions in which a confession of judgment is entered, $15.00.

(e) In actions in which a default judgment or consent judgment is entered, $75.00.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1999, Act 226, Eff. Apr. 1, 2000.

600.2445 Costs on appeal to circuit court, court of appeals, or supreme court; damages for delay and vexation.

Sec. 2445. (1) Costs on appeal to the circuit court, the court of appeals, or to the supreme court shall be awarded in the discretion of the court.

(2) The appellant may be awarded the costs on appeal if he improves his position on appeal.

(3) The appellee may be awarded damages for the delay and vexation caused by the appeal, to be assessed in the discretion of the court, in addition to costs on appeal, if the appellant does not improve his position on appeal.

(4) Costs in the court below may be awarded to the party who ultimately prevails in the case.

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

600.2451 Taxation of costs in supreme court and court of appeals; notice.

Sec. 2451. Costs in the supreme court and in the court of appeals shall be taxed by 1 of the justices or judges or the clerk thereof, and by such other officers as the supreme court shall, by general or special order, designate for that purpose; and upon notice to the opposite party, as shall be prescribed by the general rules of

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the court.

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

600.2455 Taxation of costs in circuit court, district court, and municipal courts of record; notice.

Sec. 2455. Costs in the circuit court, in the district court, and in municipal courts of record having civil jurisdiction, may be taxed by any of the judges or clerks of the courts and upon notice and proceedings as shall be provided by the rules of the supreme court.

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

600.2461 Costs; duties of taxing officer.

Sec. 2461. Every officer authorized to tax costs in any court for services rendered in any proceeding authorized by law, shall examine the bills presented to him for taxation, whether such taxation be opposed or not, and shall be satisfied that the items charged in such bill are correct and legal; and shall strike out all charges for services, which, in his judgment, were not necessary to be performed.

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

CHAPTER 25
FEES

600.2501 Fees; allowance.

Sec. 2501. For the services mentioned in this chapter, hereafter done or performed in the several courts in this state, by the officers thereof, or in any proceeding authorized by law, the fees hereinafter prescribed shall be allowed.

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

600.2504 Fees; special allowance.

Sec. 2504. The allowance of any fees by this chapter, shall not apply to any case where special provision is otherwise made by law for any particular service, but the fees for such service shall be such as are provided in the statute requiring the service, or providing the compensation therefor.

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

600.2507 Documents; state officers; request for searches and obtaining certified copies; fees.

Sec. 2507. (1) The secretary of state, the auditor general, the state treasurer, and the attorney general may require searches in the respective offices of each other and in the offices of the clerks of any court of record or municipal court, or in the office of a register of deeds, for any papers, records, or documents necessary to the discharge of their respective duties, and may obtain certified copies and certified extracts of such papers, records, or documents without the payment of a fee or charge.

(2) The director of commerce may request searches and obtain certified copies and certified extracts of papers, records, or documents pertaining to criminal matters, medical malpractice, or other public documents or records necessary to the discharge of the duties of the bureau within the department of commerce with responsibility for occupational and professional licensure from the secretary of state, the auditor general, the state treasurer, the clerk of any court of record or municipal court, or from the office of a register of deeds. The secretary of state, the auditor general, the state treasurer, the clerk of any court of record or municipal court, or the office of a register of deeds may charge a reasonable fee for providing the requested information under this subsection, not to exceed the actual cost for providing the requested information.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1993, Act 84, Eff. Apr. 1, 1994.

600.2510 "Page" defined; compliance with format prescribed by state court administrative office.

Sec. 2510. (1) When used as a measure for computing fees or compensation, "page" is defined as follows: a page shall consist of 25 lines written on paper 8-1/2 by 11 inches in size, prepared for binding on the left side, with 1-3/8 inch margin on the left side and 3/8 inch margin on the right side. Typing shall be 10 letter to the inch.

(2) A page prepared in accordance with the format prescribed by the state court administrative office shall be counted, billed, and paid for as a full page.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1972, Act 325, Imd. Eff. Jan. 2, 1973;—Am. 1977, Act 31, Imd. Eff. June 22, 1977.

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600.2513 Allowable fees, compensation, or reward for service.

Sec. 2513. A judge of any court, sheriff, bailiff, district court magistrate, or other officer, or other person except attorneys at law to whom any fees or compensation shall be allowed by law for any service, shall not take or receive any other or greater fee or reward for his service, but such as is or shall be allowed by the laws of this state.

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

600.2516 Fees; for services actually rendered.

Sec. 2516. No fee or compensation allowed by law, shall be demanded or received by any officer or person for any service, unless such service was actually rendered by him; but this section shall not prevent any officer from demanding any fee herein allowed for any service of which he is entitled by law to require the payment previous to rendering such service.

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

600.2519 Fees; violation; misdemeanor; civil liability; forfeiture of office.

Sec. 2519. A violation of either section 2513 or 2516 shall be deemed a misdemeanor; and the person guilty thereof shall be liable to the party aggrieved for treble the damages sustained by him, and such violation shall be a cause for forfeiture of office.

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

600.2522 Fees; taxation for services actually rendered.

Sec. 2522. No fee shall be taxed for services as having been rendered by any attorney, clerk, sheriff, or other officer, in the progress of a cause, unless such service was actually rendered, except when otherwise expressly provided.

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

600.2525 Fees; receipt; liability for refusal.

Sec. 2525. Every officer, upon receiving any fees for any official duty or service, shall, if required by the person paying the same, make out in writing and deliver to such person, a particular account of such fees, specifying for what they respectively accrued, and shall receipt the same; and if he refuse or neglect to do so, he shall be liable to the party paying the same for 3 times the amount so paid.

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

600.2528 Repealed. 1993, Act 189, Imd. Eff. Oct. 8, 1993.

Compiler's note: The repealed section pertained to fees to clerk of circuit court in county of less than 100,000.

600.2529 Fees paid to clerk of circuit court; payment in full; payment of fees to county treasurer; deposit and use to fund certain services; waiving or suspending fees; affidavit of indigency or inability to pay; court order to pay all or part of fee to other party.

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

(a) Before a civil action other than an action brought exclusively under section 2950, 2950a, or 2950h to 2950m is commenced, or before the filing of an application for superintending control or for an extraordinary writ, except a writ of habeas corpus, the party bringing the action or filing the application shall pay $150.00. The clerk at the end of each month shall transmit for each fee collected under this subdivision within the month $31.00 to the county treasurer and the balance of the filing fee to the state treasurer for deposit in the civil filing fee fund created in section 171.

(b) Before the filing of a claim of appeal or motion for leave to appeal from the district court, probate court, a municipal court, or an administrative tribunal or agency, the appellant or moving party shall pay $150.00. For each fee collected under this subdivision, the clerk shall transmit $31.00 to the county treasurer and the balance of the fee to the state treasurer for deposit in the civil filing fee fund created in section 171.

(c) At the time a trial by jury is demanded, the party making the demand shall pay $85.00. Failure to pay the fee at the time the demand is made constitutes a waiver of the right to a jury trial. The fee paid shall be taxed in favor of the party paying it if the party recovers a judgment for costs. For each fee collected under this subdivision, the clerk shall transmit $25.00 to the state treasurer for deposit in the juror compensation reimbursement fund created in section 151d.

(d) Before entry of a final judgment or order in an action in which the custody, support, or parenting time of minor children is determined or modified, the party submitting the judgment or order shall pay 1 of the following fees:

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

(*ii*) In an action in which the support of minor children is determined or modified, $40.00. This fee does not apply when a fee is paid under subparagraph (*i*).

(e) Except as otherwise provided in this section, upon the filing of a motion, the moving party shall pay $20.00. In conjunction with an action brought under section 2950 or 2950a, a motion fee shall not be collected for a motion to dismiss the petition, a motion to modify, rescind, or terminate a personal protection order, or a motion to show cause for a violation of a personal protection order. A motion fee shall not be collected for a motion to dismiss a proceeding to enforce a foreign protection order or a motion to show cause for a violation of a foreign protection order under sections 2950h to 2950m. A motion fee shall not be collected for a request for a hearing to contest income withholding under section 7 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.607. For each fee collected under this subdivision, the clerk shall transmit $10.00 to the state treasurer for deposit in the state court fund created by section 151a.

(f) For services under the direction of the court that are not specifically provided for in this section related to receiving, safekeeping, or expending money, purchasing, taking, or transferring a security, or collecting interest on a security, a party shall pay the allowance and compensation that the court determines to be just as ordered by the court after notice to the parties.

(g) Upon appeal to the court of appeals or the supreme court, the appellant shall pay $25.00.

(h) The applicant or requesting party shall pay $15.00 as a service fee for each writ of garnishment, attachment, or execution and each judgment debtor discovery subpoena issued.

(2) The fees paid as provided in this section are payment in full for all clerk, entry, and judgment fees in an action from the commencement of the action to and including the issuance and return of the execution or other final process, and are taxable as costs.

(3) Except as otherwise provided in this section, the fees paid under this section shall be paid to the county treasurer as required by law.

(4) At the end of each month, each fee collected under subsection (1)(d)(*i*) shall be paid to the county treasurer and deposited by the county treasurer as provided under section 2530 to be used to fund services that are not title IV-D services. The fee collected under subsection (1)(d)(*ii*) shall be paid to the county treasurer and deposited by the county treasurer as provided under section 2530.

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

(6) If the person filing an action described in subsection (1)(d) is a public officer acting in his or her official capacity, if the final judgment or order is submitted with the initial filing as a consent judgment or order, or other good cause is shown, the court shall order the fee under subsection (1)(d) waived or suspended. If a fee is waived or suspended and the action is contested, the court may require that 1 or more of the parties to the action pay the fee under subsection (1)(d).

(7) The court may order a party to pay the other party all or part of a fee paid by the other party under subsection (1)(d).

History: Add. 1963, Act 218, Eff. Sept. 6, 1963;—Am. 1964, Act 21, Eff. Aug. 28, 1964;—Am. 1966, Act 20, Eff. Jan. 1, 1967;—Am. 1967, Act 278, Eff. Nov. 2, 1967;—Am. 1970, Act 248, Eff. Jan. 1, 1971;—Am. 1977, Act 279, Eff. Mar. 30, 1978;—Am. 1982, Act 297, Eff. July 1, 1983;—Am. 1982, Act 511, Eff. Jan. 1, 1983;—Am. 1988, Act 310, Eff. Jan. 1, 1989;—Am. 1992, Act 233, Eff. Mar. 31, 1993;—Am. 1992, Act 292, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 189, Eff. Oct. 8, 1993;—Am. 1994, Act 403, Eff. Apr. 1, 1995;—Am. 1999, Act 268, Eff. July 1, 2000;—Am. 2001, Act 202, Eff. Apr. 1, 2002;—Am. 2002, Act 605, Eff. Jan. 1, 2003;—Am. 2003, Act 138, Eff. Oct. 1, 2003;—Am. 2003, Act 178, Eff. Oct. 1, 2003;—Am. 2004, Act 205, Eff. Oct. 1, 2004;—Am. 2009, Act 239, Imd. Eff. Jan. 8, 2010.

600.2530 Deposit of fees in friend of the court fund; exception; appropriation by county board of commissioners; remitting sums collected to state; appropriation by legislature; remittance to law enforcement agency.

Sec. 2530. (1) Except in any judicial circuit in which employees serving in the circuit court are employees of the state judicial council, the county treasurer shall deposit all fees collected under section 2529(1)(d) and 1/2 of the costs collected under sections 31, 32, and 44 of the support and parenting time enforcement act, Act No. 295 of the Public Acts of 1982, being sections 552.631, 552.632, and 552.644 of the Michigan Compiled Laws, in a fund created for that purpose to be known as the friend of the court fund. The county treasurer shall create the friend of the court fund as an interest bearing account, and interest earned shall be credited to the account to be used as provided in this section.

(2) The county board of commissioners shall appropriate all sums in this fund and additionally shall annually appropriate from the county general fund an amount not less than the total amount appropriated for the office of the friend of the court in the county's last fiscal year ending before July 1, 1983, for the purpose

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of fulfilling the statutory obligations of the friend of the court as provided in the friend of the court act, Act No. 294 of the Public Acts of 1982, being sections 552.501 to 552.535 of the Michigan Compiled Laws, and Act No. 295 of the Public Acts of 1982, being sections 552.601 to 552.650 of the Michigan Compiled Laws. Money transmitted to the county treasurer under section 31 of Act No. 295 of the Public Acts of 1982 shall supplement and not supplant other money appropriated by the county for friend of the court functions as measured by amounts appropriated by the county for those functions in previous and current fiscal years.

(3) In a judicial circuit in which employees serving in the circuit court are employees of the state judicial council, the county treasurer shall remit all sums collected under section 2529(1)(d) and 1/2 of the costs collected under sections 31, 32, and 44 of Act No. 295 of the Public Acts of 1982 to the state as provided in section 595(4). As provided in section 595(1), the legislature annually shall appropriate the amount received under this subsection for the purpose of fulfilling the statutory obligations of the friend of the court in the third judicial circuit as provided in Act No. 294 of the Public Acts of 1982 and Act No. 295 of the Public Acts of 1982.

(4) The county treasurer shall remit 1/2 of the costs actually paid by a payer as ordered by the court under section 31, 32, or 44 of Act No. 295 of the Public Acts of 1982 to the law enforcement agency that executes the bench warrant issued for the arrest of that payer.

History: Add. 1982, Act 297, Eff. July 1, 1983;—Am. 1996, Act 10, Eff. June 1, 1996;—Am. 1996, Act 302, Eff. Jan. 1, 1997.

600.2530a Repealed. 1992, Act 234, Eff. Mar. 31, 1993.

Compiler's note: The repealed section pertained to remittance of revenue to the state treasurer.

600.2531 Oath of office; administration without fee.

Sec. 2531. No fee may be charged by any officer, for administering the oath of office to any member of the legislature, to any military officer, or to any other public officer.

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

600.2534 Publication of legal notice, order, citation, summons, advertisement, or other matter; rates.

Sec. 2534. (1) For publishing a legal notice or an order, citation, summons, advertisement, or other matter arising out of judicial proceedings required by law to be published in a newspaper, except as provided in subsection (2), the cost shall not exceed the rate of $20.50 per folio for the first insertion, and $8.45 per folio for each subsequent insertion. A minimum cost of $59.00 shall be allowed for a notice which must appear 2 times or more, and a minimum cost of $44.00 shall be allowed for a notice which must appear 1 time.

(2) Each year for 5 years beginning March 1, 2008, the rates described in subsection (1) shall be adjusted by the percentage increase in the United States consumer price index for the immediately preceding calendar year and the result rounded to the nearest multiple of 5 cents.

(3) A newspaper publishing for the state an advertisement other than tax lists shall be permitted to charge for the advertisement its regular established commercial rate in effect at the time the advertisement is published.

(4) A newspaper accepting for publication a legal or public notice as provided by law shall not charge higher rates or collect higher rates for political notices or political advertising than they charge for commercial advertising of the same or similar size.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 161, Imd. Eff. July 1, 1966;—Am. 1971, Act 200, Eff. Jan. 1, 1972;—Am. 1976, Act 153, Eff. Jan. 1, 1977;—Am. 1980, Act 35, Eff. Apr. 1, 1980;—Am. 1985, Act 169, Eff. Jan. 1, 1986;—Am. 1996, Act 378, Eff. Oct. 1, 1996;—Am. 2006, Act 506, Eff. Mar. 1, 2007.

600.2537 Repealed. 1993, Act 189, Imd. Eff. Oct. 8, 1993.

Compiler's note: The repealed section pertained to jury fees.

600.2538 Payments of support or maintenance collected by friend of the court or state disbursement unit; fee; notice; contempt for failure or refusal to pay fee; centralized receipt and disbursement of support; creation of attorney general's operations fund; “state disbursement unit” or “SDU” defined.

Sec. 2538. (1) For services provided that are not reimbursable under the provisions of part D of title IV of the social security act, 42 USC 651 to 669b, every person required to make payments of support or maintenance to be collected by the friend of the court or the state disbursement unit shall pay a fee of $3.50 per month for every month or portion of a month that support or maintenance is required to be paid. The fee shall be paid monthly, quarterly, or semiannually as required by the friend of the court. The friend of the court

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

(a) Two dollars and twenty-five cents to the appropriate county treasurer for deposit into the general fund of the county to be used to fund the provision of services by the friend of the court that are not reimbursable under part D of title IV of the social security act, 42 USC 651 to 669b.

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

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

(2) A court may hold a person who fails or refuses to pay a service fee ordered under subsection (1) in contempt.

(3) The SDU is responsible for the centralized receipt and disbursement of support. An office of the friend of the court may continue to receive support and fees.

(4) An attorney general's operations fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The department of attorney general shall expend money from the fund, upon appropriation, for operational purposes.

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

History: Add. 1993, Act 189, Imd. Eff. Oct. 8, 1993;—Am. 1999, Act 151, Imd. Eff. Nov. 3, 1999;—Am. 2003, Act 138, Eff. Oct. 1, 2003;—Am. 2003, Act 178, Eff. Oct. 1, 2003;—Am. 2009, Act 239, Imd. Eff. Jan. 8, 2010.

600.2540 Compensation of juror for attendance on inquest.

Sec. 2540. Each juror sworn before any medical examiner or judge, on an inquest taken by either of them on view of any dead body, is entitled to receive $6.00 for each day's attendance and $3.00 for each half day's attendance on the inquest, the accounts for the service to be allowed by the county board of commissioners in counties not having a board of county auditors, and in counties having a board of county auditors by the board, on the certificate of the medical examiner or judge.

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

600.2543 Circuit court reporters or recorders; fees for transcripts; fees as part of taxable costs.

Sec. 2543. (1) The circuit court reporters or recorders are entitled to demand and receive per page for a transcript ordered by any person the sum of $1.75 per original page and 30 cents per page for each copy, unless a lower rate is agreed upon. For a transcript ordered by the circuit judge, reporters or recorders are entitled to receive from the county the same compensation. The supreme court, by administrative order or court rule, may authorize the payment to circuit court reporters or recorders the sum of $3.00 per original page and 50 cents per page for each copy for transcripts ordered and timely filed as part of a program of differentiated case management for appeals of civil cases in which the circuit court either grants or denies summary disposition. If a transcript ordered under a program of differentiated case management is not timely filed, the circuit court reporter or recorder is not entitled to receive the increased rate for that transcript.

(2) Only if the transcript is desired for the purpose of moving for a new trial or preparing a record for appeal shall the amount of reporters' or recorders' fees paid for the transcript be recovered as a part of the taxable costs of the prevailing party in the motion, in the court of appeals or the supreme court.

History: 1961, Act 236, Eff. Jan 1, 1963;—Am. 1963, Act 200, Eff. Sept. 6, 1963;—Am. 1974, Act 158, Eff. Sept. 1, 1974;—Am. 1977, Act 31, Imd. Eff. June 22, 1977;—Am. 1978, Act 522, Eff. Jan. 1, 1979;—Am. 1986, Act 308, Eff. Jan. 1, 1987;—Am. 2004, Act 328, Imd. Eff. Sept. 23, 2004.

600.2546 Certified copies, exemplifications of records, pleadings, and proceedings; fee.

Sec. 2546. Except as otherwise provided by law, in the circuit court, district court, or probate court, for all certified copies, and exemplifications of records, pleadings and proceedings furnished on request, where no special provision is otherwise made, the fee is $10.00 plus $1.00 per page.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, Act 240, Eff. Sept. 6, 1963;—Am. 1993, Act 189, Eff. Oct. 8, 1993.

600.2549 Depositions and certified copies; fees taxable as costs.

Sec. 2549. Reasonable and actual fees paid for depositions of witnesses filed in any clerk's office and for

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the certified copies of documents or papers recorded or filed in any public office shall be allowed in the taxation of costs only if, at the trial or when damages were assessed, the depositions were read in evidence, except for impeachment purposes, or the documents or papers were necessarily used.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1984, Act 278, Eff. Jan. 1, 1985.

600.2552 Witness fees; traveling expenses; attorneys as witnesses; incarcerated witness; inquests; per-mile rate of reimbursement.

Sec. 2552. (1) A witness who attends any action or proceeding pending in a court of record shall be paid a witness fee of $12.00 for each day and $6.00 for each half day, or may be paid for his or her loss of working time but not more than $15.00 for each day shall be taxable as costs as his or her witness fee. Except as provided in sections 7 and 13 of chapter XV of the code of criminal procedure, 1927 PA 175, MCL 775.7 and 775.13, a witness shall be reimbursed as provided in subsection (5) for his or her traveling expenses in coming to the place of attendance and returning from the place of attendance, to be estimated from the residence of the witness, if his or her residence is within this state, or from the boundary line of this state that the witness passed in coming into this state, if his or her residence is out of this state.

(2) An attorney or counsel in any action or proceeding in which he or she may be interested as attorney or counsel shall not be paid any fee for attending as a witness in that action or proceeding.

(3) A witness who is incarcerated under sentence in a county jail or a state or federal correctional facility when he or she attends an action or proceeding shall not be paid a witness fee and shall not be reimbursed for traveling from or returning to the place where he or she is incarcerated.

(4) A witness who attends a proceeding before any person authorized to hold inquests on the view of dead bodies, or before any officer, person, or board authorized to take the examination of witnesses, shall be paid a witness fee of $12.00 for each day's attendance and $6.00 for each half day; and shall be reimbursed as provided in subsection (5) for his or her traveling expenses in that case in coming to the place of attendance and returning from the place of attendance, to be estimated from the residence of the witness, if his or her residence is within this state, or from the boundary line of this state that the witness passed in coming into this state, if his or her residence is out of this state.

(5) Beginning on the effective date of the amendatory act that added this subsection, the per-mile rate of reimbursement of traveling expenses for witnesses shall be the same as the per-mile rate of reimbursement of traveling expenses established by directives of the department of management and budget for state officers and unclassified employees of state agencies while engaged in the performance of state business, pursuant to section 217 of the management and budget act, 1984 PA 431, MCL 18.1217.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1966, Act 20, Eff. Jan. 1, 1967;—Am. 1994, Act 154, Imd. Eff. June 13, 1994;—Am. 2000, Act 85, Eff. Oct. 1, 2000.

600.2555 Process server; traveling fees.

Sec. 2555. A person authorized by this act or supreme court rule to serve process or a paper issued by or filed with a court in this state is only entitled to traveling fees for the service from the place where the court that issued or filed the process or paper is located to the place of service, not to exceed 75 miles each way.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 2003, Act 243, Eff. Jan. 1, 2004.

600.2558 Fees of sheriff; increase; mileage; liability.

Sec. 2558. (1) The sheriff is entitled to the fees provided in this section and section 2559.

(2) The following fees of the sheriff are allowed:

(a) For taking a bond if the sheriff is authorized to take the bond, $1.50; for a certified copy of the bond, if requested, $1.00.

(b) For every certificate on the sale of real estate, $1.50; and for each copy of the certificate, $1.50, which, together with the register's fee for filing the certificate, shall be collected as other fees on execution.

(c) For taking a bond for the liberties of the jail, $1.50.

(d) For summoning a jury upon a writ of inquiry, attending the jury, and making and returning the inquisition, $5.00.

(e) For summoning a jury pursuant to any precept or summons of any officer in any special proceeding, $5.00, and for attending the jury when required, $5.00.

(f) For bringing up a prisoner upon habeas corpus, $3.00, and for traveling each mile from the jail, 15 cents; for attending any court with that prisoner, $5.00 per day, plus actual necessary expenses.

(g) For attending before any officer with a prisoner for the purpose of having the prisoner surrendered in exoneration of his or her bail, or for attending to receive a prisoner so surrendered, who was not committed at the time, and receiving that prisoner into the sheriff's custody, in either case, $15.00.

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(h) For attending a view, when ordered by the court, $15.00 per day, including the time occupied in going and returning.

(i) For making and returning an inventory and appraisal to the appraisers, $10.00 for each day actually employed, and $5.00 for each half day. The court, by rule, may adjust a schedule fixing the amount of appraisal fees if the court considers the statutory fee to be inadequate.

(j) For drafting an inventory, $1.25 for each page and for copying the inventory, 10 cents for each page.

(k) For giving notice for general or special election to the inspectors of the different townships and wards of the county, $1.00 for each township or ward, and the expenses of publishing the notices required by law, those fees and expenses to be paid by the county, as other contingent expenses of the election.

(*l*) For attending the supreme court by the order of the court, $10.00 for each day, to be allowed by the state treasurer on the certificate of the clerk, and paid out of the state treasury, not taxable as costs.

(m) For attending the circuit court, by the order of the court, $15.00 for each day, except in the county of Wayne; not taxable as costs. In the county of Wayne there shall be paid to the deputy sheriffs in actual attendance on the circuit court in the county such compensation as shall be fixed by the board of commissioners in accordance with the county uniform salary plan to be allowed and paid as other contingent charges of the county are paid; the number of deputies shall not exceed 2 for each judge of the third judicial circuit.

(n) For summoning grand or petit jurors to attend the circuit court, $2.00 for each juror summoned, not taxable as costs.

(o) For keeping and providing for a debtor in jail where the debtor is unable to support himself or herself, $1.00 for each day or such sum as shall be fixed by the board of commissioners, to be paid by the creditor each week, in advance, and which sum the creditor shall be entitled to recover from the debtor.

(p) For posting notices on property for foreclosure sales, $16.00 for each posting, plus mileage.

(q) For selling lands on the foreclosure of a mortgage by advertisement; and executing a deed to the purchaser and for all services required on that sale, $50.00.

(r) For each adjournment of the sale of land on the foreclosure of a mortgage by advertisement, $8.00.

(s) For serving notice of a person claiming title under a tax deed, in person and by mail, $16.00 plus mileage

(3) Mileage allowed under subsection (2) shall be computed in the same manner as provided for process served out of the circuit court under section 2559(3).

(4) Any sheriff or other officer who demands or receives any greater fees or compensation for performing any of the services mentioned in this section than as allowed by this section, shall, in addition to all other liabilities now provided by law, be liable to the party injured, for paying the illegal fees, in 3 times the amount so demanded, received, or paid, together with all costs of the action.

(5) Any sheriff or other officer who neglects or refuses any of the services required by law, after the fees specified have been tendered, shall be liable to the party injured for all damages which the party sustains by reason of that neglect or refusal.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, Act 170, Eff. Sept. 6, 1963;—Am. 1974, Act 306, Eff. Jan. 1, 1975;—Am. 1982, Act 173, Eff. Sept. 1, 1982;—Am. 1996, Act 214, Imd. Eff. May 28, 1996;—Am. 2002, Act 429, Imd. Eff. June 5, 2002.

600.2559 Fees for service of process; fee for process with incorrect address; mileage; fee for service of execution and advertising; liability; "order for the seizure of property" defined.

Sec. 2559. (1) Except as provided in subsection (2), the following is the schedule of fees allowed for process or papers served out of a court in this state by a person authorized under this act or supreme court rule to serve process:

(a) For personal service of a summons and complaint in a civil action, along with supporting documents, for each defendant, $18.00 plus mileage.

(b) For personal service of an affidavit and account, for each defendant, $18.00 plus mileage.

(c) For a request for and writ of garnishment, for each garnishee and defendant, $15.00 plus mileage.

(d) For personal service of an order to seize goods that are the subject of a claim and delivery action, $32.00 plus mileage, plus the actual and reasonable expense of seizing, keeping, and delivering the goods.

(e) For receiving and filing a bond from or on behalf of a defendant in a claim and delivery action, $12.00.

(f) For an order to show cause, for each person served, $18.00 plus mileage.

(g) For a subpoena on discovery, for each person served, $18.00 plus mileage.

(h) For levying under or serving an order for the seizure of property and any accompanying paper, $32.00 plus mileage, plus the actual and reasonable expense for seizing and keeping the property under the order.

(i) If the person has seized property under an order for the seizure of property issued in an action in which a judgment is entered against the owner of the property, regardless of whether the judgment is entered before

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or after the order is issued, and if the judgment is satisfied prior to sale of the seized property by full payment of the judgment or settlement between the parties, 7% of the first $5,000.00 of the payment or settlement amount and 3% of the payment or settlement amount exceeding the first $5,000.00.

(j) For sale of property seized under an order for the seizure of property, 7% of the first $5,000.00 in receipts and 3% of any receipts exceeding the first $5,000.00.

(k) For each notice of sale under an order for the seizure of property or construction lien posted in a public place in the city or township, $18.00 plus mileage.

(*l*) For an order of eviction or a writ for the restitution of premises, for each defendant, $32.00 plus mileage, plus the actual and reasonable expense for the physical removal of property from the premises.

(m) For a subpoena directed to a witness, including a judgment debtor, $18.00 plus mileage.

(n) For a civil bench warrant or body execution, $32.00 plus mileage, plus a reasonable fee per hour for the amount of time involved in executing the warrant.

(o) For service by mail, $5.00 plus the actual cost of postage.

(2) Each of the fees prescribed in subsection (1) shall increase by $1.00 on October 1, 2004, $1.00 on October 1, 2005, and $1.00 on October 1, 2006.

(3) Upon submitting a sworn affidavit, a person authorized by this act or supreme court rule to serve process or papers out of a court in this state is entitled to receive a $10.00 fee plus mileage for each process that has an incorrect address. This fee is in addition to any fee the person is entitled to receive under subsection (1).

(4) Mileage allowed under subsection (1) shall be 1-1/2 times the rate allowed by the state civil service commission for employees in the state classified civil service. Mileage shall be computed, each way, by the shortest distance from the place where the court that issued or filed the process or paper is located to the place of service.

(5) The fees and expenses allowed under subsection (1)(h) to (k) shall be collected in the same manner as the sum directed to be levied or collected under the order for the seizure of property. If there are several orders for the seizure of property against the defendant, at the time of advertising the defendant's property for sale, in the hands of the same sheriff or other officer, only 1 advertising fee shall be charged on the whole, and the sheriff or other officer shall elect upon which order he or she will receive that fee.

(6) A person authorized by this act or supreme court rule to serve process or papers out of a court in this state who demands and receives a greater fee or compensation for performing a service mentioned in this section than allowed by this section shall, in addition to all other liabilities provided by law, be liable to the party injured by paying the illegal fees for 3 times the amount of illegal fees actually paid, together with all costs of the action.

(7) A sheriff or other officer who, after the fees specified by this section have been tendered, neglects or refuses a service required by law is liable to the party injured for all damages that the party sustains by reason of that neglect or refusal.

(8) As used in this section, “order for the seizure of property” includes a writ of attachment and a writ of execution, including, but not limited to, execution in a claim and delivery action on property other than the property that is the subject of the claim and delivery action.

History: Add. 1982, Act 173, Eff. Sept. 1, 1982;—Am. 1994, Act 133, Eff. Oct. 1, 1994;—Am. 2003, Act 243, Eff. Jan. 1, 2004.

600.2561 Coroners; compensation or fees.

Sec. 2561. Coroners shall be entitled to such compensation as shall be determined by the board of supervisors, or to the following fees:

(1) For all services rendered by them, the same fees as are herein allowed to sheriffs for similar services.

(2) For the view of a dead body, and for taking and returning an inquisition thereof, $5.00.

(3) For traveling to the place of such view, 10 cents for each mile both ways.

(4) For every subpoena, warrant or venire for a jury, 25 cents.

(5) Swearing each witness, 10 cents; but the charges for swearing witnesses in any one case, shall not exceed 50 cents.

(6) For taking a recognizance, 25 cents.

(7) All the fees herein allowed to coroners, except for such services authorized to be performed as sheriff as are not chargeable to the county, shall be allowed and paid by the proper county.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1962, Act 73, Eff. Mar. 28, 1963.

600.2564 Repealed. 2003, Act 238, Eff. Apr. 1, 2004.

Compiler's note: The repealed section pertained to fees of notaries public.

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600.2567 Fees of register of deeds; imposition of fee by charter county; "page" defined.

Sec. 2567. (1) Except as provided in subsection (3), a register of deeds is entitled to the following fees, which are not taxable as costs except as indicated:

(a) For entering and recording a deed, mortgage, certified copy of an attachment, notice of the pendency of a suit, or other instrument, $8.00 for the first page and $3.00 for each additional and succeeding page. The fee shall be paid when the deed, mortgage, certified copy of an attachment, notice of the pendency of a suit, or other instrument is left for record. The register of deeds shall deposit $5.00 of the total fee collected for each recording into the automation fund if a fund has been established under section 2568. For any document that assigns or discharges more than 1 instrument, $3.00 shall be added to the recording fee for each additional instrument assigned or discharged.

(b) For copies of any records or papers, if required, $1.00 per page, taxable as costs if otherwise allowed.

(c) For a seal to exemplification, $1.00.

(d) For searching the records and files, on request, by the office of the register of deeds, 50 cents for each year for which grantor/grantee searches are made, with a minimum fee of $5.00, except that the fee for tract index searches shall be based upon the cost of establishing and maintaining a tract index.

(e) For filing every other paper, and making an entry of it, if necessary, $1.00, unless otherwise specifically provided for.

(f) For searching for every other paper, on request, by the office of the register of deeds, $1.00 for each paper examined.

(2) In addition to any other fees prescribed in subsection (1) or (3), a register of deeds shall collect a fee of $2.00 for entering and recording a deed, mortgage, certified copy of an attachment, notice of the pendency of a suit, or other instrument. The fee shall be paid when the deed, mortgage, certified copy of an attachment, notice of the pendency of a suit, or other instrument is left for record.

(3) A charter county may impose a fee schedule by ordinance or resolution with different amounts than the amounts prescribed by subsection (1). A charter county shall not impose a fee that is greater than the cost of the service for which the fee is charged.

(4) As used in this section, "page" means 1 side of a single sheet of paper at least 8-1/2 inches by 11 inches in length and not exceeding 8-1/2 inches by 14 inches in length and not less than 20-pound weight.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, Act 240, Eff. Sept. 6, 1963;—Am. 1964, Act 179, Eff. Jan. 1, 1965;—Am. 1972, Act 102, Eff. Jan. 1,1973;—Am. 1984, Act 127, Eff. July 1, 1984;—Am. 1984, Act 300, Imd. Eff. Dec. 21, 1984;—Am. 1990, Act 346, Eff. Jan. 1, 1991;—Am. 2002, Act 698, Eff. Mar. 31, 2003;—Am. 2004, Act 538, Eff. Mar. 30, 2005.

600.2567a Fee for recording instrument; amount and payment; additional to other fees; remittance and disposition of fees; limitation; applicability of section; “county plan” defined.

Sec. 2567a. (1) Except as otherwise provided in subsection (4), the county register of deeds shall collect a fee for recording any instrument. Before January 1, 2023, the fee shall be $4.00. Beginning January 1, 2023, the fee shall be $2.00. The fee shall be paid when the instrument is left for record.

(2) The fee required by this section is in addition to any fees required in section 2567 or fees or charges otherwise required by law for the recording of instruments.

(3) The fees collected under this section shall be remitted to the state treasurer quarterly, and shall be deposited by the state treasurer in the survey and remonumentation fund created in section 11 of the state survey and remonumentation act, 1990 PA 345, MCL 54.271, except that a county may retain not more than 1-1/2% of each fee collected under subsection (1) to cover the costs of administering this section.

(4) If, pursuant to a contract under section 8(5) of the state survey and remonumentation act, 1990 PA 345, MCL 54.268, a county has expended funds to expedite the completion of its county plan, the county may apply not more than 50% of its annual grant revenue under section 12(1)(a) of the state survey and remonumentation act, 1990 PA 345, MCL 54.272, to reimburse itself for these expenditures, until these expenditures have been fully reimbursed.

(5) This section does not apply to any of the following:

(a) An agency of the state when filing or recording any instrument with the county register of deeds under the state tax lien registration act, 1968 PA 203, MCL 211.681 to 211.687.

(b) An individual or any public or private legal entity when recording a lien or discharge of a lien with the county register of deeds under section 15 of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.15.

(c) An agency of the federal government when filing or recording any instrument with the county register of deeds under the uniform federal lien registration act, 1983 PA 102, MCL 211.661 to 211.668.

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(d) An individual or any public or private legal entity when recording any instrument with the county register of deeds under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102.

(e) A foreclosing governmental unit when recording any instrument required under sections 78 to 78o of the general property tax act, 1893 PA 206, MCL 211.78 to 211.78o.

(6) As used in this section, "county plan" means a monumentation and remonumentation plan under section 8 of the state survey and remonumentation act, 1990 PA 345, MCL 54.268.

History: Add. 1990, Act 346, Eff. Jan. 1, 1991;—Am. 2002, Act 700, Eff. Mar. 31, 2003;—Am. 2006, Act 662, Eff. Mar. 30, 2007.

600.2568 Automation fund.

Sec. 2568. (1) Each county in this state shall establish an automation fund, and that fund shall receive money deposited by the register of deeds of the county in accordance with section 2567. The county treasurer shall direct investment of the fund and shall credit to the fund interest and earnings from fund investments.

(2) The county register of deeds of each county shall expend the fees credited to the fund under section 2567 subject to an appropriation under the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a, for upgrading technology in the register of deeds office, with priority given to upgrading search capabilities. Upgrading includes the design and purchase of equipment and supplies, and implementation of systems and procedures that allow the register of deeds to receive, enter, record, certify, index, store, search, retrieve, copy, and otherwise process by automated procedures and advanced technology documents, instruments, abstracts, maps, plats, and other items recorded and maintained by the register of deeds.

(3) Not later than 90 days after the effective date of the amendatory act that added this subsection, each register of deeds shall begin to implement procedures to process and make available all items recorded, compiled, or maintained by that register of deeds, using the automated procedures and advanced technology described in subsection (2) to the maximum extent feasible utilizing the fund created under subsection (1).

(4) Four years after the effective date of the amendatory act that added this section, the register of deeds of each county shall prepare a report to the legislature that addresses, but is not limited to, each of the following issues:

(a) The progress that has been made by the register of deeds since the effective date of the amendatory act that added this section in achieving a goal of timely processing of recordable instruments.

(b) The extent to which the register of deeds has made records in the register's possession computer accessible by way of internet websites or other on-line media.

(5) The reports required under subsection (4) may be compiled into a single report by an agent of the county registers of deeds before it is submitted to the legislature.

History: Add. 2002, Act 698, Eff. Mar. 31, 2003.

600.2570 Fees of appraisers; mileage.

Sec. 2570. All appraisers of property taken on any writ of attachment, and sheriffs' aids in criminal cases or in the execution of legal process, where no express provision is made for compensation therefor, shall be entitled to $5.00 for each day and $2.50 for each half day for their services, and 6 cents a mile for travel in going and returning.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1965, Act 284, Imd. Eff. July 22, 1965.

600.2573 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

Compiler's note: The repealed section pertained to fees of circuit court commissioners.

600.2576 Counties over 1,000,000; proceedings relating to realty; fees; dispositions.

Sec. 2576. (1) Before any action or proceeding for the recovery of possession of lands and buildings shall be commenced before referees, in counties having a population of 1,000,000 or more, there shall be paid to the clerk of the referees, by the party bringing the same the sum of $8.00, if there is only 1 defendant to said action or proceeding. Should there be more than 1 defendant to such action or proceeding, the party bringing the same shall pay to the clerk an additional sum of $5.00 for each additional defendant. Of the fees so collected the sum of 50 cents for each defendant shall be paid by the clerk to the Wayne county retirement system to be credited to the circuit court referees bailiff's retirement fund.

(2) The bailiff serving the summons in said action or proceeding shall receive for his services the sum of $4.50 for each defendant served.

(3) A fee in the amount of $8.00 shall be paid to the clerk of said commissioners for the issuance of a writ of restitution on the consummation of any action or proceeding before a circuit court commissioner. The bailiff serving said writ of restitution shall receive for his services the sum of $4.50.

(4) A fee in the amount of $2.00 shall be paid to the clerk of said commissioners upon the institution of

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proceedings under RJA chapter 61 for hearing and examination before a circuit court commissioner, and application for dissolution of attachment and also upon the filing of a demand for the examination of a garnishee defendant before a circuit court commissioner.

(5) Before any affidavit on appeal shall be served on a commissioner, in addition to the costs now provided by law for making returns to appeals, the further sum of $4.00 shall be paid to said clerk by the appellant or plaintiff in error, and the clerk therewith shall pay the entry fee in the circuit court and at the same time file therein the return to the appeal.

(6) The moneys so paid shall be for the use of the county and shall be held in full of all fees now allowed by law to said commissioners, from the commencement of such proceeding to and including the issuing of such final process as may be necessary to give effect to an order or judgment of such commissioner.

(7) The sum or sums so paid, including jury fees, shall be taxed as costs of suit in favor of the party paying the same if he is the prevailing party in the action in addition to any other to which he may be entitled by law.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, Act 198, Eff. Sept. 6, 1963;—Am. 1969, Act 259, Imd. Eff. Aug. 11, 1969.

600.2579 Supreme court crier; fees.

Sec. 2579. For the service of all orders, processes or writs issued from the supreme court, the supreme court crier shall collect for such service the fees allowed by law to sheriffs. Any and all fees collected by the crier shall be paid into the state treasury to be credited to the general fund.

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

600.2582 Service on corporation and securities commission; fee.

Sec. 2582. If service on a corporation is made by service on the corporation and securities commission, there shall be paid to the corporation and securities commission at the time of such service a fee of $3.00, which sum may be taxed as costs to the plaintiff, in case he prevails in the proceedings.

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

600.2591 Frivolous civil action or defense to civil action; awarding costs and fees to prevailing party; definitions.

Sec. 2591. (1) Upon motion of any party, if a court finds that a civil action or defense to a civil action was frivolous, the court that conducts the civil action shall award to the prevailing party the costs and fees incurred by that party in connection with the civil action by assessing the costs and fees against the nonprevailing party and their attorney.

(2) The amount of costs and fees awarded under this section shall include all reasonable costs actually incurred by the prevailing party and any costs allowed by law or by court rule, including court costs and reasonable attorney fees.

(3) As used in this section:

(a) “Frivolous” means that at least 1 of the following conditions is met:

(*i*) The party's primary purpose in initiating the action or asserting the defense was to harass, embarrass, or injure the prevailing party.

(*ii*) The party had no reasonable basis to believe that the facts underlying that party's legal position were in fact true.

(*iii*) The party's legal position was devoid of arguable legal merit.

(b) “Prevailing party” means a party who wins on the entire record.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

“(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

“(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

“(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

“(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

“(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

“(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988.”

CHAPTER 26

BONDS

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600.2601 Bonds; form; defect; amendment; new bond.

Sec. 2601. (1) Whenever a bond is required by law to be given by any person in order to entitle him to any right or privilege conferred by law or to commence any proceeding, it is not necessary that the bond conform in all respects to the form prescribed by the statute. It is sufficient if it substantially conforms to the form prescribed by the statute and does not vary so as to prejudice the rights of the party to whom or for whose benefit the bond is given.

(2) Whenever a bond defective in any respect has been or is given, the court, officer, or body that would be authorized to receive the bond or to entertain any proceeding in consequence of the bond if it were perfect may amend the bond in any respect upon the application of the obligors of the bond or may allow a new bond bearing the date at which the earlier bond was required to be given to be substituted in the place of the defective bond upon the application of the person required to give the bond. The new bond shall then be deemed valid from the date of the execution of the earlier bond. When application is made to amend, the court, officer, or body is not limited to the particular amendment applied for but has power to amend the bond in any respect so as to make the defective bond meet the requirements that existed at the time it was given. When a new bond is allowed, it shall be substantially the same as might have been demanded when the defective bond was given.

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

600.2605 Stay of proceedings without bond; conditions.

Sec. 2605. If the party applying for a stay of proceedings is unable to give a stay bond by reason of poverty, the judge may, upon due proof of inability for such reason, grant such stay without requiring such bond upon such conditions and for such reasonable time as the judge may determine.

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

600.2607 Stay pending appeal of judgment; amount of bond; limitation; rescission of limitation.

Sec. 2607. (1) The amount of a bond issued to stay execution on a judgment while an appeal is pending shall be determined according to the applicable Michigan court rules and statutory provisions. The bond shall not exceed $25,000,000.00 regardless of the amount of the judgment. The maximum amount allowed for a bond under this subsection shall be adjusted on January 1 following the fifth year after the effective date of the amendatory act that added this section and on January 1 every 5 years after that adjustment by an amount determined by the state treasurer to reflect the annual aggregate percentage change in the Detroit consumer price index since the previous adjustment. As used in this subsection, “Detroit consumer price index” means the most comprehensive index of consumer prices available for the Detroit area from the bureau of labor statistics of the United States department of labor and as certified by the state treasurer.

(2) If the appellee proves by a preponderance of the evidence that the party for whom the bond to stay execution has been limited is purposefully dissipating or diverting assets outside of the ordinary course of business for the purpose of avoiding ultimate payment of the judgment, the court shall rescind the limitation granted under subsection (1).

History: Add. 2002, Act 265, Eff. Jan. 1, 2003.

Compiler's note: Enacting section 1 of Act 265 of 2002 provides:
“Enacting section 1. This amendatory act takes effect January 1, 2003 and applies to an appeal filed on or after that date.”

600.2611 Bond not required of state or municipal corporation; appeal.

Sec. 2611. In any suit or proceeding in which the state, or any state officer duly authorized for that purpose, or any corporate body in charge of any state institution, or any municipal corporation, is a party, no bond shall be required to be given by any such party as a prerequisite to the taking of an appeal, or the making of an order staying proceedings.

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

600.2615 Bond not required of state or municipal corporation; process.

Sec. 2615. No bond, obligation, or security may be required of the state of Michigan, or of any of its departments, institutions or subdivisions in any action instituted by or in which the state of Michigan or any of its departments, institutions or subdivisions is a party, or for the issuance of any warrant or levying of any execution on behalf of said parties.

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

600.2621 Single corporate surety; sufficiency.

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Sec. 2621. Unless otherwise expressly provided, a statute requiring a bond with 2 sureties on the bond may be satisfied by having, as surety on the bond, a single corporate surety authorized to transact such business in this state.

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

600.2625 Oath to sureties or bail.

Sec. 2625. Whenever any officer is authorized to take any sureties or bail, he is authorized to administer an oath to every person who is offered as such bail or surety, to ascertain his sufficiency.

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

600.2631 Cash or securities in lieu of bail or bond; deposit; receipts; discharge; interest; substitution.

Sec. 2631. In any civil cause, action, proceeding or matter before any court, board or commission in this state or upon appeal from any action of any such court, board or commission, in any civil cause, action, proceeding or matter where bond or bail of any character is required or permitted for any purpose, it shall be lawful for the party or parties required or permitted to furnish such bail or bond to deposit, in lieu thereof, in the same manner herein provided for, cash, satisfactory municipal bonds negotiable by delivery, a certified check or certified checks on any state or national bank within this country payable to the officer with whom such check is filed, or obligation of the United States government negotiable by delivery, equal in amount to the amount of the bond or bail so required or permitted.

(1) Any person, firm or corporation desiring to avail himself of the provisions of this section shall deposit or cause to be deposited such cash or securities with the county, city, village or township treasurer of county, city, village or township within which the bond or bail is to be furnished or, in any case, with the state treasurer.

(2) Such treasurer, upon tender to him, shall accept such cash or securities and shall deliver to the depositor a duplicate receipt reciting the fact of such deposit.

(3) If such bond or bail is required after the office hours of any such treasurer with whom it is desired to file such cash or securities, the deposit may be made with the chief clerk of such court, board or commission or with the sheriff of the county or the deputy in charge of the county jail or the sheriff's office, who shall accept the same, giving duplicate receipts therefor, and cause such security to be delivered to the proper treasurer as above provided for within 48 hours thereafter.

(4) The filing of 1 of such duplicate receipts with the court, board or commission with which such bond or bail is required or permitted to be filed shall have the same effect as the furnishing of such bond or bail and shall be taken and accepted by such court, board or commission or by its chief clerk in lieu of such bond or bail.

(5) If such bond or security be discharged, an order to that effect shall be entered upon the records of the court, board or commission with a statement of the amount to be returned to the person making the deposit. Upon presentation to him of a copy of such order, duly certified by the chief clerk of the court, board or commission making the same, the proper treasurer shall pay to the person named therein or to his order the amount specified or shall return the securities as the case may be. If the bond or security be forfeited, an order to that effect shall be entered upon the records of the court, board or commission, and upon presentation to him of a copy of such order, certified by the chief clerk of the court, board or commission making the same, the treasurer shall make such disposition of the security as such order shall provide for. Money or securities deposited hereunder shall not be subject to garnishment. In case such cash or security is still in the hands of the clerk of such court, board or commission at the time the same is declared discharged or forfeited, the clerk shall make the same disposition of such security as the treasurer would be required to make in similar circumstances. Whenever the order of the court, board or commission requires or contemplates the same, the treasurer or clerk shall endorse to the proper party any certified check deposited with him as security.

(6) Any cash or securities received by any treasurer under the provisions of this section shall be deposited in a special fund or place of deposit subject to the order of the proper court, board or commission. Any interest accumulating upon such fund shall be paid into the general fund or corresponding fund of the state, county, city, village or township according to the nature of the case or in accordance with the order of the proper court, board or commission. When bonds or other securities are deposited the interest coupons shall not be detached therefrom but shall follow the disposition of the securities.

(7) Any person, firm or corporation, availing themselves of the provisions of this section may, at any time, before forfeiture of the same, redeem any cash or securities so deposited by substituting the bond originally required or permitted.

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

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600.2641 Change in parties; effect; new bonds.

Sec. 2641. No change in parties, made by order of court, shall impair any previous attachment of the estate of any person remaining a defendant in the action; nor impair bonds or recognizances of any person remaining a party either as against himself or his sureties; nor impair receipts to an officer for property attached; and, when parties are changed, the court may order new bonds if such new bonds are deemed necessary.

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

600.2645 Liability of officer if sureties insufficient; recovery of penalty by state or county.

Sec. 2645. (1) If on the return of an execution, duly issued upon any judgment obtained on a bond, it appears that the sureties taken therein were insufficient at the time of taking, and that the officer receiving them had reasonable ground to doubt their sufficiency, or failed to comply with the rules of the supreme court in receiving the bond, the officer is liable to the party aggrieved for the amount of the judgment recovered by him, and for his costs and expenses in such suit.

(2) If such suit was brought by the attorney general or a prosecuting attorney, an action may in like manner be brought by them, in the name of the people of this state, for the amount of the judgment so recovered. The penalty recovered shall be paid into the treasury of the county in which the bond was taken, to the credit of the general fund.

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

600.2651 Joint defendants; appeal bond; judgment against sureties.

Sec. 2651. If the defendants, or any 2 or more of them, have taken any cause where they are joint defendants by appeal to any court, and have filed a bond on appeal and on the trial or hearing in the higher court, a verdict, finding, opinion or judgment is rendered for 1 or more of such defendants so appealing, the surety or sureties on such appeal bond shall not be released from his or their liability on such bond by reason of such action, but judgment may be entered against said surety or sureties as well as against the defendant or defendants held liable.

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

600.2655 Security for costs; judgment against surety.

Sec. 2655. Whenever any person becomes security for costs for another, in any court in this state, whether such security is required by law to be given, or is required by order of the court, in case the opposite party in any such action recovers final judgment for costs against the principal, thereupon judgment or decree may immediately be entered, as well against such surety as against such principal, and execution may issue against such surety, in the same manner as if he had been himself a party to such suit.

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

600.2661 Actions on probate bonds.

Sec. 2661. All actions may be commenced in this state by order of a probate court, upon any bond required by law to be filed with such court.

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

600.2665 Attorney not to post bond; probate fiduciary.

Sec. 2665. No practicing attorney or counselor shall become a surety or post bond for any client in criminal or civil matters. This section shall not apply to any bond of $100.00 or less required to be filed by a fiduciary in the probate court or the family division of circuit court.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1964, Act 16, Eff. Aug. 28, 1964;—Am. 1996, Act 388, Eff. Jan. 1, 1998.

CHAPTER 27
NOTICE LIS PENDENS

600.2701 Notice lis pendens; recording; copy as evidence.

Sec. 2701. (1) To render the filing of a complaint constructive notice to a purchaser of any real estate, the plaintiff shall file for record, with the register of deeds of the county in which the lands to be affected by such constructive notice are situated, a notice of the pendency of such action, setting forth the title of the cause, and the general object thereof, together with a description of the lands to be affected thereby.

(2) Such a notice may be filed with the complaint before the service of the summons; but, in that case, personal or substituted service of the summons must be made upon a defendant, within 60 days after the filing, or else, before the expiration of the same time, publication must be commenced, or service thereof must

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be made without the state, as prescribed by law. If the defendant dies within 60 days after the filing of the notice and before commencement or completion of service of the summons, the summons may be served upon the person substituted for the defendant within 60 days after such substitution.

(3) The register of deeds shall record such notice, in a book kept for that purpose, upon the payment of the fee as is provided by law. A copy of such record, authenticated by the register of deeds, is evidence of such notice, and the recording of the same, in all courts and places.

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

600.2711 Notice lis pendens; filing by defendant.

Sec. 2711. Where a defendant sets up in his answer a counterclaim, upon which he demands an affirmative judgment affecting the title to, or the possession, use or enjoyment of real property, he may file for record a like notice at the time of filing his answer or at any time afterwards before final judgment. For these purposes, the defendant filing such a notice is regarded as a plaintiff and the plaintiff is regarded as a defendant.

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

600.2715 Notice lis pendens; duration; extension.

Sec. 2715. (1) A notice of pendency hereafter filed for record shall be effective as notice for a period of 3 years from the date of filing. Before the expiration of the period, the court upon application of the plaintiff and upon such notice as may be directed or approved by the court, and for good cause shown, may from time to time grant additional orders each extending the period of duration of the notice of pendency for a period of not more than 3 years. If extended, a copy of the notice stating the date of filing of the immediately preceding notice, and stamped or marked "extended", shall be filed for record, recorded and indexed prior to the expiration of the notice of pendency then in force in the manner prescribed in this chapter.

(2) A notice of pendency heretofore filed shall be effective for a period of 3 years from the effective date of this act, and shall be subject to extension as herein prescribed.

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

600.2721 Notice lis pendens; index by register of deeds.

Sec. 2721. Each register of deeds shall enter in an index to be kept in his office, such references to the said notices, as will enable all persons interested to search his office for such notices without inconvenience.

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

600.2725 Notice lis pendens; cancellation; costs.

Sec. 2725. (1) If a plaintiff filing the notice before the service of the summons fails to serve the same within the time prescribed in this chapter, or after the action is settled, discontinued or abated, or final judgment is rendered therein against the party filing the notice, and the time to appeal therefrom has expired, the court, upon the application of any person aggrieved and upon such notice as may be directed or approved by it, shall direct that a notice of the pendency of an action be canceled of record by a particular register of deeds, or by all the registers of deeds, with whom it is filed.

(2) If a plaintiff filing the notice unreasonably neglects to proceed in the action, or does not commence or prosecute the action in good faith, the court, in its discretion, upon the application of any person aggrieved and upon such notice as may be directed or approved by it, may direct that a notice of the pendency of an action be canceled of record by a particular register of deeds, or by all the registers of deeds, with whom it is filed.

(3) The cancellation shall be made by a note to that effect, on the margin of the record, referring to the order. A certified copy of the order shall be filed for record with the register of deeds before the notice is canceled.

(4) The court, in its discretion, upon directing cancellation of the notice upon termination of the action, or during the pendency thereof if satisfied that the plaintiff who filed the notice unreasonably neglected to proceed in the action or did not commence or prosecute the same in good faith, may direct the plaintiff to pay all or any of the costs and expenses occasioned by filing the notice and the cancellation of the record, aside from the costs of the action itself.

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

600.2731 Notice lis pendens; cancellation; bond.

Sec. 2731. (1) In any pending or future action, other than an action to foreclose a mortgage or for the partition of real property or for dower, in which a notice of the pendency thereof has been filed and in which it appears to the court that adequate relief can be secured to the party who filed the same by the giving of a bond, where the cancellation of such notice is not otherwise expressly provided for or regulated, any person

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having an interest in the property affected by the action may apply for the cancellation thereof upon notice to all the parties to the action and to such other persons as the court may direct.

(2) The court in which the action is pending may make an order for the bond upon such terms as to costs or otherwise as may seem just. The discretion vested in the court by this section may be exercised in any such action, notwithstanding the same may have been brought to recover a judgment affecting the title to, or the possession, use or enjoyment, of specific real property.

(3) Upon an application as provided in subdivision (1) for cancellation of the notice of pendency, made in any pending or future action for specific performance of a contract to convey real property, whether or not the court determines that adequate relief can be secured to the party filing the notice of pendency by the giving of a bond, the court may order that the notice be canceled, upon the giving of a bond by the applicant upon terms fixed in the order, as provided in subdivision (2), unless the person filing the notice of pendency gives a bond, upon terms to be fixed by the order.

(4) The bond shall be in an amount which the court, upon consideration of the affidavits submitted upon the application, deems sufficient to indemnify the applicant for the damages he may incur if the notice of pendency is not canceled.

(5) The order shall provide that upon failure of the person filing the notice of pendency to give a bond in accordance with the order, the notice of pendency shall be canceled upon the giving of a bond by the applicant, as provided therein.

(6) Where the person who filed the notice of pendency has given a bond as provided in the order, recovery may be had upon the bond without further leave of the court, upon the discontinuance or abatement of the action, or the cancellation of the notice of pendency because of the neglect of such person to proceed in the action, or upon final judgment against him. The recovery may be obtained by a separate civil action, or by motion in the action as to which the notice was filed.

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

600.2735 Notice lis pendens; suits in federal courts.

Sec. 2735. (1) This chapter applies to suits affecting title to real property in the federal courts.

(2) The register of deeds shall file and index notices of the pendency of actions in the federal courts as prescribed herein.

(3) If a suit is removed to a federal court, or remanded to a state court, no additional notice need be filed; the notice filed in the action prior to removal or remand remains in effect.

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

CHAPTER 28.
JUDGMENT LIENS

600.2801 Definitions.

Sec. 2801. As used in this chapter:

(a) “Judgment” means a final judgment of 1 of the following:

(*i*) A court of record of this state.

(*ii*) A United States district court or bankruptcy court.

(*iii*) A foreign judgment filed under the uniform enforcement of foreign judgments act, 1996 PA 502, MCL 691.1171 to 691.1179.

(b) “Interest in real property” means an interest enumerated in section 6018.

(c) “Judgment lien” means an encumbrance in favor of a judgment creditor against a judgment debtor's interest in real property, including, but not limited to, after acquired property.

History: Add. 2004, Act 136, Eff. Sept. 1, 2004.

600.2803 Attachment; conditions.

Sec. 2803. A judgment lien attaches to a judgment debtor's interest in real property if a notice of judgment lien is recorded in accordance with this chapter in the land title records of the register of deeds for the county where the property is located. The judgment lien attaches at the time the notice of judgment lien is recorded or, for after acquired property, at the time the judgment debtor acquires the interest in the property.

History: Add. 2004, Act 136, Eff. Sept. 1, 2004.

600.2805 Notice of judgment lien; certification; service.

Sec. 2805. (1) The clerk of a court that entered a judgment shall certify a notice of judgment lien that has been filed with the court and that includes all of the following:

(a) The case caption and docket number.

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(b) The current name and address of the judgment creditor and, if the judgment creditor has an attorney, the attorney.

(c) The name, last 4 digits of the social security or tax identification number, and last known address of the judgment debtor.

(d) The current balance due on the judgment.

(e) The date the judgment was entered, the expiration date of the judgment, and the expiration date of the judgment lien.

(f) The signature of the judgment creditor or the judgment creditor's attorney.

(2) A notice of judgment lien need not include a legal description of the debtor's interest in real property.

(3) Except as provided by subsection (4), a copy of a notice of judgment lien that has been certified under subsection (1) shall be served by certified mail on the judgment debtor at the judgment debtor's last known address. Proof of service shall be filed with the court that issued the judgment.

(4) If the judgment that is the subject of the judgment lien is for $25,000.00 or more, a copy of a notice of judgment lien that has been certified under subsection (1) shall be personally served on the judgment debtor and proof of service filed with the court that issued the judgment.

History: Add. 2004, Act 136, Eff. Sept. 1, 2004.

600.2807 Property owned as tenants by the entirety; priority; exceptions; sale or refinance of property subject to judgment lien; limitation on proceeds.

Sec. 2807. (1) A judgment lien does not attach to an interest in real property owned as tenants by the entirety unless the underlying judgment is entered against both the husband and wife.

(2) With the following exceptions, a judgment lien has priority over a lien recorded with the register of deeds after the notice of judgment lien is recorded:

(a) A purchase money mortgage.

(b) A mortgage to the extent that proceeds of the mortgage are used to pay 1 or more of the following:

(*i*) Purchase money mortgage debt.

(*ii*) A subsequent refinancing of purchase money mortgage debt.

(*iii*) A nonpurchase money mortgage recorded before attachment of the judgment lien.

(c) A lien that secures an advance made under a previously recorded future-advance mortgage.

(d) A lien that has or acquires priority by operation of law.

(e) A claim of lien recorded with the register of deeds under section 111 of the construction lien act, 1980 PA 497, MCL 570.1111.

(f) A lien for unpaid assessments or charges due to a condominium association, homeowners' association, or property owners' association that arises from or pursuant to recorded restrictions that run with the land.

(g) A state or federal tax lien.

(3) If property subject to a judgment lien recorded under this chapter is sold or refinanced, proceeds of the sale or refinancing due to a judgment creditor are limited to the judgment debtor's equity in the property at the time of the sale or refinancing after all liens senior to the judgment lien, property taxes, and costs and fees necessary to close the sale or refinancing are paid or extinguished.

History: Add. 2004, Act 136, Eff. Sept. 1, 2004.

600.2809 Judgment lien; expiration; rerecording; tolling or suspension of time period; judgment lien extinguished.

Sec. 2809. (1) Unless subsection (2) or (3) applies, a judgment lien expires 5 years after the date it is recorded.

(2) Unless subsection (3) applies, if a judgment lien is rerecorded under subsection (4), the judgment lien expires 5 years after the date it is rerecorded.

(3) If the judgment expires before the judgment lien expires, the judgment lien expires on the date that the judgment expires.

(4) A judgment lien may be rerecorded only once. A judgment lien is rerecorded by recording with the register of deeds, not less than 120 days before the initial expiration date under subsection (1), a second notice of judgment lien that has been certified by the clerk of the court that entered the judgment.

(5) The filing of a state or federal insolvency proceeding by the judgment debtor does not toll or suspend the time period in which a judgment lien is effective.

(6) A judgment lien is extinguished when 1 or more of the following are recorded with the office of the register of deeds where the judgment lien is recorded:

(a) A discharge of judgment lien signed by the judgment creditor or the judgment creditor's attorney.

(b) A certified copy of a satisfaction of judgment that has been filed with the court that issued the

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judgment.

(c) A certified copy of a court order that discharges the judgment lien.

(d) A copy of the judgment debtor's discharge in bankruptcy issued by a United States bankruptcy court and a copy of the bankruptcy schedule listing the judgment debt. This subdivision does not apply if an order entered in the judgment debtor's bankruptcy case determining that the debt is nondischargeable is recorded with the register of deeds.

History: Add. 2004, Act 136, Eff. Sept. 1, 2004.

600.2811 Recording discharge or partial discharge of judgment lien.

Sec. 2811. Within 28 days after payment in full of the amount due on a judgment that is the basis for a judgment lien, the judgment creditor or the judgment creditor's attorney shall record a discharge of judgment lien with the office of the register of deeds where the judgment lien is recorded. If payment on a judgment lien is made from the judgment debtor's equity as described in section 2807(3) and is not payment in full of the amount due on the lien, the judgment creditor or the judgment creditor's attorney shall record a partial discharge of judgment lien for the amount paid.

History: Add. 2004, Act 136, Eff. Sept. 1, 2004.

600.2813 Failure of judgment creditor to record discharge of judgment lien; liability; filing of affidavit by judgment debtor.

Sec. 2813. (1) A judgment creditor that has not recorded a discharge of judgment lien as required by section 2811 shall record the discharge within 14 days after receiving a written request from the judgment debtor by certified mail. A judgment creditor that fails to comply with this section is liable to the judgment debtor for $300.00 plus all actual damages and costs sustained by the judgment debtor because of the failure.

(2) If a judgment debtor has paid a judgment in full or has made a partial payment from equity as described in section 2807(3), has sent a request under subsection (1), and is unable, after exercising due diligence, to locate the judgment creditor or the judgment creditor's attorney, the judgment debtor may record an affidavit that complies with this subsection with the register of deeds with whom the judgment lien is recorded. The judgment debtor shall state in the affidavit that the judgment debtor sent a request under subsection (1) to the judgment creditor or the judgment creditor's attorney and shall attach to the affidavit a copy of a written instrument that evidences payment of the judgment and a copy of the receipt for the certified mailing of the request. Recording the affidavit, written instrument, and receipt discharges the judgment lien completely or, if payment is made from the judgment debtor's equity as described in section 2807(3) and is not payment in full of the amount due on the lien, partially to the extent of the amount paid.

History: Add. 2004, Act 136, Eff. Sept. 1, 2004.

600.2815 Person with same or similar name as judgment debtor.

Sec. 2815. (1) A person who has the same or a similar name as a judgment debtor may demand in writing that a judgment creditor that has recorded a judgment lien against the judgment debtor deliver to the person a recordable document that discharges the judgment lien as to property owned by the person. The demand shall be accompanied by reasonable proof that the person is not the judgment debtor and that the property is not subject to the judgment lien.

(2) Within 14 days after receipt of a demand that complies with subsection (1), the judgment creditor shall deliver to the person making the demand a recordable document that discharges the judgment lien as to the property of the person. A judgment creditor that improperly fails to comply with this subsection is liable to the person making the demand for all actual damages and costs sustained by the person because of the failure and is presumed to be liable for at least $300.00.

(3) If a judgment creditor does not deliver a document as required by subsection (2), the person making the demand may move the court that entered the judgment for an order discharging the judgment lien. The motion shall be served on the judgment creditor. On presentation of evidence satisfactory to the court that the property is not subject to the judgment, the court shall order the judgment creditor to prepare and deliver a recordable discharge of the judgment lien or issue an order discharging the judgment lien. The court shall award reasonable attorney fees to a party that prevails on a motion under this section.

History: Add. 2004, Act 136, Eff. Sept. 1, 2004.

600.2817 Judgment lien; additional and separate from remedy or interest created by law or contract.

Sec. 2817. A judgment lien is in addition to and separate from any other remedy or interest created by law or contract.

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History: Add. 2004, Act 136, Eff. Sept. 1, 2004.

600.2819 Foreclosure.

Sec. 2819. There is no right to foreclose a judgment lien created under this chapter. At the time the judgment debtor makes a conveyance, as that term is defined in section 35 of 1846 RS 65, MCL 565.35, of, sells under an executory contract, or refinances the interest in real property that is subject to the judgment lien, the judgment debtor shall pay the amount due to the judgment creditor, as determined under section 2807(3), to the judgment creditor.

History: Add. 2004, Act 136, Eff. Sept. 1, 2004.

CHAPTER 29
PROVISIONS CONCERNING SPECIFIC ACTIONS

600.2901 Actions abolished; alienation of affections, criminal conversation, seduction, and breach of contract to marry.

Sec. 2901. The following causes of action are abolished:

(1) alienation of the affections of any person, animal, or thing capable of feeling affection, whatsoever;

(2) criminal conversation;

(3) seduction of any person of the age of 18 years or more;

(4) breach of contract to marry.

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

600.2902 Actions abolished; certain real actions.

Sec. 2902. All writs of right, writs of dower, writs of entry, and writs of assize, all fines and common recoveries, and all other real actions known to the common law, not enumerated and retained in this act, and all writs and other processes heretofore used in real actions, which are not specifically retained in this act, are abolished.

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

600.2903 Judgment in tort; renewal; continuance of remedies.

Sec. 2903. Any judgment in tort heretofore or hereafter rendered and of record in any court of record in this state may be sued on and renewed, within the time and as provided by law, and such renewal judgment or judgments, when obtained, shall likewise be in tort and have the same attributes as the original tort judgment or judgments, with all the rights and remedies of tort judgments attaching thereto.

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

600.2904 Repealed. 1964, Act 170, Eff. July 1, 1965.

Compiler's note: The repealed section abolished governmental immunity of political subdivisions in actions arising out of operation of motor vehicles, and provided for payment of premiums on liability insurance.

600.2905 Civil actions by state; laws applicable.

Sec. 2905. Every suit or proceeding in a civil cause instituted in the name of the people of this state, by any public officer duly authorized for that purpose, is subject to all the provisions of law respecting similar suits or proceedings, when instituted by or in the name of any citizen, except where provision is or shall be otherwise expressly made by statute.

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

600.2906 Confession of judgment.

Sec. 2906. Judgments may be entered in any circuit court at any time, upon a plea of confession, signed by an attorney of such court, although there is no suit then pending between the parties, if the following provisions are complied with, and not otherwise:

(1) The authority for confessing such judgment shall be in some proper instrument, distinct from that containing the bond, contract or other evidence of the demand for which such judgment was confessed;

(2) Such authority shall be produced to the officer signing each judgment, and shall be filed with the clerk of the court in which the judgment shall be entered, at the time of the filing and docketing of such judgment.

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

600.2907 Malicious prosecution or action; civil liability, penalty.

Sec. 2907. Every person who shall, for vexation and trouble or maliciously, cause or procure any other to be arrested, attached, or in any way proceeded against, by any process or civil or criminal action, or in any

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other manner prescribed by law, to answer to the suit or prosecution of any person, without the consent of such person, or where there is no such person known, shall be liable to the person so arrested, attached or proceeded against, in treble the amount of the damages and expenses which, by any verdict, shall be found to have been sustained and incurred by him; and shall be liable to the person in whose name such arrest or proceeding was had in the sum of $200.00 damages, and shall be deemed guilty of a misdemeanor, punishable on conviction by imprisonment in the county jail for a term not exceeding 6 months.

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

600.2907a Violation of MCL 565.25; liability to owner of encumbered property; penalty.

Sec. 2907a. (1) A person who violates section 25 of chapter 65 of the Revised Statutes of 1846, being section 565.25 of the Michigan Compiled Laws, by encumbering property through the recording of a document without lawful cause with the intent to harass or intimidate any person is liable to the owner of the property encumbered for all of the following:

(a) All of the costs incurred in bringing an action under section 25 of chapter 65 of the Revised Statutes of 1846, including actual attorney fees.

(b) All damages the owner of the property may have sustained as a result of the filing of the encumbrance.

(c) Exemplary damages.

(2) A person who violates section 25 of chapter 65 of the Revised Statutes of 1846, by encumbering property through the recording of a document without lawful cause with the intent to harass or intimidate any person is guilty of a felony punishable by imprisonment for not more than 3 years or a fine of not more than $5,000.00, or both.

History: Add. 1996, Act 527, Eff. Mar. 31, 1997.

600.2908 Repealed. 1972, Act 284, Eff. Jan. 1, 1973.

Compiler's note: The repealed section pertained to civil actions against stockholders for labor performed for the corporation.

600.2909 Stockholders; individual liability for corporate debts; enforcement; labor debts.

Sec. 2909. Whenever any stockholders are individually liable for the debts of a corporation the remedy for the enforcement of their liability shall be as prescribed by the court rules and not otherwise. This section does not apply to actions for labor performed when the action is brought by the person who performed the labor or his assignees.

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

600.2910 Action for seduction.

Sec. 2910. Actions for seduction are subject to the following provisions and limitations:

(1) In any action for seduction it is necessary to allege and prove that the female seduced was not 18 years of age or over at the time of the seduction.

(2) In any action for seduction it is not necessary to allege or prove any loss of services in consequence of the seduction.

(3) An action for seduction may be brought by the seduced female's mother, father, or guardian.

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

600.2911 Action for libel or slander.

Sec. 2911. (1) Words imputing a lack of chastity to any female or male are actionable in themselves and subject the person who uttered or published them to a civil action for the slander in the same manner as the uttering or publishing of words imputing the commission of a criminal offense.

(2)(a) Except as provided in subdivision (b), in actions based on libel or slander the plaintiff is entitled to recover only for the actual damages which he or she has suffered in respect to his or her property, business, trade, profession, occupation, or feelings.

(b) Exemplary and punitive damages shall not be recovered in actions for libel unless the plaintiff, before instituting his or her action, gives notice to the defendant to publish a retraction and allows a reasonable time to do so, and proof of the publication or correction shall be admissible in evidence under a denial on the question of the good faith of the defendant, and in mitigation and reduction of exemplary or punitive damages. For libel based on a radio or television broadcast, the retraction shall be made in the same manner and at the same time of the day as the original libel; for libel based on a publication, the retraction shall be published in the same size type, in the same editions and as far as practicable, in substantially the same position as the original libel; and for other libel, the retraction shall be published or communicated in substantially the same manner as the original libel.

(3) If the defendant in any action for slander or libel gives notice in a justification that the words spoken or

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published were true, this notice shall not be of itself proof of the malice charged in the complaint though not sustained by the evidence. In an action for slander or for publishing or broadcasting a libel even though the defendant has pleaded or attempted to prove a justification he or she may prove mitigating circumstances including the sources of his or her information and the ground for his or her belief. Damages shall not be awarded in a libel action for the publication or broadcast of a fair and true report of matters of public record, a public and official proceeding, or of a governmental notice, announcement, written or recorded report or record generally available to the public, or act or action of a public body, or for a heading of the report which is a fair and true headnote of the report. This privilege shall not apply to a libel which is contained in a matter added by a person concerned in the publication or contained in the report of anything said or done at the time and place of the public and official proceeding or governmental notice, announcement, written or recorded report or record generally available to the public, or act or action of a public body, which was not a part of the public and official proceeding or governmental notice, announcement, written or recorded report or record generally available to the public, or act or action of a public body.

(4) A person against whom a judgment is recovered for damages arising out of the authorship or publication of a libel is entitled to recover contribution in a civil action from all persons who were originally jointly liable for the libel with the defendant or defendants, whether joined as defendants or not, to the same extent as and with the same effect that joint sureties are liable to contribute to each other in cases where they are sureties on the same contract. If the libel has been published in a newspaper, magazine, or other periodical publication or by a radio or television broadcast, the servants and agents of the publisher or proprietor of the periodical or radio or television station or network, and the news agents and other persons who have been connected with the libel only by selling or distributing the publication containing the libel and who have not acted maliciously in selling or publishing the libel, shall not be required to contribute and shall not be taken into account in determining the amount that any joint tort feasor is required to contribute under the provisions of this section. If the author of the libel acted maliciously in composing or securing the printing or the publication of the libel and the printer, publisher, or distributor of the libel acted in good faith and without malice in printing and publishing the libel, the author of the libel is liable in a civil action to that printer, publisher, or distributor for the entire amount of the damages which are recovered against and paid by that printer, publisher, or distributor.

(5) In actions brought for the recovery of damages for libel in this state, it is competent for the defendant or defendants in the action to show in evidence upon the trial of the action that the plaintiff in the action has previously recovered a judgment for damages in an action for libel to the same or substantially the same purport or effect as the libel for the recovery of damages for which the action has been brought, or that the plaintiff in the action has previously brought an action for the libel or has received or agreed to receive compensation for the libel.

(6) An action for libel or slander shall not be brought based upon a communication involving public officials or public figures unless the claim is sustained by clear and convincing proof that the defamatory falsehood was published with knowledge that it was false or with reckless disregard of whether or not it was false.

(7) An action for libel or slander shall not be brought based upon a communication involving a private individual unless the defamatory falsehood concerns the private individual and was published negligently. Recovery under this provision shall be limited to economic damages including attorney fees.

(8) As used in this section, "libel" includes defamation by a radio or television broadcast.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1988, Act 396, Eff. Jan. 1, 1989.

Constitutionality: A communication is not constitutionally privileged if its subject involves a private person in the context of a matter of public interest. Rouch v Enquirer & News of Battle Creek, 427 Mich 157; 398 NW2d 245 (1986).

600.2912 Actions for malpractice; member of state licensed profession.

Sec. 2912. (1) A civil action for malpractice may be maintained against any person professing or holding himself out to be a member of a state licensed profession. The rules of the common law applicable to actions against members of a state licensed profession, for malpractice, are applicable against any person who holds himself out to be a member of a state licensed profession.

(2) Malpractice may be given in evidence in defense to any action for services rendered by the member of a state licensed profession, or person holding himself out to be a member of a state licensed profession.

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

600.2912a Action alleging malpractice; burden of proof.

Sec. 2912a. (1) Subject to subsection (2), in an action alleging malpractice, the plaintiff has the burden of proving that in light of the state of the art existing at the time of the alleged malpractice:

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(a) The defendant, if a general practitioner, failed to provide the plaintiff the recognized standard of acceptable professional practice or care in the community in which the defendant practices or in a similar community, and that as a proximate result of the defendant failing to provide that standard, the plaintiff suffered an injury.

(b) The defendant, if a specialist, failed to provide the recognized standard of practice or care within that specialty as reasonably applied in light of the facilities available in the community or other facilities reasonably available under the circumstances, and as a proximate result of the defendant failing to provide that standard, the plaintiff suffered an injury.

(2) In an action alleging medical malpractice, the plaintiff has the burden of proving that he or she suffered an injury that more probably than not was proximately caused by the negligence of the defendant or defendants. In an action alleging medical malpractice, the plaintiff cannot recover for loss of an opportunity to survive or an opportunity to achieve a better result unless the opportunity was greater than 50%.

History: Add. 1977, Act 272, Eff. Mar. 30, 1978;—Am. 1993, Act 78, Eff. Apr. 1, 1994.

600.2912b Action alleging medical malpractice; notice; mailing; notice period; statement; access to medical records; tacking successive notice periods; response; failure to receive response; health professional or facility not intending to settle.

Sec. 2912b. (1) Except as otherwise provided in this section, a person shall not commence an action alleging medical malpractice against a health professional or health facility unless the person has given the health professional or health facility written notice under this section not less than 182 days before the action is commenced.

(2) The notice of intent to file a claim required under subsection (1) shall be mailed to the last known professional business address or residential address of the health professional or health facility who is the subject of the claim. Proof of the mailing constitutes prima facie evidence of compliance with this section. If no last known professional business or residential address can reasonably be ascertained, notice may be mailed to the health facility where the care that is the basis for the claim was rendered.

(3) The 182-day notice period required in subsection (1) is shortened to 91 days if all of the following conditions exist:

(a) The claimant has previously filed the 182-day notice required in subsection (1) against other health professionals or health facilities involved in the claim.

(b) The 182-day notice period has expired as to the health professionals or health facilities described in subdivision (a).

(c) The claimant has filed a complaint and commenced an action alleging medical malpractice against 1 or more of the health professionals or health facilities described in subdivision (a).

(d) The claimant did not identify, and could not reasonably have identified a health professional or health facility to which notice must be sent under subsection (1) as a potential party to the action before filing the complaint.

(4) The notice given to a health professional or health facility under this section shall contain a statement of at least all of the following:

(a) The factual basis for the claim.

(b) The applicable standard of practice or care alleged by the claimant.

(c) The manner in which it is claimed that the applicable standard of practice or care was breached by the health professional or health facility.

(d) The alleged action that should have been taken to achieve compliance with the alleged standard of practice or care.

(e) The manner in which it is alleged the breach of the standard of practice or care was the proximate cause of the injury claimed in the notice.

(f) The names of all health professionals and health facilities the claimant is notifying under this section in relation to the claim.

(5) Within 56 days after giving notice under this section, the claimant shall allow the health professional or health facility receiving the notice access to all of the medical records related to the claim that are in the claimant's control, and shall furnish releases for any medical records related to the claim that are not in the claimant's control, but of which the claimant has knowledge. Subject to section 6013(9), within 56 days after receipt of notice under this section, the health professional or health facility shall allow the claimant access to all medical records related to the claim that are in the control of the health professional or health facility. This subsection does not restrict a health professional or health facility receiving notice under this section from communicating with other health professionals or health facilities and acquiring medical records as permitted in section 2912f. This subsection does not restrict a patient's right of access to his or her medical records

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under any other provision of law.

(6) After the initial notice is given to a health professional or health facility under this section, the tacking or addition of successive 182-day periods is not allowed, irrespective of how many additional notices are subsequently filed for that claim and irrespective of the number of health professionals or health facilities notified.

(7) Within 154 days after receipt of notice under this section, the health professional or health facility against whom the claim is made shall furnish to the claimant or his or her authorized representative a written response that contains a statement of each of the following:

(a) The factual basis for the defense to the claim.

(b) The standard of practice or care that the health professional or health facility claims to be applicable to the action and that the health professional or health facility complied with that standard.

(c) The manner in which it is claimed by the health professional or health facility that there was compliance with the applicable standard of practice or care.

(d) The manner in which the health professional or health facility contends that the alleged negligence of the health professional or health facility was not the proximate cause of the claimant's alleged injury or alleged damage.

(8) If the claimant does not receive the written response required under subsection (7) within the required 154-day time period, the claimant may commence an action alleging medical malpractice upon the expiration of the 154-day period.

(9) If at any time during the applicable notice period under this section a health professional or health facility receiving notice under this section informs the claimant in writing that the health professional or health facility does not intend to settle the claim within the applicable notice period, the claimant may commence an action alleging medical malpractice against the health professional or health facility, so long as the claim is not barred by the statute of limitations.

History: Add. 1993, Act 78, Eff. Apr. 1, 1994.

600.2912c Action alleging medical malpractice; filing affidavit certifying noninvolvement; dismissal of claim; reinstatement of party; discovery.

Sec. 2912c. (1) In an action alleging medical malpractice, a party named as a defendant in the action may, instead of answering or otherwise pleading, file with the court an affidavit certifying that he or she was not involved, either directly or indirectly, in the occurrence alleged in the action. Unless the affidavit is opposed pursuant to subsection (2), the court shall order the dismissal of the claim, without prejudice, against the affiant.

(2) Any party to the action may oppose the dismissal or move to vacate an order of dismissal and reinstate the party who filed the affidavit if it can be shown that the party filing the affidavit was involved in the occurrence alleged in the action. Reinstatement of a party to the action under this subdivision shall not be barred by any statute of limitations defense that was not valid at the time the action was originally commenced against the affiant. The opposing party may obtain discovery regarding the involvement or noninvolvement of the party filing the affidavit. The discovery shall be completed within 90 days after the date the affidavit is filed.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.2912d Action alleging medical malpractice; complaint to be accompanied by affidavit of merit; filing extension; failure to allow access to medical records.

Sec. 2912d. (1) Subject to subsection (2), the plaintiff in an action alleging medical malpractice or, if the plaintiff is represented by an attorney, the plaintiff's attorney shall file with the complaint an affidavit of merit

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signed by a health professional who the plaintiff's attorney reasonably believes meets the requirements for an expert witness under section 2169. The affidavit of merit shall certify that the health professional has reviewed the notice and all medical records supplied to him or her by the plaintiff's attorney concerning the allegations contained in the notice and shall contain a statement of each of the following:

(a) The applicable standard of practice or care.

(b) The health professional's opinion that the applicable standard of practice or care was breached by the health professional or health facility receiving the notice.

(c) The actions that should have been taken or omitted by the health professional or health facility in order to have complied with the applicable standard of practice or care.

(d) The manner in which the breach of the standard of practice or care was the proximate cause of the injury alleged in the notice.

(2) Upon motion of a party for good cause shown, the court in which the complaint is filed may grant the plaintiff or, if the plaintiff is represented by an attorney, the plaintiff's attorney an additional 28 days in which to file the affidavit required under subsection (1).

(3) If the defendant in an action alleging medical malpractice fails to allow access to medical records within the time period set forth in section 2912b(6), the affidavit required under subsection (1) may be filed within 91 days after the filing of the complaint.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986;—Am. 1993, Act 78, Eff. Apr. 1, 1994.

Compiler's note: In subsection (3), the reference to "section 2912b(6)" evidently should be to section 2912b(5).

Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.2912e Action alleging medical malpractice; filing answer to complaint; filing affidavit of meritorious defense; failure to allow access to medical records.

Sec. 2912e. (1) In an action alleging medical malpractice, within 21 days after the plaintiff has filed an affidavit in compliance with section 2912d, the defendant shall file an answer to the complaint. Subject to subsection (2), the defendant or, if the defendant is represented by an attorney, the defendant's attorney shall file, not later than 91 days after the plaintiff or the plaintiff's attorney files the affidavit required under section 2912d, an affidavit of meritorious defense signed by a health professional who the defendant's attorney reasonably believes meets the requirements for an expert witness under section 2169. The affidavit of meritorious defense shall certify that the health professional has reviewed the complaint and all medical records supplied to him or her by the defendant's attorney concerning the allegations contained in the complaint and shall contain a statement of each of the following:

(a) The factual basis for each defense to the claims made against the defendant in the complaint.

(b) The standard of practice or care that the health professional or health facility named as a defendant in the complaint claims to be applicable to the action and that the health professional or health facility complied with that standard.

(c) The manner in which it is claimed by the health professional or health facility named as a defendant in the complaint that there was compliance with the applicable standard of practice or care.

(d) The manner in which the health professional or health facility named as a defendant in the complaint contends that the alleged injury or alleged damage to the plaintiff is not related to the care and treatment rendered.

(2) If the plaintiff in an action alleging medical malpractice fails to allow access to medical records as required under section 2912b(6), the affidavit required under subsection (1) may be filed within 91 days after filing an answer to the complaint.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986;—Am. 1993, Act 78, Eff. Apr. 1, 1994.

Compiler's note: In subsection (2), the reference to "section 2912b(6)" evidently should be to section 2912b(5).

Section 3 of Act 178 of 1986 provides:

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"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.2912f Waiver of privilege; permissible communication; disclosure not as violation of law.

Sec. 2912f. (1) A person who has given notice under section 2912b or who has commenced an action alleging medical malpractice waives for purposes of that claim or action the privilege created by section 2157 and any other similar privilege created by law with respect to a person or entity who was involved in the acts, transactions, events, or occurrences that are the basis for the claim or action or who provided care or treatment to the claimant or plaintiff in the claim or action for that condition or a condition related to the claim or action either before or after those acts, transactions, events, or occurrences, whether or not the person is a party to the claim or action.

(2) Pursuant to subsection (1), a person or entity who has received notice under section 2912b or who has been named as a defendant in an action alleging medical malpractice or that person's or entity's attorney or authorized representative may communicate with a person specified in section 5838a in order to obtain all information relevant to the subject matter of the claim or action and to prepare the person's or entity's defense to the claim or action.

(3) A person who discloses information under subsection (2) to a person or entity who has received notice under section 2912b or to a person or entity who has been named as a defendant in an action alleging medical malpractice or to the person's or entity's attorney or authorized representative does not violate section 2157 or any other similar duty or obligation created by law and owed to the claimant or plaintiff.

History: Add. 1993, Act 78, Eff. Apr. 1, 1994.

600.2912g Arbitration.

Sec. 2912g. (1) Subject to subsection (2), at any time after notice is given as required under section 2912b, if the total amount of damages claimed is $75,000.00 or less, including interest and costs, all claimants and all health professionals or health facilities notified under section 2912b may agree in writing to submit the claim stated in the notice to binding arbitration. An arbitration agreement entered into under this subsection shall contain at least all of the following provisions:

(a) A process for the selection of an arbitrator.

(b) An agreement to apportion the costs of the arbitration.

(c) A waiver of the right to trial.

(d) A waiver of the right to appeal.

(2) The claimants giving notice and the health professionals or health facilities receiving notice under section 2912b may agree in writing to a total amount of damages greater than the limit set forth in subsection (1).

(3) Arbitration conducted under this section is binding as to all parties who have entered into the written agreement described in subsection (1). Arbitration under this section shall be summary in nature and shall be conducted as follows:

(a) The proceeding shall be conducted by a single arbitrator chosen by agreement of all parties to the claim.

(b) There shall be no live testimony of parties or witnesses.

(c) The Michigan general court rules pertaining to discovery are not applicable except that all of the following information shall be disclosed and exchanged between the parties upon written request of a party:

(*i*) All relevant medical records or medical authorizations sufficient to enable the procurement of all relevant medical records.

(*ii*) An expert witness report or statement, but only if the party procuring the expert witness report or statement intends to or does furnish the expert witness report or statement to the arbitrator for consideration.

(*iii*) Relevant published works, medical texts, and scientific and medical literature.

(*iv*) A concise written summary prepared by a party or the party's representative setting forth that party's factual and legal position on the damages claimed.

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(*v*) Other information considered by the party making the request to be relevant to the claim or a defense to the claim.

(d) The arbitrator shall conduct 1 or more prehearing telephone conference calls or meetings with the parties or, if a party is represented by an attorney, the party's attorney, for the purpose of establishing the orderly request for and exchange of information described in this subsection, and any other advance disclosure of information considered reasonable and necessary in the arbitrator's sole discretion. The arbitrator shall set deadlines for the exchange or advance disclosure of information under this subsection including, but not limited to, the concise written summary required under subdivision (c)(*iv*).

(e) The arbitrator may issue his or her decision without holding a formal hearing based solely upon his or her review of the materials furnished by the parties under this section. In his or her sole discretion and whether or not requested to do so by a party, the arbitrator may hold a hearing. A hearing held under this subdivision is limited solely to the presentation of oral arguments, subject to time limitations set by the arbitrator.

(f) A written agreement to submit the claim to binding arbitration under this section is binding on each party signing the agreement and on their representatives, insurers, and heirs. An arbitration agreement under this section signed on behalf of a minor or a person who is otherwise incompetent is enforceable and is not subject to disaffirmance or disavowal, if the minor or incompetent person was represented by an attorney at the time the written agreement was executed.

(g) The arbitrator shall issue a written decision that states at a minimum the factual basis for the decision and the dollar amount of the award. The arbitrator shall not include costs, interest, or attorney fees in an award. A party may submit an award by an arbitrator under this section to a court of competent jurisdiction for entry of judgment on and enforcement of the award.

(4) An arbitration award under this section is not subject to appeal.

History: Add. 1993, Act 78, Eff. Apr. 1, 1994.

600.2912h Settlement agreement.

Sec. 2912h. (1) If the plaintiff in an action alleging medical malpractice enters into a settlement agreement with a defendant concerning the action, whether or not the settlement agreement was entered into under court supervision, and the defendant is licensed or registered under article 15 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.16101 to 333.18838 of the Michigan Compiled Laws, the plaintiff's attorney and the defendant's attorney or, if the plaintiff and the defendant are not represented by attorneys, the plaintiff and the defendant shall jointly file a complete written copy of the settlement agreement with the bureau within the department of commerce responsible for health occupations licensure, registration, and discipline, within 30 days after entering into the settlement agreement.

(2) Information filed with the department of commerce under subsection (1) is confidential except for use by the department of commerce in an investigation and is not subject to disclosure under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: Add. 1993, Act 78, Eff. Apr. 1, 1994.

600.2913 Minor maliciously or wilfully destroying property or causing bodily harm or injury to person; recovery of damages from parents.

Sec. 2913. A municipal corporation, county, township, village, school district, department of the state, person, partnership, corporation, association, or an incorporated or unincorporated religious organization may recover damages in an amount not to exceed $2,500.00 in a civil action in a court of competent jurisdiction against the parents or parent of an unemancipated minor, living with his or her parents or parent, who has maliciously or wilfully destroyed real, personal, or mixed property which belongs to the municipal corporation, county, township, village, school district, department of the state, person, partnership, corporation, association, or religious organization incorporated or unincorporated or who has maliciously or wilfully caused bodily harm or injury to a person.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1962, Act 23, Eff. Mar. 28, 1963;—Am. 1967, Act 184, Eff. July 1, 1968;—Am. 1972, Act 87, Imd. Eff. Mar. 20, 1972;—Am. 1978, Act 577, Imd. Eff. Jan. 2, 1979.

600.2914 Discharge in bankruptcy; cancellation of judgment, procedure; notice to judgment creditor; judgments from other states; “judgment” defined; judgments under MCL 257.513.

Sec. 2914. After a bankrupt has been discharged from his debts pursuant to the federal laws relating to bankruptcy, the bankrupt, his receiver, his trustee, or any other interested person or corporation may apply to have a judgment debt canceled and discharged of record upon proof of the bankrupt's discharge. Application

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for equitable relief shall be made to the court in which the judgment was rendered against the bankrupt, or if it was rendered in a court not of record, application shall be made to the court in which it became a judgment by docketing. If it appears upon the hearing that he has been discharged from the payment of that judgment or the debt upon which that judgment was recovered, an order shall be made directing that the judgment be canceled and discharged of record. This order shall recite that the judgment is canceled and discharged because of the bankrupt's discharge in bankruptcy. The clerk of the court shall then discharge the judgment by marking on the docket that the judgment is canceled and discharged by order of the court because of the defendant's discharge in bankruptcy, and the clerk shall mark the date and entry of the order of discharge.

(1) Notice of the application, accompanied by copies of the papers on which it is based, must be served on the judgment creditor or his attorney of record in the judgment, if the residence or place of business of either the creditor or his attorney of record is known, at least 30 days prior to the date of the hearing of the application. Upon proof by affidavit that the residences and places of business of both are unknown and after due diligence cannot be ascertained or upon proof by affidavit that the creditor is not a resident of this state and his attorney is dead or removed from this state or cannot be found within this state, the judge of the court before which the application is pending may make an order that the notice of the application be published once a week for 3 successive weeks in the newspaper that he shall designate. This publication shown by affidavit of the publisher shall be sufficient service of the application upon the judgment creditor.

(2) No action or proceeding shall be prosecuted in any of the courts of this state to enforce any judgment rendered in any court of any other state of the United States which would be subject to cancellation and discharge under the provisions of this section had the judgment been rendered by a court of this state.

(3) The word judgment as used in this section is here defined to include any decree or order for the payment of money dischargeable pursuant to the federal law relating to bankruptcy.

(4) Nothing contained in this section shall be deemed to supersede or abrogate the provisions of section 513 of Act No. 300 of the Public Acts of 1949, as amended, being section 257.513 of the Compiled Laws of 1948.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1962, Act 187, Imd. Eff. May 24, 1962.

600.2915 Actions for taxes due other states; reciprocity.

Sec. 2915. Any state of the United States of America or any political subdivision of any state of the United States has the right to sue in the courts of Michigan to recover any tax which may be owing it, whether or not the tax has been reduced to judgment, when the like right is accorded to the state of Michigan and its political subdivisions by that state, whether the right is granted by statutory authority or as a matter of comity. The attorney general and the appropriate legal officers of the political subdivisions of this state are empowered to bring actions in the courts of other states to collect taxes legally due this state or its political subdivisions.

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

600.2916 Lethal gases for fumigation; liability; damages; means of ingress; locking; posting; permission to enter; notice; violation as felony; penalty.

Sec. 2916. (1) Any person who uses any substance which, by itself or in combination with any other substance, emits or liberates a gas, fume or vapor, which gas, fume, vapor or substances when liberated and used for the destruction or control of insects, termites, vermin, rodents, or other structural pests, is lethal, poisonous, noxious or dangerous to human life, in violation of the provisions of this section, is liable to any person or persons injured or killed for damages to be recovered in an action by such person or the estate of such person. The amount of damages shall be determined by a jury as in other cases, or by the court in case a jury is waived by the parties.

(2) Any person who uses any of the substances outlined in (1) of this section shall lock all means of ingress to the building or structure in which such substance has been used for a period of not less than 12 hours, and shall post such means of ingress with a visible warning notice stating that poisonous substances have been used and no entrance in the building shall be made without the written permission of the county sheriff or of the police or fire authorities of the city, village or township in which the building is situated for at least 48 hours from the time of using such poisonous substances.

(3) Any person using any substance outlined in (1) of this section shall notify the county sheriff or the police and fire authorities of the city, village or township in which the building or structure is situated that such substance has been used in the building, that the proper warning notices have been placed at all means of ingress in the building or structure, and that entrance into the building or structure is dangerous to human life for at least 48 hours, and such person is responsible for inspection of such building or structure at the end of the 48-hour period to determine the suitability for human habitation.

(4) Any person who violates the provisions of this section, in addition to civil liability for damages, is

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guilty of a felony and, upon conviction thereof, shall be punished as provided in the laws of this state.

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

600.2917 Liability of library, merchant, agent, or independent contractor for conduct involving person suspected of larceny of goods or library materials, or of violating MCL 750.356c or MCL 750.356d; definitions.

Sec. 2917. (1) In a civil action against a library or merchant, an agent of the library or merchant, or an independent contractor providing security for the library or merchant for false imprisonment, unlawful arrest, assault, battery, libel, or slander, if the claim arises out of conduct involving a person suspected of removing or of attempting to remove, without right or permission, goods held for sale in a store from the store or library materials from a library, or of violating section 356c or 356d of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.356c and 750.356d of the Michigan Compiled Laws, and if the merchant, library, agent, or independent contractor had probable cause for believing and did believe that the plaintiff had committed or aided or abetted in the larceny of goods held for sale in the store, or of library materials, or in the violation of section 356c or 356d of Act No. 328 of the Public Acts of 1931, damages for or resulting from mental anguish or punitive, exemplary, or aggravated damages shall not be allowed a plaintiff, unless it is proved that the merchant, library, agent, or independent contractor used unreasonable force, detained the plaintiff an unreasonable length of time, acted with unreasonable disregard of the plaintiff's rights or sensibilities, or acted with intent to injure the plaintiff.

(2) As used in this section:

(a) “Library” includes a public library; a library of an educational, historical, or eleemosynary institution or organization; a museum; an archive; and a repository of public records or historical records, or both.

(b) “Library material” includes a plate; picture; photograph; engraving; painting; drawing; map; newspaper; book; magazine; pamphlet; broadside; manuscript; document; letter; public record; microfilm; sound recording; audiovisual material; magnetic or other tape; optical storage disc or other recording medium; electronic data processing record; artifact; and other documentary, written, or printed material.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1983, Act 223, Imd. Eff. Nov. 28, 1983;—Am. 1988, Act 50, Eff. June 1, 1988;—Am. 1992, Act 192, Imd. Eff. Oct. 5, 1992.

600.2917a Detention of individual believed by owner or lessee of theatrical facility to have violated MCL 750.465a.

Sec. 2917a. The owner or lessee of a theatrical facility where a motion picture is being exhibited or the authorized agent or employee of the owner or lessee who alerts a law enforcement agency of an alleged violation of section 465a of the Michigan penal code, 1931 PA 328, MCL 750.465a, and who takes measures, while awaiting the arrival of law enforcement authorities, to detain an individual who the owner, lessee, agent, or employee has probable cause to believe committed the violation is not liable in a civil action arising out of the measures taken unless the plaintiff shows that 1 or both of the following apply:

(a) The measures taken were unreasonable.

(b) The period of detention was unreasonably long.

History: Add. 2004, Act 451, Eff. Mar. 28, 2005.

600.2918 Damages for forcible entry and detainer; damages for unlawful interference with possessory interest; action for possession; claim for injunctive relief; joinder; waiver; limitations.

Sec. 2918. (1) Any person who is ejected or put out of any lands or tenements in a forcible and unlawful manner, or being out is afterwards held and kept out, by force, if he prevails, is entitled to recover 3 times the amount of his actual damages or $200.00, whichever is greater, in addition to recovering possession.

(2) Any tenant in possession of premises whose possessory interest has been unlawfully interfered with by the owner, lessor, licensor, or their agents shall be entitled to recover the amount of his actual damages or $200.00, whichever is greater, for each occurrence and, where possession has been lost, to recover possession. Unlawful interference with a possessory interest shall include:

(a) The use of force or threat of force.

(b) The removal, retention, or destruction of personal property of the possessor.

(c) A change, alteration, or addition to the locks or other security devices on the property without forthwith providing keys or other unlocking devices to the person in possession.

(d) The boarding of the premises which prevents or deters entry.

(e) The removal of doors, windows, or locks.

(f) Causing, by action or omission, the termination or interruption of a service procured by the tenant or

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which the landlord is under an existing duty to furnish, which service is so essential that its termination or interruption would constitute constructive eviction, including heat, running water, hot water, electric, or gas service.

(g) Introduction of noise, odor or other nuisance.

(3) The provisions of subsection (2) shall not apply where the owner, lessor, licensor, or their agents can establish that he:

(a) Acted pursuant to court order or

(b) Interfered temporarily with possession only as necessary to make needed repairs or inspection and only as provided by law or

(c) Believed in good faith the tenant had abandoned the premises, and after diligent inquiry had reason to believe the tenant does not intend to return, and current rent is not paid.

(4) A person who has lost possession or whose possessory interest has been unlawfully interfered with may, if that person does not peacefully regain possession, bring an action for possession pursuant to section 5714(1)(d) of this act or bring a claim for injunctive relief in the appropriate circuit court. A claim for damages pursuant to this section may be joined with the claims for possession and for injunctive relief or may be brought in a separate action.

(5) The provisions of this section may not be waived.

(6) An action to regain possession of the premises under this section shall be commenced within 90 days from the time the cause of action arises or becomes known to the plaintiff. An action for damages under this section shall be commenced within 1 year from the time the cause of action arises or becomes known to the plaintiff.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1976, Act 300, Eff. Mar. 1, 1977.

600.2919 Damage or waste to land; damages; injunction; contempt.

Sec. 2919. (1) Any person who:

(a) cuts down or carries off any wood, underwood, trees, or timber or despoils or injures any trees on another's lands, or

(b) digs up or carries away stone, ore, gravel, clay, sand, turf, or mould or any root, fruit, or plant from another's lands, or

(c) cuts down or carries away any grass, hay, or any kind of grain from another's lands without the permission of the owner of the lands, or on the lands or commons of any city, township, village, or other public corporation without license to do so, is liable to the owner of the land or the public corporation for 3 times the amount of actual damages. If upon the trial of an action under this provision or any other action for trespass on lands it appears that the trespass was casual and involuntary, or that the defendant had probable cause to believe that the land on which the trespass was committed was his own, or that the wood, trees, or timber taken were taken for the purpose of making or repairing any public road or bridge judgment shall be given for the amount of single damages only.

(2)(a) Any guardian, tenant in dower, life tenant, or tenant for years who commits or suffers any waste, during his term or estate, to the lands, tenements or hereditaments, without having a lawful license to do so, is liable for double the amount of actual damages. Any joint tenant or tenant in common who commits or suffers waste of the lands, tenements, or hereditaments held in joint tenancy, without having a lawful license in writing to do so, is liable for double the amount of actual damages at the suit of his cotenant.

(b) A claim under this provision may be brought by the person having the next immediate estate, in fee, for life, or for years or by any person who has the remainder or reversion in fee or for life after an intervening estate for life or for years; and each of the parties shall recover damages according to his estate in the premises. A joint tenant or tenant in common may bring the claim in case of waste by one of his joint tenants or tenants in common. An heir, whether of full age or not, after coming into possession of his inheritance, may maintain a claim for waste done in the time of his ancestor as well as in his own time, unless recovery has been had by the executor or administrator of the ancestor. A tenant who assigns his full interest is not liable for waste done or suffered by his assignees while he remains out of possession of the premises.

(3)(a) The circuit court shall grant injunctions to stay and prevent threatened trespass when the remedies provided by subsection (1), above, are not fully adequate and in any case where the trespass is of a continuing nature.

(b) In any case where there is not a plain, adequate, and complete remedy provided for waste by subsection (2), above, or where waste is threatened the circuit court may grant injunctions to stay and prevent waste.

(c) Having taken jurisdiction of the case the circuit court may at the same time dispose of all questions involved, including the assessing and awarding of money damages.

(4) After the commencement of any action based on a claim for damages for waste, or for the recovery of

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land, or for the possession of land the defendant shall not make any waste of the land in demand or premises in question during the pendency of the action. If the defendant commits, threatens to commit, or makes preparations to commit waste the court in which the action is pending or any circuit judge or circuit court commissioner may make, on the application of the plaintiff, an order restraining the defendant from the commission of any waste or further waste of the land in demand or premises in question. Any person violating the terms of any such order is guilty of a contempt of the court in which the action is pending, which is punishable as other cases of contempt.

(5) If any person commits, threatens to commit, or makes preparations to commit any waste on real estate which has been attached or levied upon by execution in any civil action, the court from which the execution or attachment issued or any circuit judge or circuit court commissioner may make, on the application of the plaintiff, an order restraining the person from committing any waste or further waste on the land which has been attached or levied upon. Any person who shall violate the terms of any such order is guilty of contempt of the court in which the action is pending and is punishable as in other cases of contempt.

(6)(a) If, at any time after the sale of real estate on execution and before a deed is executed in pursuance of the sale, the defendant in the execution or any other person commits waste on the real estate or removes from it any buildings, fences, or other fixtures belonging to the land which would pass to the grantee by a deed of conveyance of the land, the purchaser at the sale or any person who has acquired his rights may have and maintain, against the person doing the injury and against any other person who has the buildings, fences, or fixtures in his possession after their removal, the same actions which the absolute owner of the premises would be entitled to.

(b) Whenever any lands or tenements are sold by virtue of an execution issued upon any judgment, the person to whom the conveyance is executed by the sheriff pursuant to the sale has a claim for damages for any waste committed on the premises by any person after the sale.

(c) Any person entitled to the possession of lands or tenements sold under execution may use and enjoy the premises until the period of redemption has run in the following ways without being guilty of waste:

(*i*) He may in all cases use and enjoy the premises sold in the same manner and for the same purposes in and for which they were used and enjoyed prior to the sale, doing no permanent injury to the freehold;

(*ii*) If the premises sold were buildings or other erections he may make necessary repairs to them although he shall not make alterations in the form or structure of them;

(*iii*) If the premises sold were land, he may use and improve the land in the ordinary course of husbandry, but he shall not be entitled to any crops growing on the premises at the expiration of the period of redemption;

(*iv*) He may apply any wood or timber on the land to the necessary repair of any fences, buildings, or erections which were on the premises at the time of sale;

(*v*) If he is in actual occupation of the land sold he may take necessary firewood from the land for the use of his family.

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

600.2919a Recovery of damages, costs, and attorney's fees by person damaged; remedy cumulative.

Sec. 2919a. (1) A person damaged as a result of either or both of the following may recover 3 times the amount of actual damages sustained, plus costs and reasonable attorney fees:

(a) Another person's stealing or embezzling property or converting property to the other person's own use.

(b) Another person's buying, receiving, possessing, concealing, or aiding in the concealment of stolen, embezzled, or converted property when the person buying, receiving, possessing, concealing, or aiding in the concealment of stolen, embezzled, or converted property knew that the property was stolen, embezzled, or converted.

(2) The remedy provided by this section is in addition to any other right or remedy the person may have at law or otherwise.

History: Add. 1976, Act 200, Eff. Mar. 31, 1977;—Am. 2005, Act 44, Imd. Eff. June 16, 2005.

Compiler's note: Enacting section 1 of Act 44 of 2005 provides:
"Enacting section 1. This amendatory act applies to causes of action that arise after the effective date of this amendatory act."

600.2920 Unlawful taking or detention of goods or chattels; civil action to recover possession and damages; conditions; surrender or recovery of books or papers pertaining to office.

Sec. 2920. (1) A civil action may be brought to recover possession of any goods or chattels which have been unlawfully taken or unlawfully detained and to recover damages sustained by the unlawful taking or unlawful detention, subject to the following conditions:

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(a) An action may not be maintained under this section to recover possession of or damages for goods or chattels taken by virtue of a warrant for the collection of a tax, assessment, or fine in pursuance of a statute of this state.

(b) An action may not be maintained under this section to recover possession of or damages for goods or chattels seized by virtue of an execution or attachment at the suit of the defendant in the execution or attachment unless the goods or chattels are exempted by law from execution or attachment.

(c) An action may not be maintained under this section by a person who, at the time the action is commenced, does not have a right to possession of the goods or chattels taken or detained.

(d) A writ, order, or process for delivery of goods or chattels before judgment may not be issued unless the court, after notice and a hearing and under procedures provided by rules of the supreme court, determines that the claim for recovery is probably valid and unless the party claiming a right to recover possession of the goods or chattels files a sufficient bond.

(2) A person who holds books or papers pertaining to an office and who is not the person in that office shall surrender them to the person entitled to that office. The person entitled to possession of the books and papers may bring an action to recover their possession. The court may order a person to show cause why he should not be compelled to deliver those books and papers and may order the delivery of the books and papers.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1976, Act 79, Imd. Eff. Apr. 12, 1976.

600.2921 Survival of actions; death of injured person during pendency of action.

Sec. 2921. All actions and claims survive death. Actions on claims for injuries which result in death shall not be prosecuted after the death of the injured person except pursuant to the next section. If an action is pending at the time of death the claims may be amended to bring it under the next section. A failure to so amend will amount to a waiver of the claim for additional damages resulting from death.

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

600.2922 Death by wrongful act, neglect, or fault of another; liability; action by personal representative; limitation; notice; approval or rejection of proposed settlement; award and distribution of damages; presentation of claim for damages; advising attorney for personal representative of material facts; applicability of MCL 700.3924 to distribution of proceeds.

Sec. 2922. (1) Whenever the death of a person, injuries resulting in death, or death as described in section 2922a shall be caused by wrongful act, neglect, or fault of another, and the act, neglect, or fault is such as would, if death had not ensued, have entitled the party injured to maintain an action and recover damages, the person who or the corporation that would have been liable, if death had not ensued, shall be liable to an action for damages, notwithstanding the death of the person injured or death as described in section 2922a, and although the death was caused under circumstances that constitute a felony.

(2) Every action under this section shall be brought by, and in the name of, the personal representative of the estate of the deceased. Within 30 days after the commencement of an action, the personal representative shall serve a copy of the complaint and notice as prescribed in subsection (4) upon the person or persons who may be entitled to damages under subsection (3) in the manner and method provided in the rules applicable to probate court proceedings.

(3) Subject to sections 2802 to 2805 of the estates and protected individuals code, 1998 PA 386, MCL 700.2802 to 700.2805, the person or persons who may be entitled to damages under this section shall be limited to any of the following who suffer damages and survive the deceased:

(a) The deceased's spouse, children, descendants, parents, grandparents, brothers and sisters, and, if none of these persons survive the deceased, then those persons to whom the estate of the deceased would pass under the laws of intestate succession determined as of the date of death of the deceased.

(b) The children of the deceased's spouse.

(c) Those persons who are devisees under the will of the deceased, except those whose relationship with the decedent violated Michigan law, including beneficiaries of a trust under the will, those persons who are designated in the will as persons who may be entitled to damages under this section, and the beneficiaries of a living trust of the deceased if there is a devise to that trust in the will of the deceased.

(4) The notice required in subsection (2) shall contain the following:

(a) The name and address of the personal representative and the personal representative's attorney.

(b) A statement that the attorney for the personal representative shall be advised within 60 days after the mailing of the notice of any material fact that may constitute evidence of any claim for damages and that failure to do so may adversely affect his or her recovery of damages and could bar his or her right to any claim at a hearing to distribute proceeds.

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(c) A statement that he or she will be notified of a hearing to determine the distribution of the proceeds after the adjudication or settlement of the claim for damages.

(d) A statement that to recover damages under this section the person who may be entitled to damages must present a claim for damages to the personal representative on or before the date set for hearing on the motion for distribution of the proceeds under subsection (6) and that failure to present a claim for damages within the time provided shall bar the person from making a claim to any of the proceeds.

(5) If, for the purpose of settling a claim for damages for wrongful death where an action for those damages is pending, a motion is filed in the court where the action is pending by the personal representative asking leave of the court to settle the claim, the court shall, with or without notice, conduct a hearing and approve or reject the proposed settlement.

(6) In every action under this section, the court or jury may award damages as the court or jury shall consider fair and equitable, under all the circumstances including reasonable medical, hospital, funeral, and burial expenses for which the estate is liable; reasonable compensation for the pain and suffering, while conscious, undergone by the deceased during the period intervening between the time of the injury and death; and damages for the loss of financial support and the loss of the society and companionship of the deceased. The proceeds of a settlement or judgment in an action for damages for wrongful death shall be distributed as follows:

(a) The personal representative shall file with the court a motion for authority to distribute the proceeds. Upon the filing of the motion, the court shall order a hearing.

(b) Unless waived, notice of the hearing shall be served upon all persons who may be entitled to damages under subsection (3) in the time, manner, and method provided in the rules applicable to probate court proceedings.

(c) If any interested person is a minor, a disappeared person, or an incapacitated individual for whom a fiduciary is not appointed, a fiduciary or guardian ad litem shall be first appointed, and the notice provided in subdivision (b) shall be given to the fiduciary or guardian ad litem of the minor, disappeared person, or legally incapacitated individual.

(d) After a hearing by the court, the court shall order payment from the proceeds of the reasonable medical, hospital, funeral, and burial expenses of the decedent for which the estate is liable. The proceeds shall not be applied to the payment of any other charges against the estate of the decedent. The court shall then enter an order distributing the proceeds to those persons designated in subsection (3) who suffered damages and to the estate of the deceased for compensation for conscious pain and suffering, if any, in the amount as the court or jury considers fair and equitable considering the relative damages sustained by each of the persons and the estate of the deceased. If there is a special verdict by a jury in the wrongful death action, damages shall be distributed as provided in the special verdict.

(e) If none of the persons entitled to the proceeds is a minor, a disappeared person, or a legally incapacitated individual and all of the persons entitled to the proceeds execute a verified stipulation or agreement in writing in which the portion of the proceeds to be distributed to each of the persons is specified, the order of the court shall be entered in accordance with the stipulation or agreement.

(7) A person who may be entitled to damages under this section must present a claim for damages to the personal representative on or before the date set for hearing on the motion for distribution of the proceeds under subsection (6). The failure to present a claim for damages within the time provided shall bar the person from making a claim to any of the proceeds.

(8) A person who may be entitled to damages under this section shall advise the attorney for the personal representative within 60 days after service of the complaint and notice as provided for under subsection (2) of any material fact of which the person has knowledge and that may constitute evidence of any claim for damages. The person's right to claim at a hearing any proceeds may be barred by the court if the person fails to advise the personal representative as prescribed in this subsection.

(9) If a claim under this section is to be settled and a civil action for wrongful death is not pending under this section, the procedures prescribed in section 3924 of the estates and protected individuals code, 1998 PA 386, MCL 700.3924, shall be applicable to the distribution of the proceeds.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1965, Act 146, Imd. Eff. July 12, 1965;—Am. 1971, Act 65, Eff. Mar. 30, 1972;—Am. 1985, Act 93, Imd. Eff. July 10, 1985;—Am. 2000, Act 56, Eff. Apr. 1, 2000;—Am. 2005, Act 270, Imd. Eff. Dec. 19, 2005.

Compiler's note: Section 2 of Act 93 of 1985 provides: "This amendatory act applies to cases and matters pending on or filed after the effective date of this amendatory act."

600.2922a Wrongful or negligent act resulting in miscarriage, stillbirth, or physical injury; liability; exceptions; "physician or other licensed health professional" defined.

Sec. 2922a. (1) A person who commits a wrongful or negligent act against a pregnant individual is liable

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for damages if the act results in a miscarriage or stillbirth by that individual, or physical injury to or the death of the embryo or fetus.

(2) This section does not apply to any of the following:

(a) An act committed by the pregnant individual.

(b) A medical procedure performed by a physician or other licensed health professional within the scope of his or her practice and with the pregnant individual's consent or the consent of an individual who may lawfully provide consent on her behalf or without consent as necessitated by a medical emergency.

(c) The lawful dispensation, administration, or prescription of medication.

(3) This section does not prohibit a civil action under any other applicable law.

(4) As used in this section, "physician or other licensed health professional" means a person licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

History: Add. 1998, Act 211, Eff. Jan. 1, 1999;—Am. 2002, Act 164, Imd. Eff. Apr. 11, 2002.

Compiler's note: Enacting section 1 of Act 164 of 2002 provides: "Enacting section 1. This amendatory act applies to a cause of action arising on or after May 1, 2002."

600.2922b Use of deadly force or other than deadly force by individual in self-defense; immunity from civil liability.

Sec. 2922b. An individual who uses deadly force or force other than deadly force in self-defense or in defense of another individual in compliance with section 2 of the self-defense act is immune from civil liability for damages caused to either of the following by the use of that deadly force or force other than deadly force:

(a) The individual against whom the use of deadly force or force other than deadly force is authorized.

(b) Any individual claiming damages arising out of injury to or the death of the individual described in subdivision (a), based upon his or her relationship to that individual.

History: Add. 2006, Act 314, Eff. Oct. 1, 2006.

600.2922c Individual sued for using deadly force or force other than deadly force; award of attorney fees and costs; conditions.

Sec. 2922c. The court shall award the payment of actual attorney fees and costs to an individual who is sued for civil damages for allegedly using deadly force or force other than deadly force against another individual if the court determines that the individual used deadly force or force other than deadly force in compliance with section 2 of the self-defense act and that the individual is immune from civil liability under section 2922b.

History: Add. 2006, Act 312, Eff. Oct. 1, 2006.

600.2923 Action on official or other bond; assignment of specific breaches; pendancy of suit; notice by surety; damages paid equal or less than liability of surety; execution; levy; judgments in excess of liability; unsatisfied executions.

Sec. 2923. (1) When an action is prosecuted in any court upon any bond of any public officer, or upon any bond for the breach of any condition, other than the payment of money, or for any penal sum for the nonperformance of any covenant or written agreement, the plaintiff shall assign the specific breaches for which the action is brought, and upon the trial of such action, the verdict and judgment shall be for such damages as are found arising from the specific breaches assigned; and such judgment shall not be a bar to any further action by the same, or any other plaintiff, for any subsequent breaches of the condition of said bond; but said bond shall stand as security for any further or subsequent breaches to the amount of the remainder of the penalty thereof.

(2) During the pendency of any suit upon such official bond, or after judgment rendered in such suit, any other party aggrieved by the default or delinquency of such officer, may, in like manner prosecute an action upon such official bond; and the pendency of any other suit on the same bond, or a judgment recovered by or against any other person on such bond shall not abate or in any manner affect such suit, or the proceedings therein, except as hereinafter provided.

(3) No such suit shall be barred, nor shall the amount which the plaintiff may be entitled to recover therein, be affected by any notice given by any surety in such bond, of a judgment recovered thereon, unless it is accompanied by an allegation that the sureties in such bond, some or 1 of them, have been obliged to pay the damages assessed by such judgment, or some part thereof, for want of sufficient property of such officer whereon to levy the same, or that they will be obliged to pay the same, or some part thereof for the same reason; nor unless such notice is verified by the oath of the defendant giving the same.

(4) If it appears that the amount of any damages so recovered, which such surety has been obliged to pay,

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or will be obliged to pay, as specified in (3), is equal to the amount for which such defendant shall be liable, by virtue of the bond, he shall be acquitted and discharged of all further liability, and judgment shall be rendered in his favor.

(5) If it appears that the amount of any damages so recovered, which such surety has been obliged to pay, or which he will be obliged to pay, is not equal to the liability of such surety, the amount thereof shall be allowed to such defendant, in estimating the extent of his liability in any such action.

(6) Whenever a judgment is obtained against an officer and his sureties, a direction shall be endorsed on the execution issued thereon, by the attorney issuing the same, to levy the amount of such execution, in the first place, of the property of such officer, and if sufficient property of such officer cannot be found to satisfy such execution, then to levy the deficiency of the property of the sureties.

(7) Whenever several judgments are obtained at the same term, upon any official bond of any officer, for damages, amounting in the whole to more than the sums for which the sureties therein shall be liable, the court shall order the moneys levied upon such judgments from the property of the sureties, to be distributed to the persons for whose use such judgments were recovered respectively, in proportion to the amount of their respective recoveries.

(8) If executions are issued upon several judgments obtained at the same term, upon any such official bond, and sufficient money is not raised to satisfy all of the said executions, the court shall distribute the money collected on such executions to the plaintiffs in proportion to the amount of their respective recoveries.

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

600.2924 Bill of discovery.

Sec. 2924. An equitable action seeking relief in the nature of a bill of discovery may be filed and the defendant shall be compelled to answer, where the defendant is charged with having given to another person a power of attorney to enter up a judgment, or with having confessed or suffered any judgment, purporting to be for a sum or debt due, when in fact nothing, or only a part of the sum mentioned in such power of attorney or judgment is due, with intention to defraud the just creditors of such defendant, or to place the property of the defendant out of the reach of his creditors, or to hold the same in some secret trust or confidence, or for the benefit of such defendant.

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

600.2925 Repealed. 1974, Act 318, Imd. Eff. Dec. 15, 1974.

Compiler's note: The repealed section pertained to contribution between joint tort-feasors.

600.2925a Right of contribution where judgment not recovered; limitation on recovery; effect of settlement; defenses; intervention; subrogation; right of indemnity; breach of fiduciary obligation; liability of secretary of state.

Sec. 2925a. (1) Except as otherwise provided in this act, when 2 or more persons become jointly or severally liable in tort for the same injury to a person or property or for the same wrongful death, there is a right of contribution among them even though judgment has not been recovered against all or any of them.

(2) The right of contribution exists only in favor of a tort-feasor who has paid more than his pro rata share of the common liability and his total recovery is limited to the amount paid by him in excess of his pro rata share. A tort-feasor against whom contribution is sought shall not be compelled to make contribution beyond his own pro rata share of the entire liability.

(3) A tort-feasor who enters into a settlement with a claimant is not entitled to recover contribution from another tort-feasor if any of the following circumstances exist:

(a) The liability of the contributee for the injury or wrongful death is not extinguished by the settlement.

(b) A reasonable effort was not made to notify the contributee of the pendency of the settlement negotiations.

(c) The contributee was not given a reasonable opportunity to participate in the settlement negotiations.

(d) The settlement was not made in good faith.

(4) In an action to recover contribution commenced by a tort-feasor who has entered into a settlement, the defendant may assert the defenses set forth in subsection (3) and any other defense he may have to his alleged liability for such injury or wrongful death.

(5) A tort-feasor who satisfies all or part of a judgment entered in an action for injury or wrongful death is not entitled to contribution if the alleged contributee was not made a party to the action and if a reasonable effort was not made to notify him of the commencement of the action. Upon timely motion, a person receiving such notice may intervene in the action and defend as if joined as a third party.

(6) A liability insurer, who by payment has discharged in full or in part the liability of a tort-feasor and has

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thereby discharged in full its obligation as insurer, is subrogated to the tort-feasor's right of contribution to the extent of the amount it has paid in excess of the tort-feasor's pro rata share of the common liability. It may assert this right either in its own name or in the name of its insured. This provision does not limit or impair any right of subrogation arising from any other relationship.

(7) This section does not impair any right of indemnity under existing law. Where 1 tort-feasor is entitled to indemnity from another, the right of the indemnity obligee is for indemnity and not contribution, and the indemnity obligor is not entitled to contribution from the obligee for any portion of his indemnity obligation.

(8) This section does not apply to breaches of trust or of other fiduciary obligations.

(9) This section shall not operate to increase the liability of the secretary of state under Act No. 198 of the Public Acts of 1965, as amended, being sections 257.1101 to 257.1132 of the Michigan Compiled Laws.

History: Add. 1974, Act 318, Imd. Eff. Dec. 15, 1974.

Compiler's note: Section 3 of Act 318 of 1974 provides: "The provisions of this amendatory act shall apply only to torts committed on or after January 1, 1975."

600.2925b Determining pro rata shares of tortfeasors.

Sec. 2925b. Except as otherwise provided by law, in determining the pro rata shares of tortfeasors in the entire liability as between themselves only and without affecting the rights of the injured party to a joint and several judgment:

(a) Their relative degrees of fault shall be considered.

(b) If equity requires, the collective liability of some as a group shall constitute a single share.

(c) Principles of equity applicable to contribution generally shall apply.

History: Add. 1974, Act 318, Imd. Eff. Dec. 15, 1974;—Am. 1982, Act 147, Imd. Eff. Apr. 28, 1982;—Am. 1986, Act 178, Eff. Oct. 1, 1986.

600.2925c Enforcement of contribution; absence of judgment as bar to contribution; discharge of other tort-feasors; judgment binding in determining right to contribution.

Sec. 2925c. (1) Whether or not judgment has been entered in an action against 2 or more tort-feasors for the same injury or wrongful death, contribution may be enforced by separate action.

(2) When a judgment has been entered in an action against 2 or more tort-feasors for the same injury or wrongful death, contribution may be enforced in that action by judgment in favor of 1 against other judgment defendants by motion upon notice to all parties to the action.

(3) If there is a judgment for the injury or wrongful death against the tort-feasor seeking contribution, a separate action by him to enforce contribution shall be commenced within 1 year after the judgment has become final by lapse of time for appeal or after appellate review.

(4) If there is not a judgment for the injury or wrongful death against the tort-feasor seeking contribution, his right to contribution is barred unless he has discharged by payment the common liability within the statute of limitations period applicable to claimant's right of action against him and has commenced his action for contribution within 1 year after payment, or unless he has agreed while action is pending against him to discharge the common liability and has, within 1 year after the agreement, paid the liability and commenced his action for contribution.

(5) The recovery of a judgment for an injury or wrongful death against 1 tort-feasor does not of itself discharge the other tort-feasors from liability for the injury or wrongful death unless the judgment is satisfied. Satisfaction of the judgment does not impair any right of contribution.

(6) The judgment of the court in determining the liability of the several defendants to the claimant for an injury or wrongful death is binding as among such defendants in determining their right to contribution.

History: Add. 1974, Act 318, Imd. Eff. Dec. 15, 1974.

Compiler's note: Section 3 of Act 318 of 1974 provides: "The provisions of this amendatory act shall apply only to torts committed on or after January 1, 1975."

600.2925d Effect of release, covenant not to sue, or covenant not to enforce judgment.

Sec. 2925d. If a release or a covenant not to sue or not to enforce judgment is given in good faith to 1 of 2 or more persons for the same injury or the same wrongful death, both of the following apply:

(a) The release or covenant does not discharge 1 or more of the other persons from liability for the injury or wrongful death unless its terms so provide.

(b) The release or covenant discharges the person to whom it is given from all liability for contribution to any other person for the injury or wrongful death.

History: Add. 1974, Act 318, Imd. Eff. Dec. 15, 1974;—Am. 1995, Act 161, Eff. Mar. 28, 1996.

Compiler's note: Section 3 of Act 318 of 1974 provides: "The provisions of this amendatory act shall apply only to torts committed

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on or after January 1, 1975."

600.2926 Jurisdiction to appoint receivers; termination.

Sec. 2926. Circuit court judges in the exercise of their equitable powers, may appoint receivers in all cases pending where appointment is allowed by law. This authority may be exercised in vacation, in chambers, and during sessions of the court. In all cases in which a receiver is appointed the court shall provide for bond and shall define the receiver's power and duties where they are not otherwise spelled out by law. Subject to limitations in the law or imposed by the court, the receiver shall be charged with all of the estate, real and personal debts of the debtor as trustee for the benefit of the debtor, creditors and others interested.

The court may terminate any receivership and return the property held by the receiver to the debtor whenever it appears to be to the best interest of the debtor, the creditors and others interested.

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

600.2926a Cemetery receivers and conservators; appointments; term; accounting; compensation and expenses.

Sec. 2926a. (1) Circuit court judges in the exercise of their equitable powers in matters relating to cemeteries or other entities regulated under the cemetery regulation act, 1968 PA 251, MCL 456.521 to 456.543; 1869 PA 12, MCL 456.101 to 456.119; 1855 PA 87, MCL 456.1 to 456.36; 1915 PA 58, MCL 456.201 to 456.213; and 1882 (Ex Sess) PA 13, MCL 456.251 to 456.253, may appoint receivers and conservators.

(2) Appointments under subsection (1) shall be limited to 1 year with reappointment permissible. Any person appointed under this section shall be required to make an accounting to the court at least once each 90 days. Compensation and reimbursable expenses for such receivers and conservators shall be determined and approved by the appointing court.

History: Add. 1967, Act 180, Eff. Nov. 2, 1967;—Am. 2008, Act 477, Imd. Eff. Jan. 12, 2009.

600.2927 Mortgaged property; nonpayment of taxes or insurance as waste; appointment of receiver; conditions.

Sec. 2927. (1) The parties to any mortgage, trust mortgage, or deed of trust of real property, or any extension thereof, may, by agreement herein contained to that effect, provide that the failure of the mortgagor or grantor, as the case may be, to pay any taxes assessed against such property or installments thereof, in the event said taxes are being paid under the provisions of Act No. 126 of the Public Acts of 1933, as amended, or any insurance premium upon policies covering any property located upon such premises constitutes waste.

(2) If such mortgagor or grantor in such instrument fails to pay such taxes or insurance premiums upon property subject to the terms of a mortgage, trust mortgage, or deed of trust containing such agreement the circuit court having jurisdiction of such property may, in its discretion upon complaint or motion filed by such mortgagee, grantee, assignee thereof or trustee under such instrument and upon such notice as the court may require, appoint a receiver of the property for the purpose of preventing such waste. Subject to the order of the court, the receiver may collect the rents and income from such property and shall exercise such control over such property as to such court may seem proper.

(3) No receiver may be appointed under the provisions of this section for any dwelling house or farm occupied by any owner thereof as his home or farm. No receiver may be appointed under the provisions of this section for any store or other business property having an assessed valuation of $7,500.00 or less.

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

Compiler's note: Act 126 of 1933, referred to in this section, was repealed by Act 150 of 1980.

600.2928 Land of infants and incompetents; disposition; discharge of incumbrance; effect of will or conveyance; proceeds of sale; dower; court orders; infant or incompetent as ward of court; proceedings; delivery of guardianship property.

Sec. 2928. (1) The circuit court may order the sale, lease, exchange, conveyance, and if necessary or desirable, the platting, of all or any part of any lands, tenements, and hereditaments held by an infant or other incompetent person, by way of mortgage, in trust only for others, in fee, life tenancy, tenant for years, or in any other way when it appears that the sale, lease, exchange or conveyance is necessary and proper for the support, maintenance and education of the infant or other incompetent or that the interest of such person or the person for whom the property is held will be substantially promoted by the sale, lease, exchange, conveyance or platting. This power shall be exercised in accordance with the rules of court and in the manner and with the restrictions as the court deems expedient.

(2) Whenever it is made to appear to the court that it will be manifestly for the interest and advantage of

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any infant or other incompetent person that any incumbrance upon the real estate of such person should be purchased and discharged, in whole or in part, the court may authorize the guardian of such person to purchase and discharge the same, and if necessary, to sell and dispose of such part of the real estate of such person as may be necessary for that purpose. Such purchase and discharge shall in no way be construed as vesting in said guardian any right, title or interest in such premises, to the prejudice of such person.

(3) But no real estate or term for years shall be sold, leased or disposed of in any matter against the provisions of any last will, or of any conveyance, by which such estate or term was devised or granted to such infant or other incompetent person.

(4) No sale made as aforesaid of the real estate of any infant or other incompetent person, shall give to such infant or other incompetent person, any other or greater interest or estate in the proceeds of such sale than he had in the estate sold; but the said proceeds shall be deemed real estate of the same nature as the property sold.

(5) With the consent of the person holding a dower interest in such property, the court may authorize that a lump sum settlement releasing dower be made with such person and taken from the proceeds received.

(6) Every conveyance, lease, or other disposition of the property, and every plat, made pursuant to the order of the court and confirmed by the court, shall be as good and effective in law as if it were made by the infant or other incompetent person, when of lawful age and of sound mind.

(7) The infant or other incompetent person, in an action under this section becomes a ward of the court for the property involved, its proceeds and income, and he and his guardian are subject to periodic orders of the court pertaining thereto.

(8) Proceedings under this section are equitable in nature.

(9) When a guardian has been appointed by the probate court, the circuit court guardian shall deliver all guardianship property and funds to the probate court guardian and upon receipt therefor, the guardian appointed by the circuit court shall be discharged.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1964, Act 117, Eff. Aug. 28, 1964.

600.2929 Lands held in trust; sale by fiduciary, orders of court.

Sec. 2929. (1) Actions for equitable relief by any fiduciary seeking authority to sell any lands, tenements, or hereditaments which he is holding in trust for others may be brought in the circuit courts. If it appears to the best interest of the person for whom the lands, tenements, and hereditaments are held in trust the court may order, direct, and authorize the fiduciary to sell, grant, and convey the lands, tenements, and hereditaments at public or private sale. When approved by the circuit court, a sale made pursuant to this section passes title to the lands, tenements, and hereditaments to the purchaser.

(2) The court shall make all proper orders and directions from time to time for the management, investment, and disposition of the moneys received from the sale, and the interest and income therefrom.

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

600.2930 Life estate; sale on order of court; bond; confirmation; effect of conveyance, will, or order of court; proceedings.

Sec. 2930. (1) Circuit courts may order any lands, tenements, or hereditaments which are held for life, with or without power of appointment by will or sale, or held in trust, without power of sale, sold under the direction of the court, whenever it satisfactorily appears that the rights of the interested parties will otherwise be jeopardized.

(2) Upon making the order of sale the court may order that a bond be given with penalty and sureties, in the form the court directs. This bond shall run to the clerk of the court for the use and benefit of any person who is or may become interested in the lands, tenements, or hereditaments, or their proceeds, conditioned for the investment of and accounting for the proceeds of the lands, tenements, and hereditaments, and for the observance of all orders of the court in relation to the lands, tenements, and hereditaments, and their proceeds.

(3) After the confirmation of the sale, the proceeds of the sale shall stand in lieu of the property sold, and the court shall make such orders as to the investment of the proceeds as may be necessary. From time to time thereafter, the court may make such further orders as the circumstances may require.

(4) No sale or conveyance of any kind shall be made of any property, under the authority of this provision, contrary to any specific provisions contained in the deed of conveyance, or in the will, under which the petitioner holds the property.

(5) Every conveyance made in accordance with an order of court entered in an action brought under this section shall be good and effectual in law and shall convey the same title as if it were made by a person seized of the title in fee.

(6) Proceedings under this section are equitable in nature.

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

600.2931 Barring dower of incompetent wife; action by husband; determination by court; disposition of proceeds; action by guardian; proceedings.

Sec. 2931. (1) The husband of an insane or otherwise incompetent wife or any other person who has an interest in the real estate in which she has a right of dower may maintain an action to bar her of her right of dower in the premises.

(2) If the court finds that the wife is incurably insane or for more than 2 years has remained insane or otherwise incompetent so that she has been unable from defective intellect to join her husband in the conveyance of the real estate, and that it is proper or necessary to sell the real estate or bar the wife's right of dower in it, then the court shall determine the cash value of the wife's dower interest in the premises, taking into consideration the respective ages of the husband and wife, and order that the wife shall be barred of her dower by the payment of this sum to a guardian other than her husband who shall receive and invest this sum for her sole use and support subject to the supervision of the court. On her becoming sound in mind the court shall direct the remainder to be delivered to her. On her death the court shall direct the remainder to be delivered to her husband, if living, or if not, to her personal representatives.

(3) The guardian, after posting bond approved by the court, may sell at private sale the interest of his ward at a sum not less than the value of the dower as fixed by the court or he may, in a conveyance with the husband, or by separate conveyance, transfer the interest of the ward in the property to the husband's grantee or grantees, or their heirs and assigns but to no other person. Such conveyance shall bar dower as if the ward had, being in sound mind, joined her husband in a deed of the premises.

(4) Proceedings under this section are equitable in nature.

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

600.2932 Quieting title; interest of plaintiff; action by mortgagee; establishment of title; tenancy in common; actions.

Sec. 2932. (1) Any person, whether he is in possession of the land in question or not, who claims any right in, title to, equitable title to, interest in, or right to possession of land, may bring an action in the circuit courts against any other person who claims or might claim any interest inconsistent with the interest claimed by the plaintiff, whether the defendant is in possession of the land or not.

(2) No action may be maintained under subsection (1) by a mortgagee, his assigns, or representatives for recovery of the mortgaged premises, until the title to the mortgaged premises has become absolute, or by a person for the recovery of possession of premises, which were sold on land contracted, to whom relief is available under subdivision (1) of section 5634.

(3) If the plaintiff established his title to the lands, the defendant shall be ordered to release to the plaintiff all claims thereto. In an appropriate case the court may issue a writ of possession or restitution to the sheriff or other proper officer of any county in this state in which the premises recovered are situated.

(4) Any tenant or tenants in common who recovers any undivided interest in lands in an action under subsection (1) against a person or persons who may be in possession thereof, but who does not show in the trial of such action that he or they have any interest therein or title thereto, may take possession of the entire premises subject to all of the rights and interest of the other tenant or tenants in common therein.

(5) Actions under this section are equitable in nature.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1964, Act 8, Eff. Aug. 28, 1964.

600.2933 Dower; admeasurement procedure; award of money in lieu of dower; actions equitable in nature.

Sec. 2933. (1) A widow entitled to dower, or a woman entitled to dower and her husband, may maintain a claim to recover her dower in lands, tenements, and hereditaments under section 2932 after the expiration of 6 months from the time her right to dower accrued. If an action is brought to recover the dower of any widow which has not been admeasured to her before the commencement of such action, instead of a writ of possession being issued, such plaintiff shall proceed to have her dower assigned to her in the following manner:

(a) Upon the filing of the record of judgment the court, on the motion of the plaintiff, shall appoint 3 discreet and disinterested freeholders commissioners, for the purpose of making admeasurement of the dower of the plaintiff out of the lands described in the record; and the commissioners so appointed shall proceed in like manner, possess the like powers, and be subject to the like obligations as commissioners appointed by the judge of probate to set off dower;

(b) The commissioners shall make a report of their doings to the court, in writing, as soon as may be after

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their appointment, which report shall be confirmed by such court, unless good cause to the contrary is shown; and shall be entered at large in the minutes of the court;

(c) Upon the confirmation of the report of the commissioners, a writ of possession shall be issued to the sheriff of the proper county, describing the premises assigned for the dower and commanding the sheriff to put the plaintiff in possession thereof.

(d) The costs and expenses incurred in such admeasurement are subject to the same provisions as in cases of admeasurement of dower by commissioners appointed by the judge of probate.

(2) In any action commenced by any widow for the recovery of dower in lands which were aliened by her husband in his lifetime, if dower cannot be assigned in the land by metes and bounds without injustice or manifest injury to the widow or to the owners or persons in possession of the land or some one of them, the court having cognizance of the matter may award a sum of money in lieu of dower to be paid to the widow, or may assign to her, as tenant in common, a just proportion of the rents, issues, and profits of the lands. In all cases the court shall consider the true value of the lands at the time of their alienation by the husband, and of the probable duration of the life of the doweress at the time the sum of money is awarded or the rents, issues, and profits are assigned to her.

(3) Actions under this section are equitable in nature.

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

600.2934 Quieting title; lands owned by corporation after expiration of term; complaint; stockholders and creditors of corporation as defendants; service; judgment; damages; costs; actions.

Sec. 2934. (1) Notwithstanding the expiration of the term of private corporations organized for the conduct of business of any kind, under the laws of this state, any one having such an interest as would entitle him to bring an action under section 2932, in any land owned by such corporation while in existence, and now aliened or divested from it by due process of law, may bring an action under section 2932 and this section for the recovery of the same.

(2) The summons and complaint shall be against such corporation by its corporate name, and against any occupant or occupants of such land, as defendants.

(3) In accordance with the court rules, any person or persons who were stockholders of such corporation while it subsisted and who still retain their rights in the property in question, by virtue of having owned stock therein, and any creditor or creditors of such corporation, whose claims are subsisting and not barred by limitation of time, may appear and defend such action as fully as such corporation could have done while subsisting. Such right to appear and defend may be drawn in question by the plaintiff on the trial of the cause.

(4) All persons so appearing shall plead together and in the name of the corporation. Service on the corporation, in the manner prescribed by the court rules, is a full and complete service upon such corporation, and upon all persons natural or artificial, interested in said land, because of their having been stockholders in the corporation while subsisting, or creditors thereof. All persons so appearing and defending, or seeking to defend, are liable for costs in the action as fully as such corporation would be if defending.

(5)(a) The judgment in such suit shall be against the corporation in the corporate name and shall be binding upon it and upon all persons claiming said land by virtue of their stock in or demands upon the same, and shall be conclusive against such corporation and such persons subject only to such exceptions as are or may be provided by general statute in other actions brought under section 2932.

(6) Any judgment in favor of the defendant corporation shall inure to the benefit of the persons entitled to the property in dispute. The plaintiff shall have judgment against such corporation neither for money damages of any kind nor for costs of suit subject to the discretion of the court, nor shall he be entitled to file against it a suggestion of damages in continuation of such judgment.

(7) Actions under this section are equitable in nature.

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

600.2935 Quieting title; recording of judgment.

Sec. 2935. If the effect of a judgment is to quiet the title to lands, or if it in any way concerns the title to real estate, a certified copy thereof may be recorded in the office of the register of deeds of any county where said lands or any part of the same are situated.

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

600.2936 Probate in chancery of foreign will; proof by copy; legal representative's bill of peace.

Sec. 2936. (1) Whenever it is necessary to probate in this state, the last will of any deceased person which

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was either

(a) executed in a foreign country whose laws do not require or provide for the probate of wills after the death of the maker, or

(b) executed by a testator who was not at the time of his death domiciled in the country of execution, and the laws of the country of execution require or provide for the probate of wills after the death of the maker, if the original will cannot be produced in this state for probate, it, or any part thereof, may be proved and allowed by a full and complete copy in an action in the circuit court in and for any county in which the testator left any property affected by the will at his decease. The will or that part thereof established and proved shall be certified to and filed with the proper probate court which vests the probate court with the power and jurisdiction over the estate as if the will had been validly proved and allowed in the probate court.

(2) Whenever any person appointed by a probate court as the legal representative or trustee of the estate of a deceased person, a minor, or a mentally incompetent person, has possession of over $100.00-worth of the estate's real or personal property or its proceeds and has good reason to doubt his right to hold or dispose of this property because of adverse claims of title or lien of other persons or corporations, or of conflicting proceedings to administer the estate in that or another probate court, and no proceedings have been taken to test his right, by adverse claimants or otherwise, he may file a complaint in the nature of a bill of peace in the circuit court of the county in which is located the probate court which appointed him, to have adjudicated the validity of his own right and the rights of adverse claimants and the legal representatives appointed in conflicting proceedings.

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

600.2937 Obstructions and encroachments on public highways, streets and alleys; circuit court; relief.

Sec. 2937. All claims for relief from obstructions and encroachments on the public highways, streets, and alleys in cities, incorporated villages, and organized townships in this state may be brought in the circuit courts. The courts shall give such legal and equitable relief as is warranted.

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

600.2938 Obscene matter; injunction; adjudication; temporary or preliminary injunction; effect of injunction; distribution of obscene matter after summons and complaint; delegation of authority; criminal prosecution; proceedings.

Sec. 2938. (1) The chief executive or legal office of any city, village or charter township or prosecuting attorney of the county may institute and maintain an action in the circuit court against any person, firm or corporation to enjoin and prevent the sale or further sale or the distribution or further distribution or the acquisition or possession of any book, magazine, pamphlet, comic book, story paper, writing, paper, picture, drawing, photograph, figure or image or any written or printed matter of an indecent character, which is obscene, lewd, lascivious, filthy, indecent or disgusting, or which contains an article or instrument of indecent or immoral use or purports to be for indecent or immoral use or purpose.

(2) Any person, firm or corporation may also bring an action in the circuit court as plaintiff to obtain an adjudication of the lawful propriety of the sale, distribution, possession or acquisition of any item as follows:

(a) The item may be submitted to the chief executive or legal officer of the city, village, charter township or prosecuting attorney of the county in which the sale, distribution, possession or acquisition is intended to be had.

(b) The officer to whom submitted, within 5 days shall furnish to the person, firm or corporation by whom submitted, a written statement in positive and unequivocal words that the sale, distribution, possession or acquisition of such book or other article or thing so submitted is by him deemed or not deemed, as the case may be, to be in violation of the provisions of any section of the Michigan penal code.

(c) If the officer deems the sale, distribution, possession or acquisition to be in violation of the provisions of any section of the Michigan penal code, the person, firm or corporation making the submission may bring a civil action to adjudicate the lawful propriety of the sale, distribution, possession or acquisition.

(d) The officer to whom a submission is authorized to be made, without any submission being so made, may furnish to any person, firm or corporation a written statement covering any book or other article or thing referred to in (1), and thereupon the person, firm or corporation to whom so furnished has a like right to bring action as in the case of the statement furnished pursuant to a submission.

(3) In any action brought as provided in (2) the officer furnishing the written statement shall be made defendant thereto. The officer shall be given prior notice of the time and place of filing such action and has the right to appear at such time and place and seek an injunction against distribution pending the final adjudication thereon.

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(4) A preliminary injunction or restraining order may be issued upon or at any time after the filing of the complaint. The person, firm or corporation sought to be enjoined is entitled to a trial of the issues within 1 day after joinder of issue and a decision shall be rendered by the court within 2 days of the conclusion of the trial.

(5) If a final order or judgment of injunction is entered in favor of such officer of the city, village or charter township and against the person, firm or corporation sought to be enjoined, the final order or judgment shall contain a provision directing the person, firm or corporation to surrender to the sheriff of the county in which the action was brought any of the matter described in (1) and the sheriff shall be directed to seize and destroy the same.

(6) In any action brought as herein provided the officer of the city, charter township or village shall not be required to file any undertaking before the issuance of an injunction order provided for in (4), is not liable for costs and is not liable for damages sustained by reason of the injunction order in cases where judgment is rendered in favor of the person, firm or corporation sought to be enjoined.

(7) Every person, firm or corporation who sells, distributes or acquires possession with intent to sell or distribute any of the matter described in (1), after the service upon him of a summons and complaint in an action brought by such officer of any city, charter township or village pursuant to this section is chargeable with knowledge of the contents thereof.

(8) The legislative body of any city, village or charter township or board of supervisors of any county may transfer or delegate any of the power and authority of the chief executive or legal officer or prosecuting attorney, as the case may be, to any other officer or agency of the city, village, charter township or county and all acts done by the officer or agency to whom so transferred or delegated shall be as effective in law as if done by the officer in this section designated.

(9) Nothing in this section shall be construed to preclude or impair prosecution in the criminal courts for violation of any section of the Michigan penal code relating to obscene or other similar matters except when an adjudication has been made under the procedure authorized herein to the effect that the book, picture, or other subject of adjudication is not violative of any such law such adjudication is full protection for all persons against any prosecution for criminal penalties or other action in respect of the subject of such adjudication.

(10) Proceedings under this section are equitable in nature.

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

600.2939 Gaming; action by loser; oath of parties; prosecution according to common law; forfeiture; limitation; securities; lands enuring of benefit.

Sec. 2939. (1) In any suit brought by the person losing any money or goods, against the person receiving the same, when it appears from the complaint that the money or goods came to the hands of the defendant by gaming, if the plaintiff makes oath before the court in which such suit is pending, that the money or goods were lost by gaming with the defendant as alleged in the complaint, judgment shall be rendered that the plaintiff recovered damages to the amount of the said money or goods, unless the defendant makes oath that he did not obtain the same, or any part thereof by gaming with the plaintiff; and if he so discharges himself, he shall recover of the plaintiff his costs; but the plaintiff may at his election, maintain and prosecute his action according to the usual course of proceedings in such actions at common law.

(2) Every person who wins or loses, at any time or sitting, by gaming or betting on the hands or sides of such as are gaming, any money or goods, to the value of $5.00 or more, whether the same is paid over or delivered, or not, shall forfeit and pay 3 times the value of such money or goods if the action therefor is commenced within 6 months after the committing of the offense.

(3) All notes, bills, bonds, mortgages, or other securities or conveyances whatever, in which the whole or any part of the consideration, shall be for any money or goods won by playing at cards, dice, or any other game whatever, or by betting on the sides or hands of such as are gaming, or by any betting or gaming whatever, or for reimbursing or repaying any moneys knowingly lent or advanced for any gaming or betting, shall be void and of no effect, as between the parties to the same, and as to all persons, except such as shall hold or claim under them in good faith, and without notice of the illegality of such contract or conveyance.

(4) Whenever any mortgage or other conveyance of land is adjudged void under (3), such lands shall enure to the sole benefit of such person or persons as would be entitled thereto, if the mortgagor or grantor were naturally dead; and all grants and conveyances for preventing such lands from coming to or devolving upon the person or persons to whose use, and benefit the said lands would so enure, is fraudulent and of no effect, except as against purchasers in good faith, and without notice of the illegality of such mortgage or other conveyance.

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

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600.2940 Nuisance; abatement; circuit court; injunction; private nuisance; damages; warrant to abate and remove nuisance; expense; actions.

Sec. 2940. (1) All claims based on or to abate nuisance may be brought in the circuit court. The circuit court may grant injunctions to stay and prevent nuisance.

(2) When the plaintiff prevails on a claim based on a private nuisance, he may have judgment for damages and may have judgment that the nuisance be abated and removed unless the judge finds that the abatement of the nuisance is unnecessary.

(3) If the judgment is that the nuisance shall be abated, the court may issue a warrant to the proper officer, requiring him to abate and remove the nuisance at the expense of the defendant, in the manner that public nuisances are abated and removed. The court may stay the warrant for as long as 6 months to give the defendant an opportunity to remove the nuisance, upon the defendant giving satisfactory security to do so.

(4) The expense of abating and removing the nuisance pursuant to such warrant, shall be collected by the officer in the same manner as damages and costs are collected upon execution, excepting that the materials of any buildings, fences, or other things that may be removed as a nuisance, may be sold by the officer, in like manner as goods are sold on execution for the payment of debts. The officer may apply the proceeds of such sale to defray the expenses of the removal, and shall pay over the balance thereof, if any, to the defendant upon demand. If the proceeds of the sale are not sufficient to defray the said expenses, he shall collect the residue thereof as before provided.

(5) Actions under this section are equitable in nature unless only money damages are claimed.

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

600.2941 Artesian or flowing well; certain condition deemed nuisance; abatement; damages; unreasonable or unnecessary waste; order or judgment; reopening.

Sec. 2941. (1) Any artesian or flowing well, the water of which is unnecessarily allowed to run to waste in an unreasonable manner to the depletion or lowering of the head or reservoir thereof to the detriment or damage of other wells supplied from the same head or reservoir, is a nuisance, and its owner and the owner of the land on which it is situated are subject to all the actions for abatement and damages in favor of the person or persons injured, as provided by law for other nuisances or tortious acts.

(2) Where any well is supplied by a head, reservoir, stratum, or vein or by percolating waters common to other springs or wells, and the owner thereof or his lessee or licensee puts its waters to a use unreasonable or unnecessary, in view of the condition and situation of the land on which it is situated, and through such unreasonable or unnecessary use, lowers or depletes the head, pressure, or supply of water of any spring or well dependent on the same head, vein, or stratum, to the detriment or injury of the owner or any person entitled to the use thereof, the well so unreasonably and unnecessarily used, is a nuisance, and its owner and the owner of the land on which it is situated are subject to all the actions for abatement and damages in favor of the person or persons injured, as provided by law for other nuisances or tortious acts.

(3) Where any order or judgment is rendered under this section, declaring any well a nuisance because of the waste or unreasonable use of its waters and directing the abatement thereof, such order or judgment shall specify in some practicable manner the daily amount or volume of water that may be used or allowed to flow therefrom without violating such order or judgment, and specify such reasonable time as to the court shall seem just within which the provisions thereof shall be carried into effect. Any such order or judgment may be reopened at any time after entry on the question of reasonable use on a proper showing of change of circumstances or other equitable reason therefor.

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

600.2942 Public securities validation; action to contest validity; counterclaim; third party complaint; continuances; amendment; notice to appear; service; publication of order to appear; parties; other actions; intervention; final judgment; appeal; upholding validity of securities; definitions; short title; proceedings.

Sec. 2942. (1) If an action contesting the validity of any securities proposed to be issued or any aspect of such validity is brought against any public body, the public body may file a counterclaim against the plaintiff and a third party complaint against the state of Michigan and all persons, resident and nonresident, owning property or subject to taxation in the public body or in the political entity or entities it represents, and all other persons interested in or affected by the issuance of the securities, for the purpose of securing an adjudication, forever conclusive as against all the parties, as to the validity of the securities or as to those issues affecting such validity as are then properly justiciable or become so during the pendency of the proceedings. The court may grant continuances and permit amendments as may be appropriate to enable the issues affecting the

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validity of the securities to be adjudicated as fully as possible.

(2) The counterclaim and third party complaint shall briefly set out by proper allegation, reference or exhibit, insofar as the circumstances of the case permit, such facts as may be necessary to show the authority of the public body to issue the securities and to take any other action essential to their validity, the taking of all proceedings and other action and the satisfaction of all legal requirements essential to the validity of the securities (including the holding of any required election and the result thereof), the nature and characteristics of the securities (including amount, date, purpose, maturities, maximum interest rate), the source of the funds from which the securities are to be paid, and any other essential matters relevant to the issues upon which an adjudication is sought. In case the public body was established for the purpose of constructing or acquiring a public improvement for which the securities are to be issued, the counterclaim shall also set forth the authority for the creation of the public body.

(3) Upon the filing of the counterclaim and third party complaint, the court shall issue an order in general terms in the form of a notice directed against the plaintiff in the action and against the state of Michigan and, without naming them, all public bodies, property owners, taxpayers, citizens and others having or claiming any right or interest affected in any way by the issuance of the securities, requiring them, in general terms, and the state of Michigan, through its attorney general or his representative, to appear at a time and place designated in the order and show cause why the prayer of the counterclaim and third party complaint should not be granted.

(4) A copy of the counterclaim, the third party complaint, and the order shall be served upon the plaintiff in the action and upon the attorney general at least 20 days before the time fixed in the order for the hearing. The attorney general shall carefully examine the counterclaim and third party complaint and if it appears, or there is reason to believe, that it is defective, insufficient or untrue, or if in his opinion the securities have not been duly authorized or cannot be lawfully issued, or the taxes, assessments, rates, tolls or other charges or revenues provided for payment of said securities cannot be lawfully levied, collected and pledged for such purpose, he shall make such defense thereto as may seem proper.

(5) Prior to the date set for hearing, the clerk of the court shall publish a copy of the order once each week for 3 consecutive weeks in each of the newspapers designated below, the first publication in each newspaper to be not less than 20 nor more than 30 days prior to the date set for hearing:

(a) If the public body embraces, or the project for which the securities are to be issued extends into, territory in only 1 county, the notice shall be published in the county in a newspaper of general circulation in the territory.

(b) If the public body embraces, or the project for which the securities are to be issued extends into, territory in more than 1 but not more than 5 counties, the notice shall be published in each of the counties in a newspaper of general circulation therein.

(c) If the public body embraces, or the project for which the securities are to be issued extends into, territory in more than 5 counties, the notice shall be published in each of the 5 most populous counties in a newspaper of general circulation therein, and also in a newspaper or newspapers of general circulation in the territory outside of the 5 counties.

(d) If the public body is the state of Michigan (as distinguished from a political subdivision thereof) or any department, commission, agency or official thereof, or if the project extends throughout the state, the notice shall also be published in the county wherein the seat of state government is located, in a newspaper of general circulation therein.

(6) At least 10 days prior to the date set for the hearing, the clerk of the court shall give such notice of the filing of the counterclaim and the third party complaint and of the hearing on the order to show cause to all known parties as the court shall direct in the order

(7) Upon motion of the public body, whether before or after the date set for hearing as provided in (3), the court may enjoin the commencement by any person or public body, of any other action contesting the validity of the security issue described in the counterclaim, may order a joint hearing or trial before him of all issues raised by the counterclaim and third party complaint which are then pending in any action or proceeding in any court, may order all such actions or proceedings consolidated with the action pending before him, and may make such orders as may be necessary and proper to effect such consolidation and as may tend to avoid unnecessary costs or delays and multiplicity of actions. Such order shall not be appealable.

(8) Any public body, property owner, taxpayer, citizen or other person affected by or interested in the issuance of the securities may become a named party to the proceedings by pleading to the third party complaint on or before the time set for hearing as provided in (3) or thereafter by intervention upon leave of court. At the time and place designated in the order for hearing, the court shall proceed to hear and determine all questions of law and fact in the proceedings and may make such orders as to the proceedings and such adjournments as will enable the court properly to try and determine the same and to render a final judgment

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therein with the least possible delay. Such final judgment shall be based upon a written opinion of the court which shall find the facts specially and shall state separately the court's conclusions of law therein.

(9) Any parties to the cause, whether plaintiff, defendant, third party plaintiff, third party defendant, intervenor or otherwise, dissatisfied with the final judgment, may appeal therefrom to the supreme court. The supreme court, insofar as practicable, shall expedite and give priority to the hearing and decision on the appeal.

(10) In the event that the judgment upholds the validity of the securities or such aspects thereof as have been adjudicated, and no appeal is taken therefrom, or if an appeal is taken and the judgment is affirmed, the judgment shall be forever binding and conclusive against the public body and all other parties to the cause, named or unnamed, and shall constitute a permanent injunction against the institution by any person of any action contesting any aspect of the validity of the security issue which has been adjudicated.

(11) For the purposes of this section, the term:

(a) “Public body” means the state of Michigan or any political subdivision thereof, including any county, township, city, village, school district, metropolitan district, port district, drainage district, public authority or other political entity, or any department, commission, agency or official of any of the foregoing.

(b) “Securities” or “security issue” means any bonds, notes, orders, certificates or other evidences of indebtedness whether general or special obligations and whether payable from taxes, assessments, rates, tolls or other charges or revenues or otherwise creating an obligation upon a public body.

(c) “Validity” as applied to any securities means the authority of the public body to issue the securities, to levy and collect the taxes, assessments, rates, tolls or other charges or revenues as are provided for the payment thereof, to pledge the same for payment, and to take any action essential to any of the foregoing; and also the legality of all proceedings and other action taken, and the satisfaction of all legal requirements, in connection with the issuance of the securities and the levy and collection of the taxes, assessments, rates, tolls or other charges or revenues and the pledge thereof.

(12) This section shall be known and may be cited as the “public securities validation act”.

(13) Counterclaims and third party proceedings brought pursuant to this section are equitable in nature.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1962, Act 187, Imd. Eff. May 24, 1962.

600.2943 Quieting title; relief to defendant on rehearing.

Sec. 2943. When any rehearing of an action quieting title to real estate is ordered on petition of a defendant, the relief to be granted the defendant shall be limited to an award of damages against the prevailing parties in the original action, in an amount determined by the court to be equivalent to the fair cash market value of the interest of the defendant in the real estate at the time of entry of the original decree. Any decree on rehearing shall not be a lien or encumbrance on the real estate to secure payment of the sum awarded.

History: Add. 1962, Act 187, Imd. Eff. May 24, 1962.

600.2944 Access to adjoining property for repairs or improvements.

Sec. 2944. When an owner or lessee seeks to make improvements or repairs to real property so situated that the improvements or repairs cannot reasonably be made by the owner or lessee without entering the premises of an adjoining owner or his lessee, and permission so to enter has been refused, the owner or lessee seeking to make the improvements or repairs may commence a civil action in the circuit court of the county in which the property is located. The complaint shall state the facts making the entry necessary, the date on which entry is sought, the duration and the method proposed for protecting the defendant against damage. The court may grant a limited license for entry upon such terms as justice and equity require. The owner or lessee to whom the limited license to enter is granted shall be liable to the adjoining owner or his lessee for damages occurring as a result of the entry and shall file such bond or liability insurance or both as shall be required by the court.

History: Add. 1969, Act 55, Eff. July 29, 1969.

600.2945 Definitions.

Sec. 2945. As used in this section and sections 1629, 2945 to 2949a, and 5805:

(a) “Alteration” means a material change in a product after the product leaves the control of the manufacturer or seller. Alteration includes a change in the product's design, packaging, or labeling; a change to or removal of a safety feature, warning, or instruction; deterioration or damage caused by failure to observe routine care and maintenance or failure to observe an installation, preparation, or storage procedure; or a change resulting from repair, renovation, reconditioning, recycling, or reclamation of the product.

(b) “Drug” means that term as defined in section 201 of the federal food, drug, and cosmetic act, chapter 675, 52 Stat. 1040, 21 U.S.C. 321. However, drug does not include a medical appliance or device.

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(c) “Economic loss” means objectively verifiable pecuniary damages arising from medical expenses or medical care, rehabilitation services, custodial care, loss of wages, loss of future earnings, burial costs, loss of use of property, costs of repair or replacement of property, costs of obtaining substitute domestic services, loss of employment, or other objectively verifiable monetary losses.

(d) “Gross negligence” means conduct so reckless as to demonstrate a substantial lack of concern for whether injury results.

(e) “Misuse” means use of a product in a materially different manner than the product's intended use. Misuse includes uses inconsistent with the specifications and standards applicable to the product, uses contrary to a warning or instruction provided by the manufacturer, seller, or another person possessing knowledge or training regarding the use or maintenance of the product, and uses other than those for which the product would be considered suitable by a reasonably prudent person in the same or similar circumstances.

(f) “Noneconomic loss” means any type of pain, suffering, inconvenience, physical impairment, disfigurement, mental anguish, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, humiliation, or other nonpecuniary damages.

(g) “Product” includes any and all component parts to a product.

(h) “Product liability action” means an action based on a legal or equitable theory of liability brought for the death of a person or for injury to a person or damage to property caused by or resulting from the production of a product.

(i) “Production” means manufacture, construction, design, formulation, development of standards, preparation, processing, assembly, inspection, testing, listing, certifying, warning, instructing, marketing, selling, advertising, packaging, or labeling.

(j) “Sophisticated user” means a person or entity that, by virtue of training, experience, a profession, or legal obligations, is or is generally expected to be knowledgeable about a product's properties, including a potential hazard or adverse effect. An employee who does not have actual knowledge of the product's potential hazard or adverse effect that caused the injury is not a sophisticated user.

History: Add. 1978, Act 495, Eff. Dec. 13, 1978;—Am. 1995, Act 161, Eff. Mar. 28, 1996;—Am. 1995, Act 249, Eff. Mar. 28, 1996.

600.2946 Product liability action; admissible evidence.

Sec. 2946. (1) It shall be admissible as evidence in a product liability action that the production of the product was in accordance with the generally recognized and prevailing nongovernmental standards in existence at the time the specific unit of the product was sold or delivered by the defendant to the initial purchaser or user.

(2) In a product liability action brought against a manufacturer or seller for harm allegedly caused by a production defect, the manufacturer or seller is not liable unless the plaintiff establishes that the product was not reasonably safe at the time the specific unit of the product left the control of the manufacturer or seller and that, according to generally accepted production practices at the time the specific unit of the product left the control of the manufacturer or seller, a practical and technically feasible alternative production practice was available that would have prevented the harm without significantly impairing the usefulness or desirability of the product to users and without creating equal or greater risk of harm to others. An alternative production practice is practical and feasible only if the technical, medical, or scientific knowledge relating to production of the product, at the time the specific unit of the product left the control of the manufacturer or seller, was developed, available, and capable of use in the production of the product and was economically feasible for use by the manufacturer. Technical, medical, or scientific knowledge is not economically feasible for use by the manufacturer if use of that knowledge in production of the product would significantly compromise the product's usefulness or desirability.

(3) With regard to the production of a product that is the subject of a product liability action, evidence of a philosophy, theory, knowledge, technique, or procedure that is learned, placed in use, or discontinued after the event resulting in the death of the person or injury to the person or property, which if learned, placed in use, or discontinued before the event would have made the event less likely to occur, is admissible only for the purpose of proving the feasibility of precautions, if controverted, or for impeachment.

(4) In a product liability action brought against a manufacturer or seller for harm allegedly caused by a product, there is a rebuttable presumption that the manufacturer or seller is not liable if, at the time the specific unit of the product was sold or delivered to the initial purchaser or user, the aspect of the product that allegedly caused the harm was in compliance with standards relevant to the event causing the death or injury set forth in a federal or state statute or was approved by, or was in compliance with regulations or standards relevant to the event causing the death or injury promulgated by, a federal or state agency responsible for reviewing the safety of the product. Noncompliance with a standard relevant to the event causing the death or

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injury set forth in a federal or state statute or lack of approval by, or noncompliance with regulations or standards relevant to the event causing the death or injury promulgated by, a federal or state agency does not raise a presumption of negligence on the part of a manufacturer or seller. Evidence of compliance or noncompliance with a regulation or standard not relevant to the event causing the death or injury is not admissible.

(5) In a product liability action against a manufacturer or seller, a product that is a drug is not defective or unreasonably dangerous, and the manufacturer or seller is not liable, if the drug was approved for safety and efficacy by the United States food and drug administration, and the drug and its labeling were in compliance with the United States food and drug administration's approval at the time the drug left the control of the manufacturer or seller. However, this subsection does not apply to a drug that is sold in the United States after the effective date of an order of the United States food and drug administration to remove the drug from the market or to withdraw its approval. This subsection does not apply if the defendant at any time before the event that allegedly caused the injury does any of the following:

(a) Intentionally withholds from or misrepresents to the United States food and drug administration information concerning the drug that is required to be submitted under the federal food, drug, and cosmetic act, chapter 675, 52 Stat. 1040, 21 U.S.C. 301 to 321, 331 to 343-2, 344 to 346a, 347, 348 to 353, 355 to 360, 360b to 376, and 378 to 395, and the drug would not have been approved, or the United States food and drug administration would have withdrawn approval for the drug if the information were accurately submitted.

(b) Makes an illegal payment to an official or employee of the United States food and drug administration for the purpose of securing or maintaining approval of the drug.

History: Add. 1978, Act 495, Eff. Dec. 13, 1978;—Am. 1995, Act 249, Eff. Mar. 28, 1996.

600.2946a Determination of damages; limitation.

Sec. 2946a. (1) In an action for product liability, the total amount of damages for noneconomic loss shall not exceed $280,000.00, unless the defect in the product caused either the person's death or permanent loss of a vital bodily function, in which case the total amount of damages for noneconomic loss shall not exceed $500,000.00. On the effective date of the amendatory act that added this section, the state treasurer shall adjust the limitations set forth in this subsection so that the limitations are equal to the limitations provided in section 1483. After that date, the state treasurer shall adjust the limitations set forth in this subsection at the end of each calendar year so that they continue to be equal to the limitations provided in section 1483.

(2) In awarding damages in a product liability action, the trier of fact shall itemize damages into economic and noneconomic losses. Neither the court nor counsel for a party shall inform the jury of the limitations under subsection (1). The court shall adjust an award of noneconomic loss to conform to the limitations under subsection (1).

(3) The limitation on damages under subsection (1) for death or permanent loss of a vital bodily function does not apply to a defendant if the trier of fact determines by a perponderance of the evidence that the death or loss was the result of the defendant's gross negligence, or if the court finds that the matters stated in section 2949a are true.

(4) If damages for economic loss cannot readily be ascertained by the trier of fact, then the trier of fact shall calculate damages for economic loss based on an amount that is equal to the state average median family income as reported in the immediately preceding federal decennial census and adjusted by the state treasurer in the same manner as provided in subsection (1).

History: Add. 1995, Act 249, Eff. Mar. 28, 1996.

Compiler's note: In subsection (3), the word “perponderance” evidently should read “preponderance.”

600.2947 Product liability action; liability of manufacturer or seller.

Sec. 2947. (1) A manufacturer or seller is not liable in a product liability action for harm caused by an alteration of the product unless the alteration was reasonably foreseeable. Whether there was an alteration of a product and whether an alteration was reasonably foreseeable are legal issues to be resolved by the court.

(2) A manufacturer or seller is not liable in a product liability action for harm caused by misuse of a product unless the misuse was reasonably foreseeable. Whether there was misuse of a product and whether misuse was reasonably foreseeable are legal issues to be resolved by the court.

(3) A manufacturer or seller is not liable in a product liability action if the purchaser or user of the product was aware that use of the product created an unreasonable risk of personal injury and voluntarily exposed himself or herself to that risk and the risk that he or she exposed himself or herself to was the proximate cause of the injury. This subsection does not relieve a manufacturer or seller from a duty to use reasonable care in a product's production.

(4) Except to the extent a state or federal statute or regulation requires a manufacturer to warn, a

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manufacturer or seller is not liable in a product liability action for failure to provide an adequate warning if the product is provided for use by a sophisticated user.

(5) A manufacturer or seller is not liable in a product liability action if the alleged harm was caused by an inherent characteristic of the product that cannot be eliminated without substantially compromising the product's usefulness or desirability, and that is recognized by a person with the ordinary knowledge common to the community.

(6) In a product liability action, a seller other than a manufacturer is not liable for harm allegedly caused by the product unless either of the following is true:

(a) The seller failed to exercise reasonable care, including breach of any implied warranty, with respect to the product and that failure was a proximate cause of the person's injuries.

(b) The seller made an express warranty as to the product, the product failed to conform to the warranty, and the failure to conform to the warranty was a proximate cause of the person's harm.

History: Add. 1978, Act 495, Eff. Dec. 13, 1978;—Am. 1995, Act 249, Eff. Mar. 28, 1996.

600.2948 Death or injury; warnings as evidence.

Sec. 2948. (1) Evidence is admissible in a product liability action that, before the death of the person or injury to the person or damage to property, pamphlets, booklets, labels, or other written warnings were provided that gave notice to foreseeable users of the material risk of injury, death, or damage connected with the foreseeable use of the product or provided instructions as to the foreseeable uses, applications, or limitations of the product that the defendant knew or should have known.

(2) A defendant is not liable for failure to warn of a material risk that is or should be obvious to a reasonably prudent product user or a material risk that is or should be a matter of common knowledge to persons in the same or similar position as the person upon whose injury or death the claim is based in a product liability action.

(3) In a product liability action brought against a manufacturer or seller for harm allegedly caused by a failure to provide adequate warnings or instructions, a manufacturer or seller is not liable unless the plaintiff proves that the manufacturer knew or should have known about the risk of harm based on the scientific, technical, or medical information reasonably available at the time the specific unit of the product left the control of the manufacturer.

(4) This section does not limit a manufacturer's or seller's duty to use reasonable care in relation to a product after the product has left the manufacturer's or seller's control.

History: Add. 1978, Act 495, Eff. Dec. 13, 1978;—Am. 1995, Act 161, Eff. Mar. 28, 1996;—Am. 1995, Act 249, Eff. Mar. 28, 1996.

600.2949 Repealed. 1995, Act 249, Eff. Mar. 28, 1996.

Compiler's note: The repealed section pertained to contributory negligence, diminishment of damages, and frivolous claim or defense.

600.2949a Knowledge of defective product.

Sec. 2949a. In a product liability action, if the court determines that at the time of manufacture or distribution the defendant had actual knowledge that the product was defective and that there was a substantial likelihood that the defect would cause the injury that is the basis of the action, and the defendant willfully disregarded that knowledge in the manufacture or distribution of the product, then sections 2946(4), 2946a, 2947(1) to (4), and 2948(2) do not apply.

History: Add. 1995, Act 249, Eff. Mar. 28, 1996.

600.2950 Personal protection order; restraining or enjoining spouse, former spouse, individual with child in common, individual in dating relationship, or person residing or having resided in same household from certain conduct; respondent required to carry concealed weapon; omitting address of residence from documents; issuance, contents, effectiveness, duration, and service of personal protection order; entering order into L.E.I.N.; notice; failure to comply with order; false statement to court; enforcement; minor; definitions.

Sec. 2950. (1) Except as provided in subsections (27) and (28), by commencing an independent action to obtain relief under this section, by joining a claim to an action, or by filing a motion in an action in which the petitioner and the individual to be restrained or enjoined are parties, an individual may petition the family division of circuit court to enter a personal protection order to restrain or enjoin a spouse, a former spouse, an individual with whom he or she has had a child in common, an individual with whom he or she has or has had a dating relationship, or an individual residing or having resided in the same household as the petitioner from

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doing 1 or more of the following:

(a) Entering onto premises.

(b) Assaulting, attacking, beating, molesting, or wounding a named individual.

(c) Threatening to kill or physically injure a named individual.

(d) Removing minor children from the individual having legal custody of the children, except as otherwise authorized by a custody or parenting time order issued by a court of competent jurisdiction.

(e) Purchasing or possessing a firearm.

(f) Interfering with petitioner's efforts to remove petitioner's children or personal property from premises that are solely owned or leased by the individual to be restrained or enjoined.

(g) Interfering with petitioner at petitioner's place of employment or education or engaging in conduct that impairs petitioner's employment or educational relationship or environment.

(h) Having access to information in records concerning a minor child of both petitioner and respondent that will inform respondent about the address or telephone number of petitioner and petitioner's minor child or about petitioner's employment address.

(i) Engaging in conduct that is prohibited under section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i.

(j) Any other specific act or conduct that imposes upon or interferes with personal liberty or that causes a reasonable apprehension of violence.

(2) If the respondent is a person who is issued a license to carry a concealed weapon and is required to carry a weapon as a condition of his or her employment, a police officer certified by the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616, a sheriff, a deputy sheriff or a member of the Michigan department of state police, a local corrections officer, department of corrections employee, or a federal law enforcement officer who carries a firearm during the normal course of his or her employment, the petitioner shall notify the court of the respondent's occupation prior to the issuance of the personal protection order. This subsection does not apply to a petitioner who does not know the respondent's occupation.

(3) A petitioner may omit his or her address of residence from documents filed with the court under this section. If a petitioner omits his or her address of residence, the petitioner shall provide the court with a mailing address.

(4) The court shall issue a personal protection order under this section if the court determines that there is reasonable cause to believe that the individual to be restrained or enjoined may commit 1 or more of the acts listed in subsection (1). In determining whether reasonable cause exists, the court shall consider all of the following:

(a) Testimony, documents, or other evidence offered in support of the request for a personal protection order.

(b) Whether the individual to be restrained or enjoined has previously committed or threatened to commit 1 or more of the acts listed in subsection (1).

(5) A court shall not issue a personal protection order that restrains or enjoins conduct described in subsection (1)(a) if all of the following apply:

(a) The individual to be restrained or enjoined is not the spouse of the moving party.

(b) The individual to be restrained or enjoined or the parent, guardian, or custodian of the minor to be restrained or enjoined has a property interest in the premises.

(c) The moving party or the parent, guardian, or custodian of a minor petitioner has no property interest in the premises.

(6) A court shall not refuse to issue a personal protection order solely due to the absence of any of the following:

(a) A police report.

(b) A medical report.

(c) A report or finding of an administrative agency.

(d) Physical signs of abuse or violence.

(7) If the court refuses to grant a personal protection order, it shall state immediately in writing the specific reasons it refused to issue a personal protection order. If a hearing is held, the court shall also immediately state on the record the specific reasons it refuses to issue a personal protection order.

(8) A personal protection order shall not be made mutual. Correlative separate personal protection orders are prohibited unless both parties have properly petitioned the court pursuant to subsection (1).

(9) A personal protection order is effective and immediately enforceable anywhere in this state when signed by a judge. Upon service, a personal protection order may also be enforced by another state, an Indian tribe, or a territory of the United States.

(10) The court shall designate the law enforcement agency that is responsible for entering the personal

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protection order into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(11) A personal protection order shall include all of the following, and to the extent practicable the following shall be contained in a single form:

(a) A statement that the personal protection order has been entered to restrain or enjoin conduct listed in the order and that violation of the personal protection order will subject the individual restrained or enjoined to 1 or more of the following:

(*i*) If the respondent is 17 years of age or more, immediate arrest and the civil and criminal contempt powers of the court, and that if he or she is found guilty of criminal contempt, he or she shall be imprisoned for not more than 93 days and may be fined not more than $500.00.

(*ii*) If the respondent is less than 17 years of age, immediate apprehension or being taken into custody, and subject to the dispositional alternatives listed in section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18.

(*iii*) If the respondent violates the personal protection order in a jurisdiction other than this state, the respondent is subject to the enforcement procedures and penalties of the state, Indian tribe, or United States territory under whose jurisdiction the violation occurred.

(b) A statement that the personal protection order is effective and immediately enforceable anywhere in this state when signed by a judge, and that, upon service, a personal protection order also may be enforced by another state, an Indian tribe, or a territory of the United States.

(c) A statement listing the type or types of conduct enjoined.

(d) An expiration date stated clearly on the face of the order.

(e) A statement that the personal protection order is enforceable anywhere in Michigan by any law enforcement agency.

(f) The law enforcement agency designated by the court to enter the personal protection order into the law enforcement information network.

(g) For ex parte orders, a statement that the individual restrained or enjoined may file a motion to modify or rescind the personal protection order and request a hearing within 14 days after the individual restrained or enjoined has been served or has received actual notice of the order and that motion forms and filing instructions are available from the clerk of the court.

(12) An ex parte personal protection order shall be issued and effective without written or oral notice to the individual restrained or enjoined or his or her attorney if it clearly appears from specific facts shown by verified complaint, written motion, or affidavit that immediate and irreparable injury, loss, or damage will result from the delay required to effectuate notice or that the notice will itself precipitate adverse action before a personal protection order can be issued.

(13) A personal protection order issued under subsection (12) is valid for not less than 182 days. The individual restrained or enjoined may file a motion to modify or rescind the personal protection order and request a hearing under the Michigan court rules. The motion to modify or rescind the personal protection order shall be filed within 14 days after the order is served or after the individual restrained or enjoined has received actual notice of the personal protection order unless good cause is shown for filing the motion after the 14 days have elapsed.

(14) Except as otherwise provided in this subsection, the court shall schedule a hearing on the motion to modify or rescind the ex parte personal protection order within 14 days after the filing of the motion to modify or rescind. If the respondent is a person described in subsection (2) and the personal protection order prohibits him or her from purchasing or possessing a firearm, the court shall schedule a hearing on the motion to modify or rescind the ex parte personal protection order within 5 days after the filing of the motion to modify or rescind.

(15) The clerk of the court that issues a personal protection order shall do all of the following immediately upon issuance and without requiring a proof of service on the individual restrained or enjoined:

(a) File a true copy of the personal protection order with the law enforcement agency designated by the court in the personal protection order.

(b) Provide the petitioner with not less than 2 true copies of the personal protection order.

(c) If respondent is identified in the pleadings as a law enforcement officer, notify the officer's employing law enforcement agency, if known, about the existence of the personal protection order.

(d) If the personal protection order prohibits respondent from purchasing or possessing a firearm, notify the concealed weapon licensing board in respondent's county of residence about the existence and contents of the personal protection order.

(e) If the respondent is identified in the pleadings as a department of corrections employee, notify the state department of corrections about the existence of the personal protection order.

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(f) If the respondent is identified in the pleadings as being a person who may have access to information concerning the petitioner or a child of the petitioner or respondent and that information is contained in friend of the court records, notify the friend of the court for the county in which the information is located about the existence of the personal protection order.

(16) The clerk of the court shall inform the petitioner that he or she may take a true copy of the personal protection order to the law enforcement agency designated by the court in subsection (10) to be immediately entered into the law enforcement information network.

(17) The law enforcement agency that receives a true copy of the personal protection order under subsection (15) or (16) shall immediately and without requiring proof of service enter the personal protection order into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(18) A personal protection order issued under this section shall be served personally or by registered or certified mail, return receipt requested, delivery restricted to the addressee at the last known address or addresses of the individual restrained or enjoined or by any other manner provided in the Michigan court rules. If the individual restrained or enjoined has not been served, a law enforcement officer or clerk of the court who knows that a personal protection order exists may, at any time, serve the individual restrained or enjoined with a true copy of the order or advise the individual restrained or enjoined about the existence of the personal protection order, the specific conduct enjoined, the penalties for violating the order, and where the individual restrained or enjoined may obtain a copy of the order. If the respondent is less than 18 years of age, the parent, guardian, or custodian of that individual shall also be served personally or by registered or certified mail, return receipt requested, delivery restricted to the addressee at the last known address or addresses of the parent, guardian, or custodian of the individual restrained or enjoined. A proof of service or proof of oral notice shall be filed with the clerk of the court issuing the personal protection order. This subsection does not prohibit the immediate effectiveness of a personal protection order or its immediate enforcement under subsections (21) and (22).

(19) The clerk of the court shall immediately notify the law enforcement agency that received the personal protection order under subsection (15) or (16) if either of the following occurs:

(a) The clerk of the court has received proof that the individual restrained or enjoined has been served.

(b) The personal protection order is rescinded, modified, or extended by court order.

(20) The law enforcement agency that receives information under subsection (19) shall enter the information or cause the information to be entered into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(21) Subject to subsection (22), a personal protection order is immediately enforceable anywhere in this state by any law enforcement agency that has received a true copy of the order, is shown a copy of it, or has verified its existence on the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(22) If the individual restrained or enjoined has not been served, the law enforcement agency or officer responding to a call alleging a violation of a personal protection order shall serve the individual restrained or enjoined with a true copy of the order or advise the individual restrained or enjoined about the existence of the personal protection order, the specific conduct enjoined, the penalties for violating the order, and where the individual restrained or enjoined may obtain a copy of the order. The law enforcement officer shall enforce the personal protection order and immediately enter or cause to be entered into the law enforcement information network that the individual restrained or enjoined has actual notice of the personal protection order. The law enforcement officer also shall file a proof of service or proof of oral notice with the clerk of the court issuing the personal protection order. If the individual restrained or enjoined has not received notice of the personal protection order, the individual restrained or enjoined shall be given an opportunity to comply with the personal protection order before the law enforcement officer makes a custodial arrest for violation of the personal protection order. The failure to immediately comply with the personal protection order shall be grounds for an immediate custodial arrest. This subsection does not preclude an arrest under section 15 or 15a of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.15 and 764.15a, or a proceeding under section 14 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.14.

(23) An individual who is 17 years of age or more and who refuses or fails to comply with a personal protection order under this section is subject to the criminal contempt powers of the court and, if found guilty, shall be imprisoned for not more than 93 days and may be fined not more than $500.00. An individual who is less than 17 years of age and who refuses or fails to comply with a personal protection order issued under this section is subject to the dispositional alternatives listed in section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18. The criminal penalty provided for under this section may be imposed in addition to a penalty that may be imposed for another criminal offense arising from the same conduct.

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(24) An individual who knowingly and intentionally makes a false statement to the court in support of his or her petition for a personal protection order is subject to the contempt powers of the court.

(25) A personal protection order issued under this section is also enforceable under chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, and section 15b of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.15b.

(26) A personal protection order issued under this section is also enforceable under chapter 17.

(27) A court shall not issue a personal protection order that restrains or enjoins conduct described in subsection (1) if any of the following apply:

(a) The respondent is the unemancipated minor child of the petitioner.

(b) The petitioner is the unemancipated minor child of the respondent.

(c) The respondent is a minor child less than 10 years of age.

(28) If the respondent is less than 18 years of age, issuance of a personal protection order under this section is subject to chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32.

(29) A personal protection order that is issued prior to the effective date of the amendatory act that added this subsection is not invalid on the ground that it does not comply with 1 or more of the requirements added by this amendatory act.

(30) As used in this section:

(a) "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

(b) "Federal law enforcement officer" means an officer or agent employed by a law enforcement agency of the United States government whose primary responsibility is the enforcement of laws of the United States.

(c) "Personal protection order" means an injunctive order issued by the circuit court or the family division of circuit court restraining or enjoining activity and individuals listed in subsection (1).

History: Add. 1983, Act 228, Imd. Eff. Nov. 28, 1983;—Am. 1994, Act 58, Eff. July 1, 1994;—Am. 1994, Act 61, Eff. July 1, 1994;—Am. 1994, Act 341, Eff. Apr. 1, 1996;—Am. 1994, Act 402, Eff. Apr. 1, 1995;—Am. 1996, Act 10, Eff. June 1, 1996;—Am. 1997, Act 115, Imd. Eff. Aug. 21, 1997;—Am. 1998, Act 477, Eff. Mar. 1, 1999;—Am. 1999, Act 268, Eff. July 1, 2000;—Am. 2001, Act 200, Eff. Apr. 1, 2002.

600.2950a Personal protection order restraining or enjoining individual from engaging in conduct prohibited under MCL 750.411h and 750.411i; facts alleging stalking; respondent required to carry concealed weapon; omitting address of residence from documents; reasons for issuing or refusing to grant order; mutual order prohibited; effectiveness, issuance, contents, and duration of order; duties of court clerk; entering order into L.E.I.N.; service; notice to law enforcement agency; enforcement; refusal or failure to comply; false statement to court; purchase or possession of firearm; minor; issuance to prisoner prohibited; definitions.

Sec. 2950a. (1) Except as provided in subsections (25) and (26), by commencing an independent action to obtain relief under this section, by joining a claim to an action, or by filing a motion in an action in which the petitioner and the individual to be restrained or enjoined are parties, an individual may petition the family division of circuit court to enter a personal protection order to restrain or enjoin an individual from engaging in conduct that is prohibited under section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i. Relief shall not be granted unless the petition alleges facts that constitute stalking as defined in section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i. Relief may be sought and granted under this section whether or not the individual to be restrained or enjoined has been charged or convicted under section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i, for the alleged violation.

(2) If the respondent is a person who is issued a license to carry a concealed weapon and is required to carry a weapon as a condition of his or her employment, a police officer certified by the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616, a sheriff, a deputy sheriff or a member of the Michigan department of state police, a local corrections officer, a department of corrections employee, or a federal law enforcement officer who carries a firearm during the normal course of his or her employment, the petitioner shall notify the court of the respondent's occupation prior to the issuance of the personal protection order. This subsection does not apply to a petitioner who does not know the respondent's occupation.

(3) A petitioner may omit his or her address of residence from documents filed with the court under this section. If a petitioner omits his or her address of residence, the petitioner shall provide the court a mailing address.

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(4) If a court refuses to grant a personal protection order, the court shall immediately state in writing the specific reasons for issuing or refusing to issue a personal protection order. If a hearing is held, the court shall also immediately state on the record the specific reasons for issuing or refusing to issue a personal protection order.

(5) A personal protection order shall not be made mutual. Correlative separate personal protection orders are prohibited unless both parties have properly petitioned the court according to subsection (1).

(6) A personal protection order is effective and immediately enforceable anywhere in this state when signed by a judge. Upon service, a personal protection order also may be enforced by another state, an Indian tribe, or a territory of the United States.

(7) The court shall designate the law enforcement agency that is responsible for entering the personal protection order into the L.E.I.N.

(8) A personal protection order issued under this section shall include all of the following, and to the extent practicable contained in a single form:

(a) A statement that the personal protection order has been entered to enjoin or restrain conduct listed in the order and that violation of the personal protection order will subject the individual restrained or enjoined to 1 or more of the following:

(*i*) If the respondent is 17 years of age or more, immediate arrest and the civil and criminal contempt powers of the court, and that if he or she is found guilty of criminal contempt, he or she shall be imprisoned for not more than 93 days and may be fined not more than $500.00.

(*ii*) If the respondent is less than 17 years of age, to immediate apprehension or being taken into custody, and subject to the dispositional alternatives listed in section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18.

(*iii*) If the respondent violates the personal protection order in a jurisdiction other than this state, the respondent is subject to the enforcement procedures and penalties of the state, Indian tribe, or United States territory under whose jurisdiction the violation occurred.

(b) A statement that the personal protection order is effective and immediately enforceable anywhere in this state when signed by a judge, and that upon service, a personal protection order also may be enforced by another state, an Indian tribe, or a territory of the United States.

(c) A statement listing each type of conduct enjoined.

(d) An expiration date stated clearly on the face of the order.

(e) A statement that the personal protection order is enforceable anywhere in Michigan by any law enforcement agency.

(f) The law enforcement agency designated by the court to enter the personal protection order into the L.E.I.N.

(g) For an ex parte order, a statement that the individual restrained or enjoined may file a motion to modify or rescind the personal protection order and request a hearing within 14 days after the individual restrained or enjoined has been served or has received actual notice of the personal protection order and that motion forms and filing instructions are available from the clerk of the court.

(9) An ex parte personal protection order shall not be issued and effective without written or oral notice to the individual enjoined or his or her attorney unless it clearly appears from specific facts shown by verified complaint, written motion, or affidavit that immediate and irreparable injury, loss, or damage will result from the delay required to effectuate notice or that the notice will precipitate adverse action before a personal protection order can be issued.

(10) A personal protection order issued under subsection (9) is valid for not less than 182 days. The individual restrained or enjoined may file a motion to modify or rescind the personal protection order and request a hearing under the Michigan court rules. The motion to modify or rescind the personal protection order shall be filed within 14 days after the order is served or after the individual restrained or enjoined has received actual notice of the personal protection order unless good cause is shown for filing the motion after 14 days have elapsed.

(11) Except as otherwise provided in this subsection, the court shall schedule a hearing on the motion to modify or rescind the ex parte personal protection order within 14 days after the filing of the motion to modify or rescind. If the respondent is a person described in subsection (2) and the personal protection order prohibits him or her from purchasing or possessing a firearm, the court shall schedule a hearing on the motion to modify or rescind the ex parte personal protection order within 5 days after the filing of the motion to modify or rescind.

(12) The clerk of the court that issues a personal protection order shall do all of the following immediately upon issuance without requiring proof of service on the individual restrained or enjoined:

(a) File a true copy of the personal protection order with the law enforcement agency designated by the

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court in the personal protection order.

(b) Provide petitioner with not less than 2 true copies of the personal protection order.

(c) If respondent is identified in the pleadings as a law enforcement officer, notify the officer's employing law enforcement agency about the existence of the personal protection order.

(d) If the personal protection order prohibits the respondent from purchasing or possessing a firearm, notify the concealed weapon licensing board in respondent's county of residence about the existence and content of the personal protection order.

(e) If the respondent is identified in the pleadings as a department of corrections employee, notify the state department of corrections about the existence of the personal protection order.

(f) If the respondent is identified in the pleadings as being a person who may have access to information concerning the petitioner or a child of the petitioner or respondent and that information is contained in friend of the court records, notify the friend of the court for the county in which the information is located about the existence of the personal protection order.

(13) The clerk of the court shall inform the petitioner that he or she may take a true copy of the personal protection order to the law enforcement agency designated by the court in subsection (7) to be immediately entered into the L.E.I.N.

(14) The law enforcement agency that receives a true copy of the personal protection order under subsection (12) or (13) shall immediately, without requiring proof of service, enter the personal protection order into the L.E.I.N.

(15) A personal protection order issued under this section shall be served personally or by registered or certified mail, return receipt requested, delivery restricted to the addressee at the last known address or addresses of the individual restrained or enjoined or by any other manner provided in the Michigan court rules. If the individual restrained or enjoined has not been served, a law enforcement officer or clerk of the court who knows that a personal protection order exists may, at any time, serve the individual restrained or enjoined with a true copy of the order or advise the individual restrained or enjoined about the existence of the personal protection order, the specific conduct enjoined, the penalties for violating the order, and where the individual restrained or enjoined may obtain a copy of the order. If the respondent is less than 18 years of age, the parent, guardian, or custodian of that individual shall also be served personally or by registered or certified mail, return receipt requested, delivery restricted to the addressee at the last known address or addresses of the parent, guardian, or custodian of the individual restrained or enjoined. A proof of service or proof of oral notice shall be filed with the clerk of the court issuing the personal protection order. This subsection does not prohibit the immediate effectiveness of a personal protection order or immediate enforcement under subsection (18) or (19).

(16) The clerk of the court shall immediately notify the law enforcement agency that received the personal protection order under subsection (12) or (13) if either of the following occurs:

(a) The clerk of the court has received proof that the individual restrained or enjoined has been served.

(b) The personal protection order is rescinded, modified, or extended by court order.

(17) The law enforcement agency that receives information under subsection (16) shall enter the information or cause the information to be entered into the L.E.I.N.

(18) Subject to subsection (19), a personal protection order is immediately enforceable anywhere in this state by any law enforcement agency that has received a true copy of the order, is shown a copy of it, or has verified its existence on the L.E.I.N.

(19) If the individual restrained or enjoined has not been served, the law enforcement agency or officer responding to a call alleging a violation of a personal protection order shall serve the individual restrained or enjoined with a true copy of the order or advise the individual restrained or enjoined about the existence of the personal protection order, the specific conduct enjoined, the penalties for violating the order, and where the individual restrained or enjoined may obtain a copy of the order. The law enforcement officer shall enforce the personal protection order and immediately enter or cause to be entered into the L.E.I.N. that the individual restrained or enjoined has actual notice of the personal protection order. The law enforcement officer also shall file a proof of service or proof of oral notice with the clerk of the court issuing the personal protection order. If the individual restrained or enjoined has not received notice of the personal protection order, the individual restrained or enjoined shall be given an opportunity to comply with the personal protection order before the law enforcement officer makes a custodial arrest for violation of the personal protection order. Failure to immediately comply with the personal protection order is grounds for an immediate custodial arrest. This subsection does not preclude an arrest under section 15 or 15a of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.15 and 764.15a, or a proceeding under section 14 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.14.

(20) An individual 17 years of age or more who refuses or fails to comply with a personal protection order

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issued under this section is subject to the criminal contempt powers of the court and, if found guilty of criminal contempt, shall be imprisoned for not more than 93 days and may be fined not more than $500.00. An individual less than 17 years of age who refuses or fails to comply with a personal protection order issued under this section is subject to the dispositional alternatives listed in section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18. The criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct.

(21) An individual who knowingly and intentionally makes a false statement to the court in support of his or her petition for a personal protection order is subject to the contempt powers of the court.

(22) A personal protection order issued under this section is also enforceable under chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, and section 15b of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.15b.

(23) A personal protection order issued under this section may enjoin or restrain an individual from purchasing or possessing a firearm.

(24) A personal protection order issued under this section is also enforceable under chapter 17.

(25) A court shall not issue a personal protection order that restrains or enjoins conduct described in subsection (1) if any of the following apply:

(a) The respondent is the unemancipated minor child of the petitioner.

(b) The petitioner is the unemancipated minor child of the respondent.

(c) The respondent is a minor child less than 10 years of age.

(26) If the respondent is less than 18 years of age, issuance of a personal protection order under this section is subject to chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32.

(27) A personal protection order that is issued before March 1, 1999 is not invalid on the ground that it does not comply with 1 or more of the requirements added by 1998 PA 476.

(28) A court shall not issue a personal protection order under this section if the petitioner is a prisoner. If a personal protection order is issued in violation of this subsection, a court shall rescind the personal protection order upon notification and verification that the petitioner is a prisoner.

(29) As used in this section:

(a) "Federal law enforcement officer" means an officer or agent employed by a law enforcement agency of the United States government whose primary responsibility is the enforcement of laws of the United States.

(b) "L.E.I.N." means the law enforcement information network administered under the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(c) "Personal protection order" means an injunctive order issued by circuit court or the family division of circuit court restraining or enjoining conduct prohibited under section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i.

(d) "Prisoner" means a person subject to incarceration, detention, or admission to a prison who is accused of, convicted of, sentenced for, or adjudicated delinquent for violations of federal, state, or local law or the terms and conditions of parole, probation, pretrial release, or a diversionary program.

History: Add. 1992, Act 262, Eff. Jan. 1, 1993;—Am. 1994, Act 61, Eff. July 1, 1994;—Am. 1994, Act 341, Eff. Apr. 1, 1996;—Am. 1994, Act 404, Eff. Apr. 1, 1995;—Am. 1997, Act 115, Imd. Eff. Aug. 21, 1997;—Am. 1998, Act 476, Eff. Mar. 1, 1999;—Am. 1999, Act 268, Eff. July 1, 2000;—Am. 2001, Act 196, Eff. Apr. 1, 2002;—Am. 2001, Act 201, Eff. Apr. 1, 2002.

600.2950b Forms; liability of individual providing assistance.

Sec. 2950b. (1) The state court administrative office shall develop and make available forms for use by an individual who wishes to proceed without an attorney. The forms shall include at least a petition for relief, a notice of hearing, and proof of service for a personal protection order under section 2950 or 2950a. The forms shall be written in plain English in a simple and easily understood format, and shall be limited, if practicable, to 1 page in length. Instructions for the forms shall be written in plain English and shall include a simple and easily understood explanation of the proper method of service and filing of the proof of service.

(2) The standard personal protection order form, at a minimum, shall contain all of the information required under section 2950 or 2950a.

(3) The state court administrative office shall develop and make available standardized forms for use by individuals restrained or enjoined without notice to move to modify or to rescind a personal protection order and to request a hearing.

(4) The court shall provide a form prepared under this section without charge. Upon request, the court may provide assistance, but not legal assistance, to an individual in completing a form prepared under this section and the personal protection order form if the court issues such an order, and may instruct the individual regarding the requirements for proper service of the order.

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(5) To the extent not protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1415, an individual other than a court employee who provides assistance under section 2950c is presumed to be acting in good faith and is not liable in a civil action for damages for acts or omissions in providing the assistance, except acts or omissions amounting to gross negligence or willful and wanton misconduct.

History: Add. 1994, Act 61, Eff. July 1, 1994;—Am. 1994, Act 403, Eff. Apr. 1, 1995;—Am. 2000, Act 112, Eff. July 1, 2000.

600.2950c Assistance with personal protection order; domestic violence victim advocate.

Sec. 2950c. (1) The family division of the circuit court in each county may provide a domestic violence victim advocate to assist victims of domestic violence in obtaining a personal protection order. The court may use the services of a public or private agency or organization that has a record of service to victims of domestic violence to provide the assistance. A domestic violence victim advocate may provide, but is not limited to providing, all of the following assistance:

(a) Informing a victim of the availability of, and assisting the victim in obtaining, serving, modifying, or rescinding, a personal protection order.

(b) Providing an interpreter for a case involving domestic violence including a request for a personal protection order.

(c) Informing a victim of the availability of shelter, safety plans, counseling, other social services, and generic written materials about Michigan law.

(2) Notwithstanding subsection (1), a domestic violence victim advocate shall not represent or advocate for a domestic violence victim in court.

(3) Providing assistance in accordance with this section does not violate section 916.

History: Add. 2000, Act 112, Eff. July 1, 2000.

600.2950h Definitions.

Sec. 2950h. As used in this section and sections 2950i, 2950j, 2950k, 2950*l*, and 2950m:

(a) "Foreign protection order" means an injunction or other order issued by a court of another state, Indian tribe, or United States territory for the purpose of preventing a person's violent or threatening acts against, harassment of, contact with, communication with, or physical proximity to another person. Foreign protection order includes temporary and final orders issued by civil and criminal courts (other than a support or child custody order issued pursuant to state divorce and child custody laws, except to the extent that such an order is entitled to full faith and credit under other federal law), whether obtained by filing an independent action or by joining a claim to an action, if a civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.

(b) "LEIN" means the law enforcement information network regulated under the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(c) "NCIC protection order file" means the national crime information center protection order file maintained by the United States department of justice, federal bureau of investigation.

History: Add. 2001, Act 206, Eff. Apr. 1, 2002.

600.2950i Foreign protection order; validity; affirmative defenses.

Sec. 2950i. (1) A foreign protection order is valid if all of the following conditions are met:

(a) The issuing court had jurisdiction over the parties and subject matter under the laws of the issuing state, tribe, or territory.

(b) Reasonable notice and opportunity to be heard is given to the respondent sufficient to protect the respondent's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided to the respondent within the time required by state or tribal law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

(2) All of the following may be affirmative defenses to any charge or process filed seeking enforcement of a foreign protection order:

(a) Lack of jurisdiction by the issuing court over the parties or subject matter.

(b) Failure to provide notice and opportunity to be heard.

(c) Lack of filing of a complaint, petition, or motion by or on behalf of a person seeking protection in a civil foreign protection order.

History: Add. 2001, Act 206, Eff. Apr. 1, 2002.

600.2950j Foreign protection order; subject to full faith and credit and enforcement; child custody or support provision.

Sec. 2950j. (1) A valid foreign protection order shall be accorded full faith and credit by the court and shall

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be subject to the same enforcement procedures and penalties as if it were issued in this state.

(2) A child custody or support provision within a valid foreign protection order shall be accorded full faith and credit by the court and shall be subject to the same enforcement procedures and penalties as any provision within a personal protection order issued in this state. This subsection shall not be construed to preclude law enforcement officers' compliance with the child protection law, 1975 PA 238, MCL 722.621 to 722.638.

History: Add. 2001, Act 206, Eff. Apr. 1, 2002.

600.2950k Foreign protection order; issuance against petitioner and respondent; conditions; "spouse or intimate partner" defined.

Sec. 2950k. (1) A foreign protection order sought by a petitioner against a spouse or intimate partner and issued against both the petitioner and respondent is entitled to full faith and credit against the respondent and is enforceable against the respondent.

(2) A foreign protection order sought by a petitioner against a spouse or intimate partner and issued against both the petitioner and respondent is not entitled to full faith and credit and is not enforceable against the petitioner unless both of the following conditions are met:

(a) The respondent filed a cross- or counter-petition, complaint, or other written pleading seeking the foreign protection order.

(b) The issuing court made specific findings against both the petitioner and the respondent and determined that each party was entitled to relief.

(3) For purposes of this section, "spouse or intimate partner" means all of the following:

(a) Spouse.

(b) Former spouse.

(c) An individual with whom petitioner has had a child in common.

(d) An individual residing or having resided in the same household as petitioner.

(e) An individual with whom petitioner has or has had a dating relationship as that term is defined in section 2950.

History: Add. 2001, Act 206, Eff. Apr. 1, 2002.

600.2950*l* Foreign protection order.

Sec. 2950*l*. (1) Law enforcement officers, prosecutors, and the court shall enforce a foreign protection order other than a conditional release order or probation order issued by a court in a criminal proceeding in the same manner that they would enforce a personal protection order issued in this state under section 2950 or 2950a or section 2(h) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, unless indicated otherwise in this section.

(2) A foreign protection order that is a conditional release order or a probation order issued by a court in a criminal proceeding shall be enforced pursuant to section 2950m of this act, section 15(1)(g) of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.15, the uniform criminal extradition act, 1937 PA 144, MCL 780.1 to 780.31, or the uniform rendition of accused persons act, 1968 PA 281, MCL 780.41 to 780.45.

(3) A law enforcement officer may rely upon a copy of any protection order that appears to be a foreign protection order and that is provided to the law enforcement officer from any source if the putative foreign protection order appears to contain all of the following:

(a) The names of the parties.

(b) The date the protection order was issued, which is prior to the date when enforcement is sought.

(c) The terms and conditions against respondent.

(d) The name of the issuing court.

(e) The signature of or on behalf of a judicial officer.

(f) No obvious indication that the order is invalid, such as an expiration date that is before the date enforcement is sought.

(4) The fact that a putative foreign protection order that an officer has been shown cannot be verified on L.E.I.N. or the NCIC national protection order file is not grounds for a law enforcement officer to refuse to enforce the terms of the putative foreign protection order, unless it is apparent to the officer that the putative foreign protection order is invalid. A law enforcement officer may rely upon the statement of petitioner that the putative foreign protection order that has been shown to the officer remains in effect and may rely upon the statement of petitioner or respondent that respondent has received notice of that order.

(5) If a person seeking enforcement of a foreign protection order does not have a copy of the foreign protection order, the law enforcement officer shall attempt to verify through L.E.I.N., or the NCIC protection order file, administrative messaging, contacting the court that issued the foreign protection order, contacting

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the law enforcement agency in the issuing jurisdiction, contacting the issuing jurisdiction's protection order registry, or any other method the law enforcement officer believes to be reliable, the existence of the foreign protection order and all of the following:

(a) The names of the parties.

(b) The date the foreign protection order was issued, which is prior to the date when enforcement is sought.

(c) Terms and conditions against respondent.

(d) The name of the issuing court.

(e) No obvious indication that the foreign protection order is invalid, such as an expiration date that is before the date enforcement is sought.

(6) If subsection (5) applies, the law enforcement officer shall enforce the foreign protection order if the existence of the order and the information listed under subsection (5) are verified, subject to subsection (9).

(7) If a person seeking enforcement of a foreign protection order does not have a copy of the foreign protection order, and the law enforcement officer cannot verify the order as described in subsection (5), the law enforcement officer shall maintain the peace and take appropriate action with regard to any violation of criminal law.

(8) When enforcing a foreign protection order, the law enforcement officer shall maintain the peace and take appropriate action with regard to any violation of criminal law. The penalties provided for under sections 2950 and 2950a and chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, may be imposed in addition to a penalty that may be imposed for any criminal offense arising from the same conduct.

(9) If there is no evidence that the respondent has been served with or received notice of the foreign protection order, the law enforcement officer shall serve the respondent with a copy of the foreign protection order, or advise the respondent about the existence of the foreign protection order, the name of the issuing court, the specific conduct enjoined, the penalties for violating the order in this state, and, if the officer is aware of the penalties in the issuing jurisdiction, the penalties for violating the order in the issuing jurisdiction. The officer shall enforce the foreign protection order and shall provide the petitioner, or cause the petitioner to be provided, with proof of service or proof of oral notice. The officer also shall provide the issuing court, or cause the issuing court to be provided, with a proof of service or proof of oral notice, if the address of the issuing court is apparent on the face of the foreign protection order or otherwise is readily available to the officer. If the foreign protection order is entered into L.E.I.N. or the NCIC protection order file, the officer shall provide the L.E.I.N. or the NCIC protection order file entering agency, or cause the L.E.I.N. or NCIC protection order file entering agency to be provided, with a proof of service or proof of oral notice. If there is no evidence that the respondent has received notice of the foreign protection order, the respondent shall be given an opportunity to comply with the foreign protection order before the officer makes a custodial arrest for violation of the foreign protection order. The failure to comply immediately with the foreign protection order is grounds for an immediate custodial arrest. This subsection does not preclude an arrest under section 15 or 15a of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.15 and 764.15a, or a proceeding under section 14 of chapter XIIA of the code of criminal procedure, 1927 PA 175, MCL 712A.14.

(10) A law enforcement officer, prosecutor, or court personnel acting in good faith are immune from civil and criminal liability in any action arising from the enforcement of a foreign protection order. This immunity does not in any manner limit or imply an absence of immunity in other circumstances.

History: Add. 2001, Act 197, Eff. Apr. 1, 2002.

600.2950m Foreign protection order; violation as misdemeanor; penalty.

Sec. 2950m. A person who violates a foreign protection order that is a conditional release order or a probation order issued by a court in a criminal proceeding is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of $500.00, or both.

History: Add. 2001, Act 197, Eff. Apr. 1, 2002.

600.2951 “Approved signaling device” and “pistol” defined; use of approved signaling device; strict liability for damages; exception.

Sec. 2951. (1) As used in this section:

(a) “Approved signaling device” means a pistol which is a signaling device approved by the United States coast guard pursuant to regulations issued under section 4488 of the Revised Statutes of the United States, 46 U.S.C. 481, or under section 5 of the federal boat safety act of 1971, Public Law 92-75, 46 U.S.C. 1454.

(b) “Pistol” means a firearm, loaded or unloaded, 30 inches or less in length, or any firearm, loaded or unloaded, which by its construction and appearance conceals it as a firearm.

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(2) A person who uses an approved signaling device shall be strictly liable for any damages caused to person or property by that use unless the person reasonably believes that its use is necessary for the safety of himself or herself or of another person on the waters of this state or in an aircraft emergency situation.

History: Add. 1982, Act 186, Eff. July 1, 1982.

600.2952 Failure of maker to pay amount of dishonored check, draft, or order; liability; written demand for payment; delivery and text; effect of payment before trial; jurisdiction of action.

Sec. 2952. (1) In addition to applicable penal sanctions, a person who makes, draws, utters, or delivers a check, draft, or order for payment of money upon a bank or other depository, person, firm, or corporation that refuses to honor the check, draft, or order for lack of funds or credit to pay or because the maker has no account with the drawee is liable for the amount of the dishonored check, draft, or order, plus a processing fee, civil damages, and costs, as provided in this section.

(2) A payee or an agent of a payee may make a written demand for payment of a check, draft, or order of the type specified in subsection (1), which demand may be delivered to the maker by first-class mail. The text of the written demand shall be as follows:

"A check, draft, or order for payment of money drawn by you for $_____ was returned to me/us/our client (client's name) dishonored for:

[ ] Insufficient funds

[ ] No account

This notice is a formal demand for payment of the full amount of the dishonored check, draft, or order plus a processing fee of $25.00 for a total amount of $_____. If you pay this total amount within 7 days, excluding weekends and holidays, after the date this notice was mailed, no further civil action will be taken against you.

If you do not pay the $_____ as requested above, but within 30 days after the date this notice was mailed you pay the amount of the dishonored check, draft, or order plus a $35.00 processing fee, for a total amount of $_____, no further civil action will be taken against you.

If you fail to pay either amount indicated above, I/we/our client will be authorized by state law to bring a civil action against you to determine your legal responsibility for payment of the check, draft, or order and civil damages and costs allowed by law.

If you dispute the dishonoring of this check, draft, or order, you should also contact your bank or financial institution immediately.".

(3) The maker of a dishonored check, draft, or order for payment of money is liable to the payee as provided in subsection (4) if the maker fails to pay 1 of the following in cash to the payee or a designated agent of the payee after the mailing of a written demand for payment pursuant to subsection (2):

(a) Within 7 days, excluding weekends and holidays, after the date the written demand provided in subsection (2) is mailed, the full amount of the dishonored check, draft, or order, plus a processing fee of $25.00.

(b) Within 30 days after the date of the mailing of the notice provided in subsection (2), the full amount of the dishonored check, draft, or order, plus a processing fee of $35.00.

(4) Except as otherwise provided in subsection (5), a maker who fails to make payment pursuant to subsection (3) and who is found responsible for payment in a civil action is liable to the payee for payment of all of the following:

(a) The full amount of the check, draft, or order.

(b) Civil damages of 2 times the amount of the dishonored check, draft, or order or $100.00, whichever is greater.

(c) Costs of $250.00.

(5) Subsection (4) does not apply if, before the trial of an action brought pursuant to this section, the maker pays to the payee or a designated agent of the payee, in cash, the total of the amounts described in subsection (3)(b), plus reasonable costs, not exceeding $250.00, as agreed to by the parties.

(6) An action under this section may be brought in the small claims division of the district court, if it does not exceed the jurisdiction of the small claims division, or in any other appropriate court. If the amount of the check exceeds the jurisdiction of the small claims division, the action may still be brought in the small claims division, but the amount of damages awarded shall not exceed the jurisdiction of the small claims division.

History: Add. 1984, Act 276, Eff. Mar. 29, 1985;—Am. 1998, Act 313, Eff. Jan. 1, 1999.

600.2953 Retail fraud; liability; civil damages; demand for payment; text; noncompliance; effect of payment; jurisdiction; civil action against parent; formal police report; violation

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by merchant precluding recovery.

Sec. 2953. (1) In addition to applicable penal sanctions, a person who commits an act for which he or she could be charged with retail fraud in the first, second, or third degree under sections 356c and 356d of the Michigan penal code, 1931 PA 328, MCL 750.356c and 750.356d, is liable to the merchant who is the victim of the act for the full retail price of unrecovered property or recovered property that is not in salable condition, and civil damages of 10 times the retail price of the property, but not less than $50.00 and not more than $200.00.

(2) The merchant who is the victim of retail fraud in the first, second, or third degree, or an agent of the merchant, may make a written demand for payment of the amount for which the person who committed the act is liable under subsection (1). Except for a sole proprietorship, a member of management, other than the initial detaining person, shall evaluate the validity of the accusation that the person committed the act and shall approve the accusation in writing before a written demand for payment is issued. The demand for payment may be delivered to the person from whom payment is demanded by first-class mail. The text of the written demand shall be as follows:

"We have cause to believe that on (date) you, or your minor child (child's name), committed retail fraud in the first, second, or third degree by (description of action and property involved) in our store or in its immediate vicinity.

State law authorizes us to demand in writing that you do all of the following, as applicable:

[ ] Return the property in salable condition or pay to us $ _____, which represents the full retail price or the remaining balance of the full retail price of the property.

[ ] Pay to us $ _____, which represents the full retail price of the recovered property that is not in salable condition.

[ ] Pay to us civil damages in an amount equal to 10 times the retail price of the property involved, but not less than $50.00 or more than $200.00, equaling a total amount of $ _____.

This notice is a formal demand for return of the property involved, if applicable, and the payment of the amounts indicated above, equaling a total amount of $ _____. If you return any unrecovered property and pay the amounts indicated above to us within 30 days after the date this notice was mailed, we will not take any further civil action against you.

You are not required to respond to this demand if you believe that you or your minor child are not guilty of committing retail fraud or if you choose not to respond. If you fail to comply with this demand, we will be authorized by state law to bring a civil action against you to determine your legal responsibility for the return of any unrecovered property and the payment of the amounts indicated above plus the cost of the action, including reasonable attorney fees.

These civil proceedings do not prevent criminal prosecution for the alleged act of retail fraud.".

(3) If the person to whom a written demand is made under subsection (2) complies with the written demand within 30 days after the date the written demand is mailed, that person shall incur no further civil liability to the merchant from the act of retail fraud.

(4) A person who commits an act described in subsection (1) and who fails to comply with a written demand under subsection (2) is liable to the merchant for the full retail price of the property, unless the property was recovered in salable condition, plus civil damages of 10 times the retail price of the property but not less than $50.00 or more than $200.00, and costs of the action, including reasonable attorney fees.

(5) If a civil action is filed pursuant to this section and before the trial of the action is commenced the person to whom a written demand was made under subsection (2) pays the merchant in cash the amount demanded, subsection (4) does not apply.

(6) An action under this section may be brought in the small claims division of the district court or in any other court of competent jurisdiction. If the amount demanded exceeds the jurisdiction of the small claims division, the action may still be brought in the small claims division, but the amount recovered shall not exceed the jurisdiction of the small claims division.

(7) A merchant may recover damages in an amount allowable under this section in a civil action in a court of competent jurisdiction against the parent or parents of an unemancipated minor who lives with his or her parent or parents and who commits an act described in subsection (1).

(8) A merchant may recover the amount for which a person is civilly liable under this section only if a formal police report is filed with a local law enforcement agency that has jurisdiction over the location where the violation took place, which report sets forth facts alleging that the person has committed retail fraud in the first, second, or third degree or violated a local ordinance substantially corresponding to section 218, 356, 356c, or 356d of the Michigan penal code, 1931 PA 328, MCL 750.218, 750.356, 750.356c, and 750.356d, regardless of the outcome of any criminal action.

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(9) Notwithstanding any other provision of this section, a merchant shall not recover civil damages for an act of retail fraud in the first, second, or third degree with regard to a particular item of property if the merchant violated section 3 of 1976 PA 449, MCL 445.353, with regard to that item of property and the violation was not caused by the person who committed the act of retail fraud.

History: Add. 1988, Act 50, Eff. June 1, 1988;—Am. 1998, Act 313, Eff. Jan. 1, 1999.

600.2953a Motion picture recording violation.

Sec. 2953a. (1) A person who commits an act that constitutes a motion picture recording violation is liable to a person injured by the violation for 1 or more of the following:

(a) Actual damages.

(b) Exemplary damages of not more than $1,000.00.

(c) If the person who committed the violation was acting for direct or indirect commercial advantage or financial gain, exemplary damages of not more than $50,000.00.

(d) Reasonable attorney fees and costs.

(2) If a person who commits an act that constitutes a motion picture recording violation is an unemancipated minor who lives with his or her parent or parents, the parent or parents are also liable to a person injured by the violation for damages allowable under this section.

(3) A person injured by a motion picture recording violation may recover damages described in subsection (1) only if a formal incident report that contains factual allegations that the defendant committed a motion picture recording violation is filed with a local law enforcement agency with jurisdiction over the location where the violation took place. However, recovery under this section is not dependent on the outcome of a criminal prosecution.

(4) A person injured by a motion picture recording violation may bring an action to enjoin a person from the unauthorized recording, receipt, or transmission of a recording or transmission of a motion picture or a part of a motion picture obtained or made by a motion picture recording violation or from committing a motion picture recording violation. A person may bring an action under this subsection regardless of whether the person has suffered or will suffer actual damages.

(5) An action under this section is in addition to any other criminal or civil penalties or remedies provided by law.

(6) As used in this section:

(a) "Motion picture recording violation" means a violation of section 465a of the Michigan penal code, 1931 PA 328, MCL 750.465a.

(b) "A person injured by a motion picture recording violation" includes, but is not limited to, the owner or lessee of the theatrical facility where the motion picture that is the subject of the violation was being shown.

History: Add. 2004, Act 450, Eff. Mar. 28, 2005.

600.2954 Maintaining civil action against individual engaging in prohibited conduct; “victim” defined.

Sec. 2954. (1) A victim may maintain a civil action against an individual who engages in conduct that is prohibited under section 411h or 411i of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.411h and 750.411i of the Michigan Compiled Laws, for damages incurred by the victim as a result of that conduct. A victim may also seek and be awarded exemplary damages, costs of the action, and reasonable attorney fees in an action brought under this section.

(2) A civil action may be maintained under subsection (1) whether or not the individual who is alleged to have engaged in conduct prohibited under section 411h or 411i of Act No. 328 of the Public Acts of 1931 has been charged or convicted under section 411h or 411i of Act No. 328 of the Public Acts of 1931 for the alleged violation.

(3) As used in this section, “victim” means that term as defined in section 411h of Act No. 328 of the Public Acts of 1931.

History: Add. 1992, Act 262, Eff. Jan. 1, 1993.

600.2955 Scientific or expert opinion or evidence; admissibility.

Sec. 2955. (1) In an action for the death of a person or for injury to a person or property, a scientific opinion rendered by an otherwise qualified expert is not admissible unless the court determines that the opinion is reliable and will assist the trier of fact. In making that determination, the court shall examine the opinion and the basis for the opinion, which basis includes the facts, technique, methodology, and reasoning relied on by the expert, and shall consider all of the following factors:

(a) Whether the opinion and its basis have been subjected to scientific testing and replication.

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(b) Whether the opinion and its basis have been subjected to peer review publication.

(c) The existence and maintenance of generally accepted standards governing the application and interpretation of a methodology or technique and whether the opinion and its basis are consistent with those standards.

(d) The known or potential error rate of the opinion and its basis.

(e) The degree to which the opinion and its basis are generally accepted within the relevant expert community. As used in this subdivision, "relevant expert community" means individuals who are knowledgeable in the field of study and are gainfully employed applying that knowledge on the free market.

(f) Whether the basis for the opinion is reliable and whether experts in that field would rely on the same basis to reach the type of opinion being proffered.

(g) Whether the opinion or methodology is relied upon by experts outside of the context of litigation.

(2) A novel methodology or form of scientific evidence may be admitted into evidence only if its proponent establishes that it has achieved general scientific acceptance among impartial and disinterested experts in the field.

(3) In an action alleging medical malpractice, the provisions of this section are in addition to, and do not otherwise affect, the criteria for expert testimony provided in section 2169.

History: Add. 1995, Act 249, Eff. Mar. 28, 1996.

600.2955a Impaired ability to function due to influence of intoxicating liquor or controlled substance as absolute defense; definitions.

Sec. 2955a. (1) It is an absolute defense in an action for the death of an individual or for injury to a person or property that the individual upon whose death or injury the action is based had an impaired ability to function due to the influence of intoxicating liquor or a controlled substance, and as a result of that impaired ability, the individual was 50% or more the cause of the accident or event that resulted in the death or injury. If the individual described in this subsection was less than 50% the cause of the accident or event, an award of damages shall be reduced by that percentage.

(2) As used in this section:

(a) "Controlled substance" means that term as defined in section 7104 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.7104 of the Michigan Compiled Laws.

(b) "Impaired ability to function due to the influence of intoxicating liquor or a controlled substance" means that, as a result of an individual drinking, ingesting, smoking, or otherwise consuming intoxicating liquor or a controlled substance, the individual's senses are impaired to the point that the ability to react is diminished from what it would be had the individual not consumed liquor or a controlled substance. An individual is presumed under this section to have an impaired ability to function due to the influence of intoxicating liquor or a controlled substance if, under a standard prescribed by section 625a of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.625a of the Michigan Compiled Laws, a presumption would arise that the individual's ability to operate a vehicle was impaired.

History: Add. 1995, Act 249, Eff. Mar. 28, 1996.

600.2955b Plaintiff's action for individual's bodily injury or death during commission of felony; dismissal with prejudice; stay of civil action until final disposition; period of limitations; applicability; definitions.

Sec. 2955b. (1) Except as otherwise provided in this section, the court shall dismiss with prejudice a plaintiff's action for an individual's bodily injury or death and shall order the plaintiff to pay each defendant's costs and actual attorney fees if the bodily injury or death occurred during 1 or more of the following:

(a) The individual's commission, or flight from the commission, of a felony.

(b) The individual's acts or flight from acts that the finder of fact in the civil action finds, by clear and convincing evidence, to constitute all the elements of a felony.

(2) If the bodily injury or death described in subsection (1) resulted from force, the court shall not apply subsection (1) to the claim of the plaintiff against a defendant who caused the individual's bodily injury or death unless the court finds that the particular defendant did either of the following:

(a) Used a degree of force that a reasonable person would believe to have been appropriate to prevent injury to the defendant or to others.

(b) Used a degree of force that a reasonable person would believe to have been appropriate to prevent or respond to the commission of a felony. In making a finding under this subsection, the court shall not consider the fact that the defendant may not have known that the plaintiff's actions or attempted actions would be the commission of a felony.

(3) If a proceeding is pending regarding an individual's commission of a felony and the individual is a

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plaintiff in a civil action for damages for his or her own bodily injury, the court shall stay the plaintiff's civil action in regard to a claim against a particular defendant until the final disposition of the proceeding on the individual's commission of a felony, including appeals, but only if both of the following occur:

(a) The defendant moves under subsection (1) to dismiss the plaintiff's claim in regard to the defendant.

(b) The court finds probable cause to believe that subsection (1) applies to the plaintiff's claim against the defendant.

(4) The period of limitations to bring a civil action for damages for an individual's bodily injury or death is tolled during each period of time that a court proceeding is pending regarding the individual in a criminal action or an adjudication under chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, including appeals, but only if the civil action is based on the same events as the criminal action or adjudication.

(5) At any point in time that section 1902 applies to an individual or events, this section does not apply to the individual or the events.

(6) This section applies only to a civil action filed on or after the effective date of the amendatory act that added this section.

(7) As used in this section:

(a) “Commission of a felony” means either of the following:

(*i*) A conviction for a felony.

(*ii*) An adjudication under chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, holding an individual responsible for an offense that if committed by an adult would be a felony.

(b) “Felony” means a violation of a law of this state or of the United States that is designated as a felony or that is punishable by death or imprisonment for more than 1 year.

(c) “Plaintiff” includes, but is not limited to, an individual who, or an estate that, brings an action for the bodily injury or death.

History: Add. 2000, Act 176, Eff. Sept. 18, 2000.

600.2956 Several and joint liability.

Sec. 2956. Except as provided in section 6304, in an action based on tort or another legal theory seeking damages for personal injury, property damage, or wrongful death, the liability of each defendant for damages is several only and is not joint. However, this section does not abolish an employer's vicarious liability for an act or omission of the employer's employee.

History: Add. 1995, Act 161, Eff. Mar. 28, 1996.

600.2957 Determination and allocation of fault; action against nonparty; amendment of pleading; assessment of fault against nonparty.

Sec. 2957. (1) In an action based on tort or another legal theory seeking damages for personal injury, property damage, or wrongful death, the liability of each person shall be allocated under this section by the trier of fact and, subject to section 6304, in direct proportion to the person's percentage of fault. In assessing percentages of fault under this subsection, the trier of fact shall consider the fault of each person, regardless of whether the person is, or could have been, named as a party to the action.

(2) Upon motion of a party within 91 days after identification of a nonparty, the court shall grant leave to the moving party to file and serve an amended pleading alleging 1 or more causes of action against that nonparty. A cause of action added under this subsection is not barred by a period of limitation unless the cause of action would have been barred by a period of limitation at the time of the filing of the original action.

(3) Sections 2956 to 2960 do not eliminate or diminish a defense or immunity that currently exists, except as expressly provided in those sections. Assessments of percentages of fault for nonparties are used only to accurately determine the fault of named parties. If fault is assessed against a nonparty, a finding of fault does not subject the nonparty to liability in that action and shall not be introduced as evidence of liability in another action.

History: Add. 1995, Act 161, Eff. Mar. 28, 1996;—Am. 1995, Act 249, Eff. Mar. 28, 1996.

600.2958 Plaintiff's contributory fault not as bar to recovery of damages.

Sec. 2958. Subject to section 2959, in an action based on tort or another legal theory seeking damages for personal injury, property damage, or wrongful death, a plaintiff's contributory fault does not bar that plaintiff's recovery of damages.

History: Add. 1995, Act 161, Eff. Mar. 28, 1996.

600.2959 Comparative fault; reduction of damages.

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Sec. 2959. In an action based on tort or another legal theory seeking damages for personal injury, property damage, or wrongful death, the court shall reduce the damages by the percentage of comparative fault of the person upon whose injury or death the damages are based as provided in section 6306. If that person's percentage of fault is greater than the aggregate fault of the other person or persons, whether or not parties to the action, the court shall reduce economic damages by the percentage of comparative fault of the person upon whose injury or death the damages are based as provided in section 6306, and noneconomic damages shall not be awarded.

History: Add. 1995, Act 161, Eff. Mar. 28, 1996.

600.2960 Burden of proof; cause of action.

Sec. 2960. (1) The person seeking to establish fault under sections 2957 to 2959 has the burden of alleging and proving that fault.

(2) Sections 2957 to 2959 do not create a cause of action.

History: Add. 1995, Act 161, Eff. Mar. 28, 1996.

600.2961 Definitions; determining when commission due; payment of commissions; liability; attorney fees and costs; jurisdiction; contract waiver void; applicability of section.

Sec. 2961. (1) As used in this section:

(a) "Commission" means compensation accruing to a sales representative for payment by a principal, the rate of which is expressed as a percentage of the amount of orders or sales or as a percentage of the dollar amount of profits.

(b) "Person" means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

(c) "Prevailing party" means a party who wins on all the allegations of the complaint or on all of the responses to the complaint.

(d) "Principal" means a person that does either of the following:

(*i*) Manufactures, produces, imports, sells, or distributes a product in this state.

(*ii*) Contracts with a sales representative to solicit orders for or sell a product in this state.

(e) "Sales representative" means a person who contracts with or is employed by a principal for the solicitation of orders or sale of goods and is paid, in whole or in part, by commission. Sales representative does not include a person who places an order or sale for a product on his or her own account for resale by that sales representative.

(2) The terms of the contract between the principal and sales representative shall determine when a commission becomes due.

(3) If the time when the commission is due cannot be determined by a contract between the principal and sales representative, the past practices between the parties shall control or, if there are no past practices, the custom and usage prevalent in this state for the business that is the subject of the relationship between the parties.

(4) All commissions that are due at the time of termination of a contract between a sales representative and principal shall be paid within 45 days after the date of termination. Commissions that become due after the termination date shall be paid within 45 days after the date on which the commission became due.

(5) A principal who fails to comply with this section is liable to the sales representative for both of the following:

(a) Actual damages caused by the failure to pay the commissions when due.

(b) If the principal is found to have intentionally failed to pay the commission when due, an amount equal to 2 times the amount of commissions due but not paid as required by this section or $100,000.00, whichever is less.

(6) If a sales representative brings a cause of action pursuant to this section, the court shall award to the prevailing party reasonable attorney fees and court costs.

(7) In an action brought under this section, jurisdiction shall be determined in accordance with chapter 7.

(8) A provision in a contract between a principal and a sales representative purporting to waive any right under this section is void.

(9) This section does not affect the rights of a principal or sales representative that are otherwise provided by law.

History: Add. 1992, Act 125, Imd. Eff. June 29, 1992.

600.2962 Malpractice action against certified public accountant.

Sec. 2962. This section applies to an action for professional malpractice against a certified public

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accountant. A certified public accountant is liable for civil damages in connection with public accounting services performed by the certified public accountant only in 1 of the following situations:

(a) A negligent act, omission, decision, or other conduct of the certified public accountant if the claimant is the certified public accountant's client.

(b) An act, omission, decision, or conduct of the certified public accountant that constitutes fraud or an intentional misrepresentation.

(c) A negligent act, omission, decision, or other conduct of the certified public accountant if the certified public accountant was informed in writing by the client at the time of engagement that a primary intent of the client was for the professional public accounting services to benefit or influence the person bringing the action for civil damages. For the purposes of this subdivision, the certified public accountant shall identify in writing to the client each person, generic group, or class description that the certified public accountant intends to have rely on the services. The certified public accountant may be held liable only to each identified person, generic group, or class description. The certified public accountant's written identification shall include each person, generic group, or class description identified by the client as being benefited or influenced.

History: Add. 1995, Act 249, Eff. Mar. 28, 1996.

600.2962[1] Definitions; unauthorized receipt of cable or satellite television service; action to enjoin; damages; actual damages not required; separate causes of action.

Sec. 2962. (1) As used in this section:

(a) “Cable or satellite system equipment” means any cables, converters, decoders, descramblers, devices, instruments, or other equipment owned by a cable or satellite television provider and used in a cable or satellite television system, including devices leased from the cable or satellite television provider by a subscriber for use in receiving cable or satellite television service.

(b) “Cable or satellite television provider” means a person or persons who provide cable or satellite television service over a cable or satellite television system.

(c) “Cable or satellite television service” means the transmission of video programming over a cable or satellite television system.

(d) “Cable or satellite television system” means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control cable or satellite system equipment that is designed to provide cable or satellite television service.

(e) “Unauthorized connection” means any physical, electrical, mechanical, acoustical, or other connection to a cable or satellite television system, without the specific authority of the cable or satellite television provider. An unauthorized connection does not include any of the following:

(*i*) An internal connection made by a person within his or her residence for the purpose of receiving authorized cable or satellite television service.

(*ii*) The physical connection of a cable or other device by a person located within his or her residence which was initially placed there by the cable or satellite television service provider.

(*iii*) The physical connection of a cable or other device by a person located within his or her residence which the person had reason to believe was an authorized connection.

(f) “Unauthorized device” means any instrument, apparatus, circuit board, equipment, or device designed or adapted for use to fraudulently avoid the lawful charge for any cable or satellite television service.

(g) “Unauthorized receipt of cable or satellite television service” means the interception or receipt by any means of cable or satellite television service over a cable or satellite television system without the specific authorization of the cable or satellite television provider.

(2) A cable or satellite television provider may bring an action to enjoin a person from the unauthorized receipt of cable or satellite television service, using an unauthorized device, making an unauthorized connection, or committing an act that would be in violation of section 540c of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.540c of the Michigan Compiled Laws, and may seek 1 or more of the following damages:

(a) Actual damages.

(b) Exemplary damages of not more than $1,000.00 or, if the person's acts were for direct or indirect commercial advantage or financial gain, exemplary damages of not more than $50,000.00.

(c) Reasonable attorney fees and costs.

(3) It is not a necessary prerequisite to bring an action under this section that the cable or satellite television provider have suffered actual damages.

(4) An action under this section is in addition to any other penalties or remedies provided by law.

(5) Each act prohibited by this section is a separate cause of action.

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History: Add. 1996, Act 558, Eff. Mar. 31, 1997.

Compiler's note: Section 2962, as added by Act 558 of 1996, was compiled as MCL 600.2962[1] to distinguish it from another section 2962, deriving from Act 249 of 1995 and pertaining to malpractice action against certified public accountant.

600.2962a Definitions; injunction; damages; civil action; court actions; actual damages or convictions not prerequisite to action; additional penalties or remedies; separate causes of action.

Sec. 2962a. (1) As used in this section:

(a) "Telecommunications service" means that term as defined in section 219a of the Michigan penal code, 1931 PA 328, MCL 750.219a.

(b) "Telecommunications service provider" means that term as defined in section 219a of the Michigan penal code, 1931 PA 328, MCL 750.219a.

(c) "Telecommunications system" means that term as defined in section 219a of the Michigan penal code, 1931 PA 328, MCL 750.219a.

(d) "Unauthorized connection" means any physical, electrical, mechanical, acoustical, or other connection to a telecommunications system, without the specific authority of the telecommunications service provider. An unauthorized connection does not include any of the following:

(*i*) An internal connection made by a person within his or her residence for the purpose of receiving authorized telecommunications service.

(*ii*) The physical connection of a cable or other device by a person located within his or her residence which was initially placed there by the telecommunications service provider.

(*iii*) The physical connection of a cable or other device by a person located within his or her residence which the person had reason to believe was an authorized connection.

(e) "Unauthorized receipt of telecommunications service" means the interception or receipt by any means of a telecommunications service over a telecommunications system without the specific authorization of the telecommunications service provider.

(f) "Unlawful telecommunications access device" means that term as defined in section 219a of the Michigan penal code, 1931 PA 328, MCL 750.219a.

(2) A telecommunications service provider may bring an action to enjoin a person from the unauthorized receipt of any telecommunications service, using an unlawful telecommunications access device, or the making of an unauthorized connection, and may seek 1 or more of the following damages:

(a) Actual damages.

(b) Exemplary damages of not more than $1,000.00.

(c) If the person's acts were for direct or indirect commercial advantage or financial gain, exemplary damages of not more than $50,000.00.

(d) Reasonable attorney fees and costs.

(3) A person injured by a violation of sections 219a, 540c, and 540g of the Michigan penal code, 1931 PA 328, MCL 750.219a, 750.540c, and 750.540g, may bring a civil action in any court of competent jurisdiction. The court may do any of the following:

(a) Grant preliminary and final injunctions to prevent or restrain the violations.

(b) At any time while an action is pending, order the impounding, on terms as the court considers reasonable, of any telecommunications access device or unlawful telecommunications access device that is in the custody or control of the alleged violator and that the court has reasonable cause to believe was involved in the alleged violation.

(c) Award damages as provided under subdivision (f).

(d) In its discretion, award reasonable attorney fees and costs, including, but not limited to, costs for investigation, testing, and expert witness fees.

(e) As part of a final judgment or decree finding a violation, order the modification or destruction of any telecommunications access device or unlawful telecommunications access device involved in the violation.

(f) Award damages computed as 1 of the following upon the election of the complaining party at any time before final judgment:

(*i*) The actual damages suffered by the complaining party as a result of the violation of this section and any profits of the violator that are attributable to the violation and are not taken into account in computing the actual damages. In determining the violator's profits, the complaining party shall be required to prove only the violator's gross revenue, and the violator shall be required to prove any deductible expenses and the elements of profit attributable to factors other than the violation.

(*ii*) Damages of between $250.00 to $10,000.00 for each telecommunications access device or unlawful telecommunications access device involved in the action, with the amount of the damages to be determined by

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the court. Where the court finds that the violation of this section was committed willfully and for commercial advantage or financial gain, the court may increase the award of damages by an amount of not more than $50,000.00 for each telecommunications access device or unlawful telecommunications access device involved in the action.

(4) It is not a necessary prerequisite to bring an action under this section that the telecommunications service provider or other injured party has suffered actual damages or that the defendant has been convicted of any violations of the Michigan penal code, 1931 PA 328, MCL 750.1 to 750.568.

(5) An action under this section is in addition to any other penalties or remedies provided by law.

(6) Each act prohibited by this section is a separate cause of action.

History: Add. 2002, Act 663, Imd. Eff. Dec. 26, 2002.

600.2963 Commencement of civil action or filing appeal in civil action by prisoner; payment of filing fees and costs; claim of indigency; failure to pay fees and costs.

Sec. 2963. (1) If a prisoner under the jurisdiction of the department of corrections submits for filing a civil action as plaintiff in a court of this state or submits for filing an appeal in a civil action in a court of this state and states that he or she is indigent and therefore is unable to pay the filing fee and costs required by law, the prisoner making the claim of indigency shall submit to the court a certified copy of his or her institutional account, showing the current balance in the account and a 12-month history of deposits and withdrawals for the account. The court then shall order the prisoner to pay fees and costs as provided in this section. The court shall suspend the filing of the civil action or appeal until the filing fee or initial partial filing fee ordered under subsection (2) or (3) is received by the court. If the court orders that a prisoner pay a filing fee or partial filing fee, all documents submitted by the prisoner that relate to that action or appeal shall be returned to the prisoner by the court along with 2 certified copies of the court order. An additional certified copy of the court order shall be sent to the department of corrections facility where the prisoner is housed. The prisoner then shall, within 21 days after the date of the court order, resubmit to the court all documents relating to the action or appeal, accompanied by the required filing fee or partial filing fee and 1 certified copy of the court order. If the filing fee or initial partial filing fee is not received within 21 days after the day on which it was ordered, the court shall not file that action or appeal, and shall return to the plaintiff all documents submitted by the plaintiff that relate to that action or appeal.

(2) If, upon commencement of the civil action or the filing of the appeal, the balance in the prisoner's institutional account equals or exceeds the full amount of the filing fee required by law, the court shall order the prisoner to pay that amount.

(3) If, upon commencement of the civil action or the filing of the appeal, the balance in the prisoner's institutional account is less than the full amount of the filing fee required by law, the court shall require the prisoner to pay an initial partial filing fee in an amount equal to 50% of the greater of the following:

(a) The average monthly deposits to the prisoner's institutional account for the 12 months preceding the date on which the civil action is commenced or the appeal is filed.

(b) The average monthly balance in the prisoner's institutional account for the 12 months preceding the date on which the civil action is commenced or the appeal is filed.

(4) In determining the balance in a prisoner's institutional account for purposes of subsection (2) or (3), the court shall disregard amounts in the institutional account that are required by law or by another court order to be paid for any other purposes.

(5) In addition to an initial partial filing fee under subsection (3), the court shall order the prisoner to make monthly payments in an amount equal to 50% of the deposits made to the account. Payments under this subsection shall continue until the full amount of the filing fee is paid. The collection of payments from the account, and their remittal by the department of corrections, shall be conducted as provided in section 68 of 1953 PA 232, MCL 791.268. If costs are assessed against a prisoner, and if the balance of the prisoner's institutional account is not sufficient to pay the full amount of the costs assessed, the court shall order the prisoner to make payments in the same manner required in this section for the payment of filing fees, and the full amount of the costs shall be collected and paid in the manner provided in this subsection and in section 68 of 1953 PA 232, MCL 791.268.

(6) The total amount collected from a prisoner under subsections (3) to (5) shall not exceed the full amount of the filing fee and costs required by law.

(7) For purposes of this section, the fact of a prisoner's incarceration cannot be the sole basis for a determination of indigency. However, this section shall not prohibit a prisoner from commencing a civil action or filing an appeal in a civil action if the prisoner has no assets and no means by which to pay the initial partial filing fee. If the court, pursuant to court rule, waives or suspends the payment of fees and costs in an action described in subsection (1) because the prisoner has no assets and no means by which to pay the initial

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partial filing fee, the court shall order the fees and costs to be paid by the prisoner in the manner provided in this section when the reason for the waiver or suspension no longer exists.

(8) A prisoner who has failed to pay outstanding fees and costs as required under this section shall not commence a new civil action or appeal until the outstanding fees and costs have been paid.

(9) If a prisoner is ordered by a court to make monthly payments for the purpose of paying the balance of filing fees or costs under this section, the agency having custody of the prisoner shall remove those amounts from the institutional account of the prisoner subject to the order and, when an amount equal to the balance of the filing fees or costs due is removed, remit that amount as directed in the order.

History: Add. 1996, Act 555, Eff. June 1, 1997;—Am. 1999, Act 147, Imd. Eff. Nov. 1, 1999.

600.2964 Social security or credit card number on check as condition of acceptance; requirement prohibited; exceptions; prima facie evidence of identity; violation; penalty; "sale at retail" defined.

Sec. 2964. (1) Except as provided in subsection (2), a person shall not require that a social security or credit card number be written on a check as a condition of acceptance of that check. As used in this section, "check" includes a draft, warrant, or any other instrument that authorizes the payment of money.

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

(a) A credit granting institution from requiring its own account number to be recorded on a check.

(b) A governmental entity from requiring a person to record his or her social security number on a check made for a payment on a tax liability.

(c) A person that has agreed to accept a check from a credit card holder if the check is guaranteed by the credit card issuer from requiring the credit card number and the expiration date of the card to be recorded on the check.

(3) The following is prima facie evidence of the identity of the drawer of a check:

(a) The following drawer information if obtained from the drawer and recorded on the check:

(*i*) Name.

(*ii*) Address.

(*iii*) Home or work telephone number, if any.

(*iv*) Driver license number, state identification card number, or military identification card number.

(b) The signature of the drawer if witnessed and initialed by the person receiving the check.

(4) Except as provided in subsection (5), a person who violates this section is responsible for a state civil infraction punishable by a fine of not more than $500.00.

(5) In a sale at retail, it is the owner of the business that is liable for a violation under this section and is responsible for a state civil infraction punishable by a fine of not more than $500.00.

(6) As used in this section, "sale at retail" means a transaction by which ownership or leasing of tangible personal property is transferred or leased for consideration, if made in the ordinary course of business.

History: Add. 1997, Act 157, Eff. Jan. 1, 1998.

600.2965 Recovery of damages by firefighter or police officer; preclusion abolished.

Sec. 2965. The common law doctrine that precludes a firefighter or police officer from recovering damages for injuries arising from the normal, inherent, and foreseeable risks of his or her profession is abolished.

History: Add. 1998, Act 389, Imd. Eff. Nov. 30, 1998.

Compiler's note: Enacting section 1 of Act 389 of 1998 provides:

"Enacting section 1. Sections 2965, 2966, and 2967 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2965, 600.2966, and 600.2967, as added by this amendatory act, do not apply to a cause of action arising before the effective date of this amendatory act."

600.2966 Injury to firefighter or police officer; governmental immunity.

Sec. 2966. The state, a political subdivision of this state, or a governmental agency, governmental officer or employee, volunteer acting on behalf of a government, and member of a governmentally created board, council, commission, or task force are immune from tort liability for an injury to a firefighter or police officer that arises from the normal, inherent, and foreseeable risks of the firefighter's or police officer's profession. This section shall not be construed to affect an individual's rights to benefits provided under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941.

History: Add. 1998, Act 389, Imd. Eff. Nov. 30, 1998.

Compiler's note: Enacting section 1 of Act 389 of 1998 provides:

"Enacting section 1. Sections 2965, 2966, and 2967 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2965, 600.2966, and 600.2967, as added by this amendatory act, do not apply to a cause of action arising before the effective date of this amendatory act."

600.2967 Recovery of damages by firefighter or police officer; circumstances as proof;

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construction of section; definitions.

Sec. 2967. (1) Except as provided in section 2966, a firefighter or police officer who seeks to recover damages for injury or death arising from the normal, inherent, and foreseeable risks of his or her profession while acting in his or her official capacity must prove that 1 or more of the following circumstances are present:

(a) An injury or resulting death that is a basis for the cause of action was caused by a person's conduct and that conduct is 1 or more of the following:

(*i*) Grossly negligent.

(*ii*) Wanton.

(*iii*) Willful.

(*iv*) Intentional.

(*v*) Conduct that results in a conviction, guilty plea, or plea of no contest to a crime under state or federal law, or a local criminal ordinance that substantially corresponds to a crime under state law.

(b) The cause of action is a product liability action that is based on firefighting or police officer equipment that failed while it was being used by the firefighter or police officer during the legally required or authorized duties of the profession, which duties were performed during an emergency situation and which duties substantially increased the likelihood of the resulting death or injury, and all of the following are true:

(*i*) The negligent person is not someone whose act or omission resulted in the firefighter's or police officer's presence at the place where the injury occurred; or the person is someone whose act or omission resulted in the firefighter's or police officer's presence at the place where the injury occurred and the action is based on an act by that person that occurred after the firefighter or police officer arrived at the place where the injury occurred.

(*ii*) The negligent person is not someone from whom the firefighter or police officer had sought or obtained assistance or is not an owner or tenant of the property from where the firefighter or police officer sought or obtained assistance.

(*iii*) The negligent person is not someone who is an owner or tenant of the property that the firefighter or police officer was on in his or her official capacity; or the person is someone who is an owner or tenant of the property that the firefighter or police officer was on in his or her official capacity and the action is based on an act by that person that occurred after the firefighter or police officer arrived at the place where the injury occurred.

(c) An injury or resulting death that is a basis for the cause of action was caused by a person's ordinary negligence and all of the following are true:

(*i*) The negligent person is not someone whose act or omission resulted in the firefighter's or police officer's presence at the place where the injury occurred; or the person is someone whose act or omission resulted in the firefighter's or police officer's presence at the place where the injury occurred and the action is based on an act by that person that occurred after the firefighter or police officer arrived at the place where the injury occurred.

(*ii*) The negligent person is not someone from whom the firefighter or police officer had sought or obtained assistance or is not an owner or tenant of the property from where the firefighter or police officer sought or obtained assistance.

(*iii*) The negligent person is not someone who is an owner or tenant of the property that the firefighter or police officer was on in his or her official capacity; or the person is someone who is an owner or tenant of the property that the firefighter or police officer was on in his or her official capacity and the action is based on an act by that person that occurred after the firefighter or police officer arrived at the place where the injury occurred.

(*iv*) The firefighter or police officer was engaged in 1 or more of the following:

(A) Operating, or riding in or on, a motor vehicle that is being operated in conformity with the laws applicable to the general public.

(B) An act involving the legally required or authorized duties of the profession that did not substantially increase the likelihood of the resulting death or injury. The court shall not consider the firefighter or police officer to have been engaged in an act that substantially increased the likelihood of death or injury if the injury occurred within a highway right-of-way, if there was emergency lighting activated at the scene, and if the firefighter or police officer was engaged in emergency medical services, accessing a fire hydrant, traffic control, motorist assistance, or a traffic stop for a possible violation of law.

(2) This section shall not be construed to affect a right, remedy, procedure, or limitation of action that is otherwise provided by statute or common law.

(3) As used in this section:

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(a) “Grossly negligent” means conduct so reckless as to demonstrate a substantial lack of concern for whether injury results.

(b) “Person” means an individual or a partnership, corporation, limited liability company, association, or other legal entity.

(c) “Product liability action” means that term as defined in section 2945.

History: Add. 1998, Act 389, Imd. Eff. Nov. 30, 1998.

Compiler's note: Enacting section 1 of Act 389 of 1998 provides:

“Enacting section 1. Sections 2965, 2966, and 2967 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2965, 600.2966, and 600.2967, as added by this amendatory act, do not apply to a cause of action arising before the effective date of this amendatory act.”

600.2968 Improper gift or service to student athlete as interference; liability to institution of higher education; definitions.

Sec. 2968. (1) If a person interferes with the prospective advantage accorded an institution of higher education by virtue of its relationship with an intercollegiate athletics governing organization by promising or providing any improper gift or service to a student athlete, a prospective student athlete, or the immediate family of a student athlete or of a prospective student athlete, and if that interference results in an injury to the institution of higher education, the person who engaged in the interference is liable to the institution of higher education for $10,000.00 or the actual damages incurred, whichever is higher. In addition, the institution of higher education may recover actual attorney fees and actual costs incurred in bringing the action.

(2) As used in this section:

(a) “Immediate family” means that term as defined in section 411e of the Michigan penal code, 1931 PA 328, MCL 750.411e.

(b) “Improper gift or service” means any gift or service that a student athlete is prohibited from accepting according to the rules of the institution of higher education.

(c) “Institution of higher education” means a public university, college, or community college located in this state.

(d) “Prospective student athlete” means an individual who is being recruited to be a student athlete at an institution of higher education.

(e) “Student athlete” means that term as defined in section 411e of the Michigan penal code, 1931 PA 328, MCL 750.411e.

History: Add. 1998, Act 432, Eff. Mar. 23, 1999.

600.2969 Repealed. 1999, Act 239, Eff. Jan. 1, 2003.

Compiler's note: The repealed section pertained to definitions and damages resulting from computer date failure.

600.2970 Repealed. 1999, Act 240, Eff. Jan. 1, 2003.

Compiler's note: The repealed section pertained to definitions and damages resulting from computer date failure.

600.2971 Wrongful birth or wrongful life claims; prohibitions; exceptions.

Sec. 2971. (1) A person shall not bring a civil action on a wrongful birth claim that, but for an act or omission of the defendant, a child or children would not or should not have been born.

(2) A person shall not bring a civil action for damages on a wrongful life claim that, but for the negligent act or omission of the defendant, the person bringing the action would not or should not have been born.

(3) A person shall not bring a civil action for damages for daily living, medical, educational, or other expenses necessary to raise a child to the age of majority, on a wrongful pregnancy or wrongful conception claim that, but for an act or omission of the defendant, the child would not or should not have been conceived.

(4) The prohibition stated in subsection (1), (2), or (3) applies regardless of whether the child is born healthy or with a birth defect or other adverse medical condition. The prohibition stated in subsection (1), (2), or (3) does not apply to a civil action for damages for an intentional or grossly negligent act or omission, including, but not limited to, an act or omission that violates the Michigan penal code, 1931 PA 328, MCL 750.1 to 750.568.

History: Add. 2000, Act 423, Eff. Mar. 28, 2001.

Compiler's note: Enacting section 1 of Act 423 of 2000 provides:

“Enacting section 1. This amendatory applies only to cause of action arising on or after the effective date of amendatory act.”

600.2972 Allegation of domestic violence; consideration of motion to seal court records; “domestic violence” defined.

Sec. 2972. (1) When considering a motion to seal court records in a civil or criminal matter, if the motion involves an allegation of domestic violence, the court shall consider the safety of any alleged victim or

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potential victim of the domestic violence.

(2) As used in this section, “domestic violence” means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

History: Add. 2001, Act 205, Eff. Apr. 1, 2002.

600.2973 Field crop produced for crop research or testing; intentional damage or destruction; damage award; definitions.

Sec. 2973. (1) A person who intentionally damages or destroys all or part of a field crop belonging to another person produced for crop research or testing purposes is liable in a civil action for damages and costs and fees as further described in subsection (2).

(2) The court shall award damages as well as costs and fees associated with an action brought under subsection (1) to a prevailing plaintiff in the following amounts:

(a) Twice the market value of the field crop damaged or destroyed.

(b) If applicable, the value of the crop research or testing.

(3) As used in this section:

(a) “Costs and fees” means the normal costs incurred in being a party in a civil action after an action has been filed with the court, those provided by law or court rule, and the following:

(*i*) The reasonable and necessary expenses of expert witnesses as determined by the court.

(*ii*) The reasonable cost of any study, analysis, engineering report, test, or project that is determined by the court to have been necessary for the preparation of the party's case.

(*iii*) Reasonable attorney fees.

(b) “Crop research or testing” means a crop produced in conjunction with or as part of a private research or testing program or facility or a research or testing program funded by a federal, state, or local governmental agency.

(c) “Field crop” means plants that include, but are not limited to, those considered and grown as production crops, ornamentals, vegetables, fruit, turf, horticultural crops, industrial crops, plants grown for the production of pharmaceuticals or similar use, seed production crops, livestock crops, and animal feed crops.

History: Add. 2002, Act 209, Imd. Eff. Apr. 29, 2002.

600.2974 Limitation of civil liability for weight gain or obesity; requirements for cause of action; definitions.

Sec. 2974. (1) Subject to subsection (2), a manufacturer, packer, distributor, carrier, holder, seller, marketer, promoter, or advertiser of a food or an association that includes 1 or more manufacturers, packers, distributors, carriers, holders, sellers, marketers, promoters, or advertisers of a food is not subject to civil liability for personal injury or death arising out of weight gain, obesity, or a health condition associated with weight gain or obesity.

(2) Subsection (1) does not preclude civil liability for personal injury or death based on either of the following:

(a) A material violation of an adulteration or misbranding requirement prescribed by a statute or regulation of this state or the United States that proximately caused the injury or death.

(b) A knowing and willful material violation of federal or state law applicable to the manufacturing, marketing, distribution, advertising, labeling, or sale of food that proximately caused the injury or death.

(3) In an action for civil liability described in subsection (2), the complaint shall state with particularity all of the following:

(a) The statute, regulation, or other law of this state or the United States that was allegedly violated.

(b) The facts that are alleged to constitute a material violation of the statute, regulation, or law.

(c) The facts alleged to demonstrate that the violation proximately caused actual injury to the plaintiff or individual on whose behalf the plaintiff is bringing the action.

(d) If the plaintiff claims that subsection (2)(b) applies, facts sufficient to support a reasonable inference that the conduct was committed with intent to deceive or injure consumers or with the actual knowledge that the conduct was injurious to consumers.

(4) In an action for civil liability described in subsection (2), all discovery and other proceedings shall be stayed while a motion to dismiss is pending unless the court finds on motion of a party that particularized discovery is necessary to preserve evidence or to prevent undue prejudice to that party. While discovery is stayed under this subsection, unless otherwise ordered by the court upon a motion from the plaintiff, a party to the action with actual notice of the allegations in the complaint shall tender to the court in camera all documents, data compilations, including electronically recorded or stored data, and tangible objects that are in the custody or control of the party and that are relevant to the allegations or that may lead to the discovery of

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relevant facts.

(5) A political subdivision of this state shall not file, prosecute, or join, on its own behalf or on behalf of its citizens or another class of persons, a civil action described in this section for damages or other remedy against a person.

(6) This section applies to all actions pending on and all actions filed after the effective date of the amendatory act that added this section, regardless of when the claim accrued.

(7) As used in this section:

(a) "Food" means that term as defined in 21 USC 321.

(b) "Knowing and willful" means, with respect to a violation of federal or state law, that both of the following apply to the conduct constituting the violation:

(*i*) The conduct was committed with the intent to deceive or injure consumers or with actual knowledge that the conduct was injurious to consumers.

(*ii*) The conduct was not required by a regulation, order, rule, or other pronouncement of, or a statute administered by, a federal, state, or local government agency.

(c) "Person" means an individual, partnership, corporation, association, or other legal entity.

(d) "Political subdivision" means a county, city, township, or village.

History: Add. 2004, Act 367, Imd. Eff. Oct. 7, 2004.

600.2975 Publishing instructions for manufacture or creation of methamphetamine; commencement of action; court order; relief; exception; definitions.

Sec. 2975. (1) The attorney general may commence an action against a person who develops or maintains a website or page on a website for the purpose of publishing instructions for the manufacture or creation of methamphetamine or information on how to obtain substances that may be used in the manufacture or creation of methamphetamine.

(2) The court in an action brought under subsection (1) may order 1 or more of the following forms of relief:

(a) Injunctive or other equitable relief, as appropriate.

(b) Actual damages sustained by this state or the residents of this state that are caused by the publication.

(c) Punitive damages that the court determines are just and equitable.

(d) Actual attorney fees and costs.

(3) This section does not apply if the published information is only on how to obtain substances that may be lawfully possessed in this state and the purpose of the website is to provide information on obtaining the substances only for lawful purposes and in a lawful manner.

(4) As used in this section:

(a) "Internet" means that term as defined in 47 USC 230.

(b) "Methamphetamine" means the substance described in section 7214(c)(*ii*) of the public health code, 1978 PA 368, MCL 333.7214.

(c) "Website" means a collection of pages of the world wide web or internet, usually in HTML format.

History: Add. 2006, Act 257, Eff. Oct. 1, 2006.

600.2975a Entry of judgment for damages; notice to department.

Sec. 2975a. Upon entry of a judgment for damages against a licensee under article 24 of the occupational code, 1980 PA 299, MCL 339.2401 to 339.2412, on the basis of a violation of section 2411(2) of the occupational code, 1980 PA 299, MCL 339.2411, the court shall notify the bureau of commercial services of the department of labor and economic growth of the entry of that judgment and shall convey to the department a copy of that judgment.

History: Add. 2007, Act 156, Eff. June 1, 2008.

600.2976 Seller or end user who stores, secures, uses, transports, or protects anhydrous ammonia; immunity from tort liability; applicability; definitions.

Sec. 2976. (1) A seller or end user who stores, secures, uses, transports, or protects anhydrous ammonia in compliance with AASSPs is immune from tort liability for injury to a person, damage to property, or death that results from the larceny or attempted larceny of anhydrous ammonia, or from a person obtaining or using, or attempting to obtain or use, anhydrous ammonia in a manner contrary to law. The immunity from tort liability under this subsection includes immunity from liability for an injury to, damage to the property of, or the death of a person who is not the person committing or attempting to commit a larceny of, or obtaining, using, or attempting to obtain or use, anhydrous ammonia in a manner contrary to law.

(2) Failure of a seller or end user to store, secure, use, transport, or protect anhydrous ammonia in

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compliance with AASSPs does not, by itself, create tort liability for injury to person, damage to property, or death caused by the storing, securing, using, transporting, or protecting of anhydrous ammonia.

(3) This section applies to a cause of action that accrues after the effective date of the amendatory act that added this section and after AASSPs are established under section 5 of the anhydrous ammonia security act.

(4) As used in this section, "AASSPs", "anhydrous ammonia", "end user", and "seller" mean those terms as defined in section 3 of the anhydrous ammonia security act.

History: Add. 2006, Act 418, Imd. Eff. Sept. 29, 2006.

CHAPTER 31
FORECLOSURE OF MORTGAGES AND LAND CONTRACTS

600.3101 Jurisdiction of circuit court to foreclose mortgages of real estate and land contracts; exception.

Sec. 3101. The circuit court has jurisdiction to foreclose mortgages of real estate and land contracts. However, the procedures set forth in this chapter shall not apply to mortgages of real estate and land contracts held by the Michigan state housing development authority.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1981, Act 172, Imd. Eff. Dec. 10, 1981.

600.3105 Mortgage; land contract; foreclosure proceeding; unsatisfied execution on judgment at law; separate proceeding; consolidation.

Sec. 3105. (1) If a judgment has been obtained in any other civil action for the money, or part thereof, demanded in the complaint in an action to foreclose a mortgage on real estate or a land contract, no proceeding shall be had in the action to foreclose unless the sheriff or other proper officer has returned an execution as unsatisfied, in whole or in part, and certified that he can find no property of the defendant out of which to satisfy the execution except the mortgaged premises.

(2) After a complaint has been filed to foreclose a mortgage on real estate or land contract, while it is pending, and after a judgment has been rendered upon it, no separate proceeding shall be had for the recovery of the debt secured by the mortgage, or any part of it, unless authorized by the court.

(3) When a complaint is filed to foreclose a trust mortgage or deed of trust given to secure notes, bonds, or other evidences of indebtedness, the court may at any time before final judgment require all cases begun subsequent to the filing of the foreclosure complaint, by plaintiffs holding notes, bonds, or other evidences of indebtedness secured by the mortgage, to be consolidated with the action to foreclose, and the court may adjudicate the rights of the individual security holders.

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

600.3110 Foreclosure of interest or installment; payment before judgment.

Sec. 3110. Whenever a complaint is filed for the satisfaction or foreclosure of any mortgage on real estate or land contract, upon which there is due any interest or any portion or installment of the principal and there are other portions or installments to become due subsequently, the complaint shall be dismissed upon the defendant's bringing into court, at any time before the judgment of sale, the principal and interest due, with costs.

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

600.3115 Foreclosure proceeding; sale, time.

Sec. 3115. Whenever a complaint is filed for the foreclosure or satisfaction of any mortgage on real estate or land contract, the court has power to order a sale of the premises which are the subject of the mortgage on real estate or land contract, or of that part of the premises which is sufficient to discharge the amount due on the mortgage on real estate or land contract plus costs. But the circuit judge shall not order that the lands subject to the mortgage be sold within 6 months after the filing of the complaint for foreclosure of the mortgage or that the lands which are the subject of the land contract be sold within 3 months after the filing of the complaint for foreclosure of the land contract.

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

600.3120 Foreclosure proceeding; judgment of sale; payment of principal, interest, and costs.

Sec. 3120. If, after a judgment of sale is entered against him, the defendant brings into court the principal and interest due with costs, the proceedings in the action shall be stayed; but the court shall enter a judgment of foreclosure and sale to be enforced by a further order of the court upon a subsequent default in the payment of any portion or installment of the principal, or of any interest thereafter to become due.

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

600.3125 Sale of land on foreclosure; authorized persons; public sale; time; place; MCL 600.6091 applicable.

Sec. 3125. All sales of land on foreclosure of a land contract or mortgage on real estate shall be made by the county clerk of the county in which the judgment was rendered or of the county where the land or some part of the land is situated, by a deputy county clerk, or by some other person duly authorized by the order of the court. These sales shall be at public sale between the hour of 9 a.m. and 4 p.m. and shall take place at the courthouse or place of holding of the circuit court in the county in which the land or some part of its is situated or at any other place the court directs. The sale is subject to section 6091.

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

600.3130 Sale of land on foreclosure; deed.

Sec. 3130. (1) The person making the sale shall execute deeds specifying the names of the parties in the action, the date of the land contract or mortgage, when and where it was recorded, a description of the premises sold, and the amount for which each parcel of land described in the deed was sold; and he shall indorse upon each deed the time it becomes operative if the premises are not redeemed according to law. Unless the premises or any parcel of them are redeemed within the time limited for redemption the deed shall become operative as to all parcels not redeemed, and shall vest in the grantee named in the deed, his heirs, or assigns all the right, title, and interest which the mortgagor had at the time of the execution of the mortgage or at any time thereafter.

(2) The deed of sale as soon as practicable and within 20 days after the sale shall be deposited with the register of deeds of the county in which the land therein described is situated, and the register shall indorse upon the deed the time it was received and shall record the deed at length in a book to be provided in his office for that purpose and shall index the deed in the regular index of deeds, and the fee for recording the deed shall be included among the other costs and expenses allowed by law. If the premises or any parcel of them are redeemed the register of deeds shall write on the face of the record the work “Redeemed” and he shall write at what date the entry is made and sign the entry with his official signature.

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

600.3135 Proceeds of sale; application; disposition and investment of surplus.

Sec. 3135. (1) The proceeds of every sale under a judgment shall be applied to the discharge of the debt adjudged by the court to be due and of the costs awarded; and if there is any surplus it shall be brought into court for the use of the defendant, or of the person entitled to it, subject to the order of the court.

(2) If the surplus or any part of it remains in the court for the term of 3 months without being applied for, the circuit court may direct that it be put out at interest under the direction of the court for the benefit of the defendant, his representatives, or assigns, to be paid to them by the order of the court.

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

600.3140 Mortgage foreclosure sale; redemption; amount stated in recorded affidavit; portions of premises.

Sec. 3140. (1) The mortgagor, the mortgagor's heirs, executors, or administrators, or any person lawfully claiming from or under the mortgagor or the mortgagor's heirs, executors, or administrators may redeem the entire premises sold by paying, within 6 months from the time of the sale, to the purchaser or the purchaser's executors, administrators, or assigns, or to the register of deeds in whose office the deed of sale is deposited as provided in the court rules, for the benefit of the purchaser, the sum which was bid with interest from the date of the sale at the interest rate provided for by the mortgage.

(2) The vendee of a land contract, the vendee's heirs, executors, or administrators, or any person lawfully claiming from or under the vendee or the vendee's heirs, executors, or administrators may redeem the entire premises sold within 6 months from the time of the sale by paying to the purchaser or the purchaser's executors, administrators, or assigns, or to the register of deeds in whose office the deed of sale is deposited as provided in the court rules, for the benefit of the purchaser, the sum which was bid with interest from the date of the sale at the interest rate provided for by the land contract.

(3) The register of deeds shall not determine the amount necessary for redemption. The purchaser shall attach an affidavit with the deed to be recorded under this section that states the exact amount required to redeem the property, including any daily per diem amounts, and the date by which the property must be redeemed shall be stated on the certificate of auctioneer. The purchaser may include in the affidavit the name of a designee responsible on behalf of the purchaser to assist the person redeeming the property in computing

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the exact amount required to redeem the property. The designee may charge a fee as stated in the affidavit and may be authorized by the purchaser to receive redemption funds. The purchaser shall accept the amount computed by the designee.

(4) If the sum for redemption is paid to the register of deeds, a fee of $5.00 shall be paid for the care and custody of the redemption money.

(5) If payments are made as provided under this section, the deed of sale is void. If a distinct lot or parcel separately sold is redeemed, leaving a portion of the premises unredeemed, then the deed of sale is void only as to the portion or portions of the premises which are redeemed.

(6) The amount stated in any affidavits recorded under this section shall be the amount necessary to satisfy the requirements for redemption under this section.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, Act 240, Eff. Sept. 6, 1963;—Am. 1970, Act 86, Eff. Apr. 1, 1971;—Am. 2004, Act 538, Eff. Mar. 30, 2005.

600.3145 Redemption from sale; additional sums for taxes and insurance premiums.

Sec. 3145. The court may make provision in any judgment of foreclosure for the adding to the amount determined in the judgment to be due, any sum or sums paid at any time after the foreclosure and prior to the expiration of the period of redemption, as taxes assessed against the property and/or the portion of the premium of any insurance policy covering any buildings located on the premises as is required to keep the policy in force until the expiration of the period of redemption, if under the terms of the mortgage it would have been the duty of the defendants determined to be personally liable to have paid the taxes or insurance premium had the mortgage not been foreclosed. In case of any such payment which is made prior to the entry of the order confirming the commissioner's report of sale, determination of the additional liability shall be made in the order. In case of any such payment made after the entry of the order proof of the payment may be made by filing with the register of deeds with whom the deed of sale is deposited, an affidavit of payment by the purchaser or some one in his behalf having knowledge of the facts together with a receipt evidencing the payment of the taxes, or, in case of insurance premiums, an affidavit of an agent of the insurance company stating the making of the payment and also what portion of the payment covers the premium for the period prior to the expiration of the period of redemption. Redemption shall not be effected after the determination, or filing of affidavit and receipt, or affidavits, as the case may be, except upon payment of the additional sum or sums. In case the property is not redeemed the taxes or premiums paid after the confirmation of sale shall not be added to or included in the deficiency judgment.

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

600.3150 Original judgment in foreclosure cases; determination of personal liability; execution for amount of deficiency; delivery of possession.

Sec. 3150. In the original judgment in foreclosure cases the court shall determine and adjudge which defendants, if any, are personally liable on the land contract or for the mortgage debt. The judgment shall provide that upon the confirmation of the report of sale that if either the principal, interest, or costs ordered to be paid, is left unpaid after applying the amount received upon the sale of the premises, the clerk of the court shall issue execution for the amount of the deficiency, upon the application of the attorney for the plaintiff, without notice to the defendant or his attorney. The court may order and compel the delivery of the possession of the premises to the purchaser at the sale.

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

600.3155 Upset price at sale.

Sec. 3155. In any forfeiture, foreclosure, or specific performance case based upon a mortgage on real estate or land contract the court may fix and determine the minimum price at which the real property covered by the mortgage or land contract may be sold at the sale under the forfeiture, foreclosure, or specific performance proceedings.

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

600.3160 Persons other than mortgagor or vendee securing debt.

Sec. 3160. If the land contract or mortgage debt is secured by the obligation or other evidence of debt of any other person besides the vendee or mortgagor, the plaintiff may make that person a party to the action, and the court may order payment of the balance of the debt remaining unsatisfied, after a sale of the mortgaged premises, against this other person as well as against the vendee or mortgagor, and may enforce this judgment as in other cases.

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

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600.3165 Sale of premises sufficient to satisfy amount due; judgment as security; default; sale of whole premises.

Sec. 3165. (1) If the defendant does not bring into court the amount due, with costs, or if for any other cause a judgment is entered for the plaintiff, and if it appears that the premises can be sold, in parcels, without injury to the interests of the parties, the judgment shall direct as much of the premises subject to the mortgage or land contract to be sold as is sufficient to pay the amount then due on the mortgage or land contract, with costs, and the judgment shall remain as security for any subsequent default.

(2) If there is any default subsequent to the judgment, in the payment of any portion or installment of the principal or of any interest due upon the mortgage or land contract, the court may, upon the petition of the plaintiff, by a further order founded upon the first judgment, direct a sale to be made of as much of the premises subject to the mortgage or land contract as is sufficient to satisfy the amount due, with costs of the petition and subsequent proceedings on it, and the same proceedings may be had as often as a default happens.

(3) If it appears to the court that the premises subject to the mortgage or land contract are so situated that a sale of the whole premises will be most beneficial to the parties the judgment shall be entered for the sale of the whole premises in the first instance. In this case the proceeds of the sale shall be applied to the interests, portion, or installment of the principal due as well as towards the whole or residue of the sum secured by the mortgage or land contract and not due and payable at the time of the sale. And if the residue does not bear interest the court may direct that the residue be paid with a rebate of the legal interest for the time during which the residue will not be due and payable; or the court may direct that the balance of the proceeds of the sale, after paying the sum due with costs, be put out at interest for the benefit of the plaintiff, to be paid to him as the installments or portions of the principal, or the interest become due, and the surplus for the benefit of the defendant, his representatives, or assigns, to be paid to them on the order of the court.

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

600.3170 Trust mortgage property; authority of trustee to bid in at foreclosure for bondholders, effect of acquisition on rights of parties; management after acquisition; powers and duties of trustee; disposal; report; accounting; construction of section; supplementation by court rule.

Sec. 3170. (1) When a complaint is filed in any circuit court for the foreclosure of any trust mortgage or deed of trust given to a trustee or trustees to secure bonds or other obligations issued and authenticated as set forth in the trust instrument, and on the sale of the mortgaged property had under the judgment on the complaint, no bid is made or appears to be obtainable for a sum which in the judgment of the court represents the then fair and reasonable value of the interest in the premises of the holders of the bonds or other obligations secured by the trust mortgage or deed in trust, the court may authorize the trustee or trustees to bid for and acquire the mortgaged property for a sum which in the judgment of the court represents the then fair and reasonable value of the interest. The court shall authorize the trustees to bid only if the court believes that to do so will be for the best interest of the holders of the bonds or obligations as a whole, and only if the persons requesting the authorization shall be representative in number of the persons holding bonds or obligations and hold at least a majority in value of the bonds or obligations. The authorization shall be made on the hearing on the report of the proceedings had in relation to the sale under the foreclosure judgment and may authorize that the bid be made in open court at the hearing or at any further offering for sale if the court directs any further offering for sale to be made. The acquisition by the trustee is subject to all rights of redemption by the mortgagor and other parties. The bid and acquisition and full title if not redeemed shall be for and on behalf of all holders of the bonds or other obligations secured by the mortgage and then outstanding according to their several and respective interests and the property shall be held and administered accordingly. The bid shall be satisfied by a pro rata credit on each bond or other obligation to the extent of the net distribution which would have been distributed on the bonds or other obligations if the bid were to be paid in cash.

(2) Any property so acquired shall be managed and administered by the trusts under and in accordance with the rules and principles of law and equity pertaining to express trusts generally subject to the jurisdiction of the court to be exercised in the cause by proceedings subsequent to the judgment and order. The trustee shall be allowed all proper expenses and disbursements and reasonable compensation to be approved by the court. The trustee has power and authority to repair, maintain, and operate or lease the property until a sale or other disposal of the property is approved or directed. The trustee may borrow money for the payment of the portion of the bid required to be paid in cash and for any other purpose of the trust or for the benefit of the holders of the bonds, obligations, or beneficial certificates under the trust and secure that borrowed money by

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mortgage of the property of the trust. This mortgage shall be superior to and binding upon the interests of the holders of the bonds or obligations or beneficial certificates provided for by this section. It is the duty of the trustee to negotiate and effect a sale or other disposal of the property at the earliest time at which it can be done without sacrifice of the fair and reasonable value of the property. Any sale may be for cash or in whole or in part for bonds, notes, debentures, stocks, or other securities. No operating contract which is for more than 2 years or borrowing of money, mortgage, sale, or other disposal shall be made except by and with the approval and authorization of the court upon consent of or due notice to a majority in interest of the then beneficiaries of the trust. The court in the order authorizing the trustee to bid and acquire the property as provided above or by any order made subsequent to it may provide any other terms, conditions, powers, duties, and authority of the trust and of the trustee not inconsistent with the foregoing and any limitations on the foregoing which the court considers just and which are approved by a majority in interest of the beneficiaries of the trust. The court may likewise provide for the surrender and cancellation or for the pro rata cancellation, as the case may be, of the bonds or other obligations and for the issuance of certificates evidencing the beneficial interests in and under the trust. Upon a sale or other disposal of all the trust property and the complete consummation of the disposal the trustee shall render in writing a full and complete report and account of the administration of the trust and of the distribution of the assets of the trust upon which a hearing shall be had after due notice to the holders of beneficial interests whose appearances are then on file. If any trust continues more than 1 year an account and report of its administration shall be rendered when required by the court but at least annually and when any report has been made the final account and report required above shall be required to cover only from the date of the then last account and report.

(3) This section is intended to be remedial and to be liberally construed and to be supplemented by rule of court if necessary or expedient to the accomplishment or furtherance of its intents and purposes.

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

600.3175 Discharge of mortgage on real property, land contract or tax lien; action; evidence of payment; lapse of 15 years; judgment.

Sec. 3175. (1) When a recorded mortgage on real property, land contract, or tax lien (except tax liens held by the state or any political subdivision of the state) on lands or property has been paid or satisfied or when 15 years have elapsed since the debt or lien secured by the mortgage, land contract, or tax lien became due and payable or since the last payment made upon it, and no civil action or proceedings have been commenced to collect the same and in case of tax deeds when no service of notice to interested persons (of any kind) has been filed with the county clerk, the owner of the land or property may institute an action in the circuit courts to discharge the mortgage, land contract or tax lien.

(2) If it appears to the court at the trial, either by the production in evidence of the original mortgage, land contract, tax lien, bond or bonds, promissory notes to secure the payment of which the mortgage was given, or by any other competent evidence, that the debt or lien secured by the mortgage, land contract, or tax lien has been fully paid both in principal and interest; or if it appears to the court by competent evidence that the debt or lien has been past due for 15 years, or that 15 years have elapsed since the last payment was made on the debt or lien and that no action or proceeding has been commenced to foreclose or perfect the mortgage, land contract, or tax lien the court shall enter judgment to that effect which contains within it the names of the witnesses and the nature of the evidence by which the facts have been made to appear. A minute of this shall be entered in the court's journal. A copy of the judgment, signed by the judge of the court and attested by the clerk of the court under the seal of the court shall be delivered to the plaintiff and may be recorded in the office of the register of deeds for the county or counties in which the mortgage, land contract, or tax lien is recorded in the same manner and with the same effects in all respects as if it were a formal discharge of the mortgage, land contract, or tax lien duly executed by the mortgagee or owner of the land contract or tax lien.

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

600.3180 Actions equitable in nature.

Sec. 3180. Actions under this chapter are equitable in nature.

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

600.3185 Mortgage foreclosure; defendant as service member or deployed in overseas service; actions by court; mortgage and land contract entered into before effective date of act; definitions.

Sec. 3185. (1) If a defendant in an action to foreclose a mortgage on real estate or a land contract is a service member and either the defendant entered into the mortgage or land contract before becoming a service member or the defendant is deployed in overseas service, the court on its own motion may, or on motion of or

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in behalf of the service member shall, do either or both of the following, unless the court determines that the ability of the defendant to comply with the terms of the obligation secured by the mortgage or land contract is not materially affected by the service member's military service:

(a) Stay proceedings in the action until 6 months after the end of the service member's period of military service.

(b) Issue another order that is equitable to conserve the interests of the parties.

(2) This section does not apply to a mortgage or land contract entered into before the effective date of the amendatory act that added this section.

(3) As used in this section:

(a) "Active duty" means full-time duty in the active military service of the United States. Active duty includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the secretary of the military department concerned. Active duty does not include full-time national guard duty.

(b) "Military service" means any of the following:

(*i*) Active duty.

(*ii*) If the service member is a member of the national guard, service under a call to active service authorized by the president or secretary of defense of the United States for a period of more than 30 consecutive days under 32 USC 502(f) to respond to a national emergency declared by the president and supported by federal money.

(*iii*) A period during which the service member is absent from active duty because of sickness, wounds, leave, or other lawful cause.

(c) "Period of military service" means the period beginning on the date on which the service member enters military service and ending on the date on which the service member is released from military service or dies while in military service.

(d) "Service member" means an individual who is in military service and is a member of the armed services or reserve forces of the United States or a member of the Michigan national guard.

History: Add. 2008, Act 138, Imd. Eff. May 21, 2008.

CHAPTER 32
FORECLOSURE OF MORTGAGES BY ADVERTISEMENT

600.3201 Foreclosure by advertisement of mortgage containing power of sale; exception.

Sec. 3201. Every mortgage of real estate, which contains a power of sale, upon default being made in any condition of such mortgage, may be foreclosed by advertisement, in the cases and in the manner specified in this chapter. However, the procedures set forth in this chapter shall not apply to mortgages of real estate held by the Michigan state housing development authority.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1981, Act 172, Imd. Eff. Dec. 10, 1981.

Constitutionality: Plaintiff's claim of unconstitutionality for MCL 600.3201 et seq. failed for lack of the existence of state action. Cramer v Metropolitan Savings and Loan Association, 401 Mich 252; 258 NW2d 20 (1977).

600.3204 Foreclosure by advertisement; circumstances; installments as separate and independent mortgage; redemption; chain of title; commencement of proceedings prohibited; conditions; applicability of subsection (4).

Sec. 3204. (1) Subject to subsection (4), a party may foreclose a mortgage by advertisement if all of the following circumstances exist:

(a) A default in a condition of the mortgage has occurred, by which the power to sell became operative.

(b) An action or proceeding has not been instituted, at law, to recover the debt secured by the mortgage or any part of the mortgage; or, if an action or proceeding has been instituted, the action or proceeding has been discontinued; or an execution on a judgment rendered in an action or proceeding has been returned unsatisfied, in whole or in part.

(c) The mortgage containing the power of sale has been properly recorded.

(d) The party foreclosing the mortgage is either the owner of the indebtedness or of an interest in the indebtedness secured by the mortgage or the servicing agent of the mortgage.

(2) If a mortgage is given to secure the payment of money by installments, each of the installments mentioned in the mortgage after the first shall be treated as a separate and independent mortgage. The mortgage for each of the installments may be foreclosed in the same manner and with the same effect as if a separate mortgage were given for each subsequent installment. A redemption of a sale by the mortgagor has the same effect as if the sale for the installment had been made upon an independent prior mortgage.

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(3) If the party foreclosing a mortgage by advertisement is not the original mortgagee, a record chain of title shall exist prior to the date of sale under section 3216 evidencing the assignment of the mortgage to the party foreclosing the mortgage.

(4) A party shall not commence proceedings under this chapter to foreclose a mortgage of property described in section 3205a(1) if 1 or more of the following apply:

(a) Notice has not been mailed to the mortgagor as required by section 3205a.

(b) After a notice is mailed to the mortgagor under section 3205a, the time for a housing counselor to notify the person designated under section 3205a(1)(c) of a request by the mortgagor under section 3205b(1) has not expired.

(c) Within 14 days after a notice is mailed to the mortgagor under section 3205a, the mortgagor has requested a meeting under section 3205b with the person designated under section 3205a(1)(c) and 90 days have not passed after the notice was mailed.

(d) The mortgagor has requested a meeting under section 3205b with the person designated under section 3205a(1)(c), the mortgagor has provided documents if requested under section 3205b(2), and the person designated under section 3205a(1)(c) has not met or negotiated with the mortgagor under this chapter.

(e) The mortgagor and mortgagee have agreed to modify the mortgage loan and the mortgagor is not in default under the modified agreement.

(f) Calculations under section 3205c(1) show that the mortgagor is eligible for a loan modification and foreclosure under this chapter is not allowed under section 3205c(7).

(5) Subsection (4) applies only to proceedings under this chapter in which the first notice under section 3208 is published after the effective date of the amendatory act that added this subsection and before 2 years after the effective date of the amendatory act that added this subsection.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1994, Act 397, Imd. Eff. Dec. 29, 1994;—Am. 2004, Act 186, Imd. Eff. July 1, 2004;—Am. 2009, Act 29, Eff. July 5, 2009.

600.3205 Definitions.

Sec. 3205. As used in this section and sections 3205a to 3205d:

(a) "Borrower" means the mortgagor.

(b) "Mortgage holder" means the owner of the indebtedness or of an interest in the indebtedness that is secured by the mortgage.

(c) "Mortgage servicer" means the servicing agent of the mortgage.

History: Add. 2009, Act 29, Eff. July 5, 2009.

***** *600.3205a THIS SECTION IS REPEALED BY ACT 31 OF 2009 EFFECTIVE JULY 5, 2011* *****

600.3205a Notice from foreclosing party to borrower; contents; list of housing counselors; service; publication; failure of service; applicability of section and sections 3205b and 3205c.

Sec. 3205a. (1) Subject to subsection (6), before proceeding with a sale under this chapter of property claimed as a principal residence exempt from tax under section 7cc of the general property tax act, 1893 PA 206, MCL 211.7cc, the foreclosing party shall serve a written notice on the borrower that contains all of the following information:

(a) The reasons that the mortgage loan is in default and the amount that is due and owing under the mortgage loan.

(b) The names, addresses, and telephone numbers of the mortgage holder, the mortgage servicer, or any agent designated by the mortgage holder or mortgage servicer.

(c) A designation of 1 of the persons named in subdivision (b) as the person to contact and that has the authority to make agreements under sections 3205b and 3205c.

(d) That enclosed with the notice is a list of housing counselors prepared by the Michigan state housing development authority and that within 14 days after the notice is sent, the borrower may request a meeting with the person designated under subdivision (c) to attempt to work out a modification of the mortgage loan to avoid foreclosure and that the borrower may also request a housing counselor to attend the meeting.

(e) That if the borrower requests a meeting with the person designated under subdivision (c), foreclosure proceedings will not be commenced until 90 days after the date the notice is mailed to the borrower.

(f) That if the borrower and the person designated under subdivision (c) reach an agreement to modify the mortgage loan, the mortgage will not be foreclosed if the borrower abides by the terms of the agreement.

(g) That if the borrower and the person designated under subdivision (c) do not agree to modify the mortgage loan but it is determined that the borrower meets criteria for a modification under section 3205c(1)

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and foreclosure under this chapter is not allowed under section 3205c(7), the foreclosure of the mortgage will proceed before a judge instead of by advertisement.

(h) That the borrower has the right to contact an attorney, and the telephone numbers of the state bar of Michigan's lawyer referral service and of a local legal aid office serving the area in which the property is situated.

(2) A person who serves a notice under subsection (1) shall enclose with the notice a list prepared by the Michigan state housing development authority under section 3205d of the names, addresses, and telephone numbers of housing counselors approved by the United States department of housing and urban development or the Michigan state housing development authority.

(3) A person shall serve a notice under subsection (1) by mailing the notice by regular first-class mail and by certified mail, return receipt requested, with delivery restricted to the borrower, both sent to the borrower's last known address.

(4) Within 7 days after mailing a notice under subsection (3), the person who mails the notice shall publish a notice informing the borrower of the borrower's rights under this section. The person shall publish the information 1 time in the same manner as is required for publishing a notice of foreclosure sale under section 3208. The notice under this subsection shall contain all of the following information:

(a) The borrower's name and the property address.

(b) A statement that informs the borrower of all of the following:

(*i*) That the borrower has the right to request a meeting with the mortgage holder or mortgage servicer.

(*ii*) The name of the person designated under subsection (1)(c) as the person to contact and that has the authority to make agreements under sections 3205b and 3205c.

(*iii*) That the borrower may contact a housing counselor by visiting the Michigan state housing development authority's website or by calling the Michigan state housing development authority.

(*iv*) The website address and telephone number of the Michigan state housing development authority.

(*v*) That if the borrower requests a meeting with the person designated under subsection (1)(c), foreclosure proceedings will not be commenced until 90 days after the date notice is mailed to the borrower.

(*vi*) That if the borrower and the person designated under subsection (1)(c) reach an agreement to modify the mortgage loan, the mortgage will not be foreclosed if the borrower abides by the terms of the agreement.

(*vii*) That the borrower has the right to contact an attorney, and the telephone number of the state bar of Michigan's lawyer referral service.

(5) A borrower on whom notice is required to be served under this section who is not served and against whom foreclosure proceedings are commenced under this chapter may bring an action in the circuit court for the county in which the mortgaged property is situated to enjoin the foreclosure.

(6) If the borrower and the person designated under subsection (1)(c) have previously agreed to modify the mortgage loan under section 3205b, this section and sections 3205b and 3205c do not apply unless the borrower has complied with the terms of the mortgage loan, as modified, for 1 year after the date of the modification.

History: Add. 2009, Act 30, Eff. July 5, 2009.

****** 600.3205b THIS SECTION IS REPEALED BY ACT 31 OF 2009 EFFECTIVE JULY 5, 2011 ******

600.3205b Modification of mortgage loan; negotiations; contacting housing counselor; providing documents; scheduling meeting.

Sec. 3205b. (1) A borrower who wishes to participate in negotiations to attempt to work out a modification of a mortgage loan shall contact a housing counselor from the list provided under section 3205a within 14 days after the list is mailed to the borrower. Within 10 days after being contacted by a borrower, a housing counselor shall inform the person designated under section 3205a(1)(c) in writing of the borrower's request.

(2) After being informed of a borrower's request to meet under this section, the person designated under section 3205a(1)(c) may request the borrower to provide any documents that are necessary to determine whether the borrower is eligible for a modification under section 3205c. The borrower shall give the person designated under section 3205a(1)(c) copies of any documents requested under this section.

(3) A housing counselor contacted by a borrower under this section shall schedule a meeting between the borrower and the person designated under section 3205a(1)(c) to attempt to work out a modification of the mortgage loan. At the request of the borrower, the housing counselor will attend the meeting. The meeting and any later meetings shall be held at a time and place that is convenient to all parties, or in the county where the property is situated.

History: Add. 2009, Act 30, Eff. July 5, 2009.

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****** 600.3205c THIS SECTION IS REPEALED BY ACT 31 OF 2009 EFFECTIVE JULY 5, 2011 ******

600.3205c Loan modification.

Sec. 3205c. (1) If a borrower has contacted a housing counselor under section 3205b but the process has not resulted in an agreement to modify the mortgage loan, the person designated under section 3205a(1)(c) shall work with the borrower to determine whether the borrower qualifies for a loan modification. Unless the loan is described in subsection (2) or (3), in making the determination under this subsection, the person designated under section 3205a(1)(c) shall use a loan modification program or process that includes all of the following features:

(a) The loan modification program or process targets a ratio of the borrower's housing-related debt to the borrower's gross income of 38% or less, on an aggregate basis. Housing-related debt under this subdivision includes mortgage principal and interest, property taxes, insurance, and homeowner's fees.

(b) To reach the 38% target specified in subdivision (a), 1 or more of the following features:

(*i*) An interest rate reduction, as needed, subject to a floor of 3%, for a fixed term of at least 5 years.

(*ii*) An extension of the amortization period for the loan term, to 40 years or less from the date of the loan modification.

(*iii*) Deferral of some portion of the amount of the unpaid principal balance of 20% or less, until maturity, refinancing of the loan, or sale of the property.

(*iv*) Reduction or elimination of late fees.

(2) In making the determination under subsection (1), if the mortgage loan is pooled for sale to an investor that is a governmental entity, the person designated under section 3205a(1)(c) shall follow the modification guidelines dictated by the governmental entity.

(3) In making the determination under subsection (1), if the mortgage loan has been sold to a government-sponsored enterprise, the person designated under section 3205a(1)(c) shall follow the modification guidelines dictated by the government-sponsored enterprise.

(4) This section does not prohibit a loan modification on other terms or another loss mitigation strategy instead of modification if the other modification or strategy is agreed to by the borrower and the person designated under section 3205a(1)(c).

(5) The person designated under section 3205a(1)(c) shall provide the borrower with both of the following:

(a) A copy of any calculations made by the person under this section.

(b) If requested by the borrower, a copy of the program, process, or guidelines under which the determination under subsection (1) was made.

(6) Subject to subsection (7), if the results of the calculation under subsection (1) are that the borrower is eligible for a modification, the mortgage holder or mortgage servicer shall not foreclose the mortgage under this chapter but may proceed under chapter 31. If the results of the calculation under subsection (1) are that the borrower is not eligible for a modification or if subsection (7) applies, the mortgage holder or mortgage lender may foreclose the mortgage under this chapter.

(7) If the determination under subsection (1) is that the borrower is eligible for a modification, the mortgage holder or mortgage servicer may proceed to foreclose the mortgage under this chapter if both of the following apply:

(a) The person designated under section 3205a(1)(c) has in good faith offered the borrower a modification agreement prepared in accordance with the modification determination.

(b) For reasons not related to any action or inaction of the mortgage holder or mortgage servicer, the borrower has not executed and returned the modification agreement within 14 days after the borrower received the agreement.

(8) If a mortgage holder or mortgage servicer begins foreclosure proceedings under this chapter in violation of this section, the borrower may file an action in the circuit court for the county where the mortgaged property is situated to convert the foreclosure proceeding to a judicial foreclosure. If a borrower files an action under this section and the court determines that the borrower participated in the process under section 3205b, a modification agreement was not reached, and the borrower is eligible for modification under subsection (1), and subsection (7) does not apply, the court shall enjoin foreclosure of the mortgage by advertisement and order that the foreclosure proceed under chapter 31.

History: Add. 2009, Act 31, Eff. July 5, 2009.

****** 600.3205d THIS SECTION IS REPEALED BY ACT 31 OF 2009 EFFECTIVE JULY 5, 2011 ******

600.3205d Housing counselors; list.

Sec. 3205d. The Michigan state housing development authority shall develop the list of housing counselors

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approved by the United States department of housing and urban development or by the Michigan state housing development authority who may perform the duties of housing counselor under sections 3205a to 3205c.

History: Add. 2009, Act 31, Eff. July 5, 2009.

600.3205e Repeal of MCL 600.3205a to 600.3205d.

Sec. 3205e. Sections 3205a to 3205d are repealed effective 2 years after the effective date of the amendatory act that added this section.

History: Add. 2009, Act 31, Eff. July 5, 2009.

600.3208 Notice of foreclosure; publication; posting.

Sec. 3208. Notice that the mortgage will be foreclosed by a sale of the mortgaged premises, or some part of them, shall be given by publishing the same for 4 successive weeks at least once in each week, in a newspaper published in the county where the premises included in the mortgage and intended to be sold, or some part of them, are situated. If no newspaper is published in the county, the notice shall be published in a newspaper published in an adjacent county. In every case within 15 days after the first publication of the notice, a true copy shall be posted in a conspicuous place upon any part of the premises described in the notice.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1971, Act 104, Eff. Mar. 30, 1972.

600.3212 Notice of foreclosure by advertisement; contents.

Sec. 3212. Every notice of foreclosure by advertisement shall include all of the following:

(a) The names of the mortgagor, the original mortgagee, and the foreclosing assignee, if any.

(b) The date of the mortgage and the date the mortgage was recorded.

(c) The amount claimed to be due on the mortgage on the date of the notice.

(d) A description of the mortgaged premises that substantially conforms with the description contained in the mortgage.

(e) For a mortgage executed on or after January 1, 1965, the length of the redemption period as determined under section 3240.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1964, Act 102, Eff. Aug. 28, 1964;—Am. 1994, Act 397, Imd. Eff. Dec. 29, 1994;—Am. 2004, Act 186, Imd. Eff. July 1, 2004.

600.3216 Sale; time and place.

Sec. 3216. The sale shall be at public sale, between the hour of 9 o'clock in the forenoon and 4 o'clock in the afternoon, at the place of holding the circuit court within the county in which the premises to be sold, or some part of them, are situated, and shall be made by the person appointed for that purpose in the mortgage, or by the sheriff, undersheriff, or a deputy sheriff of the county, to the highest bidder.

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

600.3220 Sale; adjournment; notice; posting; publication.

Sec. 3220. Such sale may be adjourned from time to time, by the sheriff or other officer or person appointed to make such sale at the request of the party in whose name the notice of sale is published by posting a notice of such adjournment before or at the time of and at the place where said sale is to be made, and if any adjournment be for more than 1 week at one time, the notice thereof, appended to the original notice of sale, shall also be published in the newspaper in which the original notice was published, the first publication to be within 10 days of the date from which the sale was adjourned and thereafter once in each full secular week during the time for which such sale shall be adjourned. No oral announcement of any adjournment shall be necessary.

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

600.3224 Sale of distinct parcels.

Sec. 3224. If the mortgaged premises consist of distinct farms, tracts, or lots not occupied as 1 parcel, they shall be sold separately, and no more farms, tracts, or lots shall be sold than shall be necessary to satisfy the amount due on such mortgage at the date of the notice of sale, with interest and the cost and expenses allowed by law but if distinct lots be occupied as 1 parcel, they may in such case be sold together.

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

600.3228 Sale; purchase by mortgagee or assigns.

Sec. 3228. The mortgagee, his assigns, or his or their legal representatives, may, fairly and in good faith, purchase the premises so advertised, or any part thereof, at such sale.

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

600.3232 Deed of sale; endorsement; deposit with register; recording; entry upon redemption.

Sec. 3232. The officer or person making the sale shall forthwith execute, acknowledge, and deliver, to each purchaser a deed of the premises bid off by him; and if the lands are situated in several counties he shall make separate deeds of the lands in each county, and specify therein the precise amounts for which each parcel of land therein described was sold. And he shall endorse upon each deed the time when the same will become operative in case the premises are not redeemed according to law. Such deed or deeds shall, as soon as practicable, and within 20 days after such sale, be deposited with the register of deeds of the county in which the land therein described is situated, and the register shall endorse thereon the time the same was received, and for the better preservation thereof, shall record the same at length in a book to be provided in his office for that purpose; and shall index the same in the regular index of deeds, and the fee for recording the same shall be included among the other costs and expenses allowed by law. In case such premises shall be redeemed, the register of deeds shall, at the time of destroying such deed, as provided in section 3244 of this chapter, write on the face of such record the word “Redeemed”, stating at what date such entry is made, and signing such entry with his official signature.

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

600.3236 Deed of sale; effect upon failure to redeem; prior liens.

Sec. 3236. Unless the premises described in such deed shall be redeemed within the time limited for such redemption as hereinafter provided, such deed shall thereupon become operative, and shall vest in the grantee therein named, his heirs or assigns, all the right, title, and interest which the mortgagor had at the time of the execution of the mortgage, or at any time thereafter, except as to any parcel or parcels which may have been redeemed and canceled, as hereinafter provided; and the record thereof shall thereafter, for all purposes be deemed a valid record of said deed without being re-recorded, but no person having any valid subsisting lien upon the mortgaged premises, or any part thereof, created before the lien of such mortgage took effect, shall be prejudiced by any such sale, nor shall his rights or interests be in any way affected thereby.

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

600.3240 Redemption of premises; payment; redemption of senior lien; defenses; recordation; redemption periods; amount stated in recorded affidavit.

Sec. 3240. (1) A purchaser's deed is void if the mortgagor, the mortgagor's heirs, executors, or administrators, or any person lawfully claiming under the mortgagor or the mortgagor's heirs, executors, or administrators redeems the entire premises sold by paying the amount required under subsection (2), within the applicable time limit prescribed in subsections (7) to (12), to the purchaser or the purchaser's executors, administrators, or assigns, or to the register of deeds in whose office the deed is deposited for the benefit of the purchaser.

(2) The amount required to be paid under subsection (1) is the sum that was bid for the entire premises sold, with interest from the date of the sale at the interest rate provided for by the mortgage, together with the amount of the sheriff's fee paid by the purchaser under section 2558(2)(q), and an additional $5.00 as a fee for the care and custody of the redemption money if the payment is made to the register of deeds. The register of deeds shall not determine the amount necessary for redemption. The purchaser shall attach an affidavit with the deed to be recorded under this section that states the exact amount required to redeem the property under this subsection, including any daily per diem amounts, and the date by which the property must be redeemed shall be stated on the certificate of sale. The purchaser may include in the affidavit the name of a designee responsible on behalf of the purchaser to assist the person redeeming the property in computing the exact amount required to redeem the property. The designee may charge a fee as stated in the affidavit and may be authorized by the purchaser to receive redemption funds. The purchaser shall accept the amount computed by the designee.

(3) If a distinct lot or parcel separately sold is redeemed, leaving a portion of the premises unredeemed, the deed shall be void only to the redeemed parcel or parcels.

(4) If after the sale the purchaser, the purchaser's heirs, executors, or administrators, or any person lawfully claiming under the purchaser or the purchaser's heirs, executors, or administrators pays taxes assessed against the property, amounts necessary to redeem senior liens from foreclosure, condominium assessments, homeowner association assessments, community association assessments, or premiums on an insurance policy covering any buildings located on the property that under the terms of the mortgage it would have been the duty of the mortgagor to pay if the mortgage had not been foreclosed and that are necessary to keep the policy

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in force until the expiration of the period of redemption, redemption shall be made only upon payment of the sum specified in subsection (2) plus the amounts specified in this subsection with interest on the amounts specified in this subsection from the date of the payment to the date of redemption at the interest rate specified in the mortgage, if all of the following are filed with the register of deeds with whom the deed is deposited:

(a) An affidavit by the purchaser or someone in his or her behalf who has knowledge of the facts of the payment showing the amount and items paid.

(b) The receipt or copy of the canceled check evidencing the payment of the taxes, amounts necessary to redeem senior liens from foreclosure, condominium assessments, homeowner association assessments, community association assessments, or insurance premiums.

(c) An affidavit of an insurance agent of the insurance company stating that the payment was made and what portion of the payment covers the premium for the period before the expiration of the period of redemption.

(5) If the redemption payment in subsection (4) includes an amount used to redeem a senior lien from a nonjudicial foreclosure, the mortgagor shall have the same defenses against the purchaser with respect to the amount used to redeem the senior lien as the mortgagor would have had against the senior lien.

(6) The register of deeds shall indorse on the documents filed under subsection (4) the time they are received. The register of deeds shall record the affidavit of the purchaser only and shall preserve in his or her files the recorded affidavit, receipts, insurance receipts, and insurance agent's affidavit until expiration of the period of redemption.

(7) Subject to subsections (9) to (11), for a mortgage executed on or after January 1, 1965, on commercial or industrial property, or multifamily residential property in excess of 4 units, the redemption period is 6 months from the date of the sale.

(8) Subject to subsections (9) to (11), for a mortgage executed on or after January 1, 1965, on residential property not exceeding 4 units and not more than 3 acres in size, if the amount claimed to be due on the mortgage at the date of the notice of foreclosure is more than 66-2/3% of the original indebtedness secured by the mortgage, the redemption period is 6 months.

(9) Subject to subsection (10), for a mortgage on residential property not exceeding 4 units, if the property is abandoned as determined under section 3241, the redemption period is 3 months.

(10) For a mortgage on residential property not exceeding 4 units, if the amount claimed to be due on the mortgage at the date of the notice of foreclosure is more than 66-2/3% of the original indebtedness secured by the mortgage and the property is abandoned as determined under section 3241, the redemption period is 1 month.

(11) If the property is abandoned as determined under section 3241a, the redemption period is 30 days or until the time to provide the notice required by section 3241a(c) expires, whichever is later.

(12) If subsections (7) to (11) do not apply, the redemption period is 1 year from the date of the sale.

(13) The amount stated in any affidavits recorded under this section shall be the amount necessary to satisfy the requirements for redemption under this section.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1964, Act 15, Eff. Aug. 28, 1964;—Am. 1964, Act 102, Eff. Aug. 28, 1964;—Am. 1971, Act 104, Eff. Mar. 30, 1972;—Am. 1972, Act 377, Eff. Mar. 30, 1973;—Am. 1986, Act 94, Imd. Eff. May 7, 1986;—Am. 1994, Act 397, Imd. Eff. Dec. 29, 1994;—Am. 1996, Act 214, Imd. Eff. May 28, 1996;—Am. 2000, Act 380, Imd. Eff. Jan. 2, 2001;—Am. 2004, Act 538, Eff. Mar. 30, 2005;—Am. 2006, Act 579, Imd. Eff. Jan. 3, 2007.

600.3241 Abandonment of premises; presumption.

Sec. 3241. For purposes of this chapter, abandonment of premises shall be conclusively presumed upon satisfaction of the following requirements:

(a) Within 30 days before the commencement of foreclosure proceedings hereunder, the mortgagee mails by certified mail, return receipt requested, to the mortgagor's last known address a notice that the subject mortgage is in default and that the mortgagee intends to foreclose it.

(b) Before commencement of foreclosure proceedings hereunder, the mortgagee executes and causes to be duly recorded in the county where the premises are located an affidavit which states:

(*i*) That the mortgagee has mailed to the last known address of the mortgagor a notice of default and intention to foreclose pursuant to subdivision (a) and that the mortgagor has not responded to the notice.

(*ii*) That the mortgagee has made a personal inspection of the mortgaged premises and that the inspection does not reveal that the mortgagor or persons claiming under him are presently occupying or intend to occupy the premises.

(c) The mortgagee mails by certified mail, return receipt requested, a copy of the affidavit recorded pursuant to subdivision (b) to the mortgagor at his last known address before commencement of foreclosure proceedings.

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(d) The mortgagor, his heirs, executor, administrator, or any person lawfully claiming from, or under 1 of them, before expiration of the period of redemption, does not give a written affidavit to the mortgagee and record a duplicate original in the county where the premises are located stating that the mortgagor or person claiming under him is occupying or intends to occupy the premises.

History: Add. 1971, Act 104, Eff. Mar. 30, 1972.

600.3241a Abandonment of premises; residential property not exceeding 4 units; presumption.

Sec. 3241a. For purposes of this chapter, if foreclosure proceedings have been commenced under this chapter against residential property not exceeding 4 units, abandonment of premises shall be conclusively presumed upon satisfaction of all of the following requirements before the end of the redemption period:

(a) The mortgagee has made a personal inspection of the mortgaged premises and the inspection does not reveal that the mortgagor or persons claiming under the mortgagor are presently occupying or will occupy the premises.

(b) The mortgagee has posted a notice at the time of making the personal inspection and has mailed by certified mail, return receipt requested, a notice to the mortgagor at the mortgagor's last known address, which notices state that the mortgagee considers the premises abandoned and that the mortgagor will lose all rights of ownership 30 days after the foreclosure sale or when the time to provide the notice required by subdivision (c) expires, whichever is later, unless the mortgagor; the mortgagor's heirs, executor, or administrator; or a person lawfully claiming from or under 1 of them provides the notice required by subdivision (c).

(c) Within 15 days after the notice required by subdivision (b) was posted and mailed, the mortgagor; the mortgagor's heirs, executor, or administrator; or a person lawfully claiming from or under 1 of them has not given written notice by first-class mail to the mortgagee at an address provided by the mortgagee in the notices required by subdivision (b) stating that the premises are not abandoned.

History: Add. 1986, Act 94, Imd. Eff. May 7, 1986;—Am. 2006, Act 579, Imd. Eff. Jan. 3, 2007.

600.3244 Redemption; destruction of deed; record.

Sec. 3244. Upon the payment of the entire sum bid at such sale, and interest thereon, and the fee of $5.00 mentioned in section 3240 to the register in whose office the deed therefor shall have been deposited, or upon delivering to such register a certificate, signed and acknowledged by the person entitled to receive the same, and certified by some officer authorized to take the acknowledgment of deeds, setting forth that such sum, with interest, has been paid to such person, and upon paying to such register a fee of 25 cents, such register shall thereupon destroy such deed, and shall enter in the margin of the record of such mortgage, a memorandum that such mortgage is satisfied; or in case the premises shall have been sold in parcels, and 1 or more of said parcels shall have been redeemed, as hereinbefore provided, it shall then be the duty of the register to enter upon the face of said sheriff's deed, and the record thereof, a memorandum that the same is inoperative as to the parcel or parcels so redeemed, and to enter in the margin of the record of such mortgage a memorandum that the same is satisfied as to the parcel or parcels so redeemed.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, Act 240, Eff. Sept. 6, 1963.

600.3248 Redemption; refusal to certify payment; civil liability.

Sec. 3248. If any person entitled to receive such redemption moneys, shall, upon payment or tender thereof to him, refuse to make and acknowledge such certificate of payment, he shall be liable to the person aggrieved thereby, in the sum of $100.00 damages, over and above all the actual damages sustained, to be recovered in a civil action, except that no damages of any kind may be recovered from any register of deeds who shall refuse to accept tender of payment after the time indorsed upon the deed when the same shall become operative in case the premises are not redeemed, and the officer or person making the sale shall be entitled to rely conclusively upon the recital of the length of the redemption period contained in the notice of foreclosure in making such indorsement upon the deed.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1964, Act 102, Eff. Aug. 28, 1964.

600.3252 Disposition of surplus money.

Sec. 3252. If after any sale of real estate, made as herein prescribed, there shall remain in the hands of the officer or other person making the sale, any surplus money after satisfying the mortgage on which the real estate was sold, and payment of the costs and expenses of the foreclosure and sale, the surplus shall be paid over by the officer or other person on demand, to the mortgagor, his legal representatives or assigns, unless at the time of the sale, or before the surplus shall be so paid over, some claimant or claimants, shall file with the person so making the sale, a claim or claims, in writing, duly verified by the oath of the claimant, his agent, or

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attorney, that the claimant has a subsequent mortgage or lien encumbering the real estate, or some part thereof, and stating the amount thereof unpaid, setting forth the facts and nature of the same, in which case the person so making the sale, shall forthwith upon receiving the claim, pay the surplus to, and file the written claim with the clerk of the circuit court of the county in which the sale is so made; and thereupon any person or persons interested in the surplus, may apply to the court for an order to take proofs of the facts and circumstances contained in the claim or claims so filed. Thereafter, the court shall summon the claimant or claimants, party, or parties interested in the surplus, to appear before him at a time and place to be by him named, and attend the taking of the proof, and the claimant or claimants or party interested who shall appear may examine witnesses and produce such proof as they or either of them may see fit, and the court shall thereupon make an order in the premises directing the disposition of the surplus moneys or payment thereof in accordance with the rights of the claimant or claimants or persons interested.

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

600.3256 Affidavits to perpetuate evidence of sale; endorsement or annexation to one instrument.

Sec. 3256. (1) Any party desiring to perpetuate the evidence of any sale made in pursuance of the provisions of this chapter, may procure:

(a) An affidavit of the publication of the notice of sale, and of any notice of postponement, to be made by the publisher of the newspaper in which the same was inserted, or by some person in his employ knowing the facts; and

(b) An affidavit of the fact of any sale pursuant to such notice, to be made by the person who acted as auctioneer at the sale, stating the time and place at which the same took place, the sum bid, and the name of the purchaser; and

(c) An affidavit setting forth the time, manner and place of posting a copy of such notice of sale to be made by the person posting the same.

(2) Where any or all of such affidavits are endorsed upon or annexed to 1 instrument, a single copy of the notice of sale, and a single copy of any notice of postponement, shall be sufficient to annex to such instrument, and reference made in any of such affidavits to copy of notice of sale and to copy of any notice of postponement of sale as annexed or attached shall be deemed to refer to such single copy of notice of sale and to such single copy of any notice of postponement.

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

600.3260 Affidavits to perpetuate evidence of sale; persons to take.

Sec. 3260. The affidavits specified in section 3256 may be taken and certified by any officer authorized by law to administer oaths.

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

600.3264 Affidavits to perpetuate evidence of sale; record; evidence.

Sec. 3264. Such affidavits shall be recorded at length by the register of deeds of the county in which the premises are situated, in a book kept for the record of deeds; and such original affidavits, the record thereof, and certified copies of such record, shall be presumptive evidence of the facts therein contained.

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

600.3268 Marginal notes to record of mortgages.

Sec. 3268. A note referring to the page and book where the evidence of any sale having been made under a mortgage, is recorded, shall be made by the register recording such evidence, in the margin of the record of such mortgage, if such record be in his office.

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

600.3272 Repealed. 2004, Act 538, Eff. Mar. 30, 2005.

Compiler's note: The repealed section pertained to notice to purchase of entire bid payment.

600.3276 Posting of notices; mortgagee's right of entry.

Sec. 3276. Incident to the foreclosure of a mortgage pursuant to the provisions of this chapter, the mortgagee, his agents and assigns shall have a right to enter upon the mortgaged premises for the purpose of posting or serving the notices required by this chapter.

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

600.3280 Foreclosure by advertisement; deficiency; defenses.

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Sec. 3280. When, in the foreclosure of a mortgage by advertisement, any sale of real property has been made after February 11, 1933, or shall be hereafter made by a mortgagee, trustee, or other person authorized to make the same pursuant to the power of sale contained therein, at which the mortgagee, payee or other holder of the obligation thereby secured has become or becomes the purchaser, or takes or has taken title thereto at such sale either directly or indirectly, and thereafter such mortgagee, payee or other holder of the secured obligation, as aforesaid, shall sue for and undertake to recover a deficiency judgment against the mortgagor, trustor or other maker of any such obligation, or any other person liable thereon, it shall be competent and lawful for the defendant against whom such deficiency judgment is sought to allege and show as matter of defense and set-off to the extent only of the amount of the plaintiff's claim, that the property sold was fairly worth the amount of the debt secured by it at the time and place of sale or that the amount bid was substantially less than its true value, and such showing shall constitute a defense to such action and shall defeat the deficiency judgment against him, either in whole or in part to such extent. This section shall not affect nor apply to the rights of other purchasers or of innocent third parties, nor shall it be held to affect or defeat the negotiability of any note, bond or other obligation secured by such mortgage, deed of trust or other instrument. Such proceedings, as aforesaid, shall in no way affect the title of the purchaser to the lands acquired by such purchase. This section shall not apply to foreclosure sales made pursuant to an order or decree of court nor to any judgment sought or rendered in any foreclosure suit nor to any chancery sale heretofore or hereafter made and confirmed.

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

600.3285 Validity of foreclosure; violation of subsection (2); penalty; filing of action by attorney general; applicability of section to mortgage entered into before effective date of act; definitions.

Sec. 3285. (1) If a mortgagor is a service member, either the mortgagor entered into the mortgage before becoming a service member or the mortgagor is deployed in overseas service, and, during the service member's period of military service or within 6 months after the end of the period of military service, the mortgage given by the service member is foreclosed by advertisement or the mortgaged real estate sold under a power of sale, the foreclosure or sale is invalid unless the foreclosure or sale was ordered by a court.

(2) A person shall not, individually or acting through another person, foreclose, sell, or attempt to foreclose or sell real estate with the knowledge that the foreclosure or sale is invalid under this section. A person who violates this subsection is subject to a civil fine of $2,000.00.

(3) The attorney general may file an action in the circuit court to collect a civil fine under this section. A civil fine collected under this section shall be deposited in the military family relief fund created in section 3 of the military family relief fund act, 2004 PA 363, MCL 35.1213.

(4) This section does not apply to a mortgage entered into before the effective date of the amendatory act that added this section.

(5) As used in this section:

(a) "Active duty" means full-time duty in the active military service of the United States. Active duty includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the secretary of the military department concerned. Active duty does not include full-time national guard duty.

(b) "Military service" means any of the following:

(*i*) Active duty.

(*ii*) If the service member is a member of the national guard, service under a call to active service authorized by the president or secretary of defense of the United States for a period of more than 30 consecutive days under 32 USC 502(f) to respond to a national emergency declared by the president and supported by federal money.

(*iii*) A period during which the service member is absent from active duty because of sickness, wounds, leave, or other lawful cause.

(c) "Period of military service" means the period beginning on the date on which the service member enters military service and ending on the date on which the service member is released from military service or dies while in military service.

(d) "Service member" means an individual who is in military service and is a member of the armed services or reserve forces of the United States or a member of the Michigan national guard.

History: Add. 2008, Act 138, Imd. Eff. May 21, 2008.

CHAPTER 33

PARTITION

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600.3301 Partition of lands; jurisdiction of circuit court; actions equitable in nature.

Sec. 3301. Actions containing claims for the partition of lands may be brought in the circuit courts, including, but not limited to, the matters covered in this chapter. Such actions are equitable in nature.

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

600.3304 Partition of lands; joint tenants; tenants in common.

Sec. 3304. All persons holding lands as joint tenants or as tenants in common may have those lands partitioned.

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

600.3308 Partition of lands; estate in possession; inapplicable to reversions or remainders.

Sec. 3308. Any person who has an estate in possession in the lands of which partition is sought may maintain a claim for partition of those lands, but a person who has only an estate in reversion or remainder in the lands may not maintain a claim for their partition.

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

600.3312 Mineral rights.

Sec. 3312. Any person who has an estate in possession of any ores, minerals, or metals in lands may maintain a claim for partition. But the claim for partition may be brought only against those persons who have estates in possession of the ores, minerals, and metals.

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

600.3316 Undivided interest in estate in possession or in expectancy deemed fee simple.

Sec. 3316. Any person who owns an undivided interest, however acquired, in all of the estates in possession and in expectancy in the land of which partition is sought is deemed to have an estate in fee simple, absolute in possession, in the land to the extent of the least share which he has in any of the estates and is entitled to maintain a claim for partition.

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

600.3320 Guardian; authority to agree to division; report; infants; infant as married woman; delivery of guardianship property to probate court guardian; disharge of circuit court guardian.

Sec. 3320. (1) The circuit court may direct and authorize general guardians or guardians ad litem to agree to a division or a sale of the entire premises or of as much of the premises as, in the opinion of the court, is incapable of partition, or of as much of the premises as the best interest of the ward requires to be sold.

(2) The guardian shall report on oath to the court the partition or sale he made under the court's direction and if the court approves and confirms the sale the court shall enter an order authorizing the guardian to execute conveyances of the rights of the ward to the purchaser of that portion of the estate, or to execute a release of the rights of the ward to the portion of the estate which in the division falls to the shares of the other joint tenants or tenants in common. Those deeds shall be valid and effectual to convey the share and interest of the ward.

(3) If any part of his estate is sold an infant shall be deemed a ward of the court and the court shall direct an order for securing, investing, and applying the proceeds of the sale, and for requiring security from the guardian for that purpose.

(4) If the infant is a married woman the court may, upon petition, appoint her husband as her guardian and he shall be subject to the provisions of this section.

(5) When a guardian has been appointed by the probate court, the circuit court guardian shall deliver all guardianship property and funds to the probate court guardian and upon receipt therefor, the guardian appointed by the circuit court shall be discharged.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1964, Act 113, Eff. Aug. 28, 1964.

600.3324 Lands held in trust; parties; division among heirs or devisees.

Sec. 3324. (1) The provisions concerning partition are applicable to lands held by a trustee for the benefit of others, and a claim for partition may be instituted by the trustees or any person interested in the lands held in trust.

(2) When the original parties in interest in the trust, or any of them, have died, leaving heirs or legatees or others interested by title or right through them or any of them in the lands held in trust, the court, at its discretion, may divide the land by judgment among the heirs, legatees, or others representing the interests of

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the deceased in those lands so as to set off the interest of all of these persons together, without subdivision among them.

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

600.3328 Partition against state; service of papers; appearance.

Sec. 3328. Partition proceedings may be brought in the circuit courts against the state of Michigan whenever any lands are held jointly or as tenants in common by individuals and the state of Michigan.

All papers required to be served on the people of this state as defendants in a partition proceeding shall be served on the attorney general, who shall appear in behalf of the state and attend to its interests. The proceedings shall be conducted in the same manner as if they were against individuals and like orders and decrees shall be had. The proportion of the costs and expenses which are adjudged to be paid by the people of this state shall be certified by the attorney general and paid out of the state treasury on warrant of the state treasurer.

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

600.3332 Indivisible premises; division of part of premises; minimum price.

Sec. 3332. If the court finds that all the lands and tenements of which division or partition is sought are so situated, or that any district, tract, lot, or portion of the lands and tenements is so situated, that a partition and division of them among the persons interested in them cannot be made without great prejudice to the owners, the court may order the circuit court commissioner to sell the premises which cannot be divided or partitioned, at a public auction to the highest bidder. If the court finds that any portion, interest, or part can be divided and partitioned and that other portions, interests, or parts cannot be divided without great prejudice to the owners, the court may appoint partition commissioners and direct them to partition and divide the parts or interests which can be divided and to set aside to be sold the portions, interests, or parts which cannot be divided and these may be sold as provided in the court rules. The court may fix and determine the minimum price at which the real property may be sold.

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

600.3336 Owelty; adjustment of equities.

Sec. 3336. (1) When it appears to the court ordering partition that partition cannot be made equally between the parties without prejudice to the rights and interests of some of the parties the court may adjudge that 1 party compensate another in such a way as to equalize the partition according to the equities of the case.

(2) When partitioning the premises or dividing the money received from a sale of the premises among the parties the court may take into consideration the equities of the situation, such as the value of the use of the premises by a party or the benefits which a party has conferred upon the premises.

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

600.3340 Sales under partition; settlement of value of inchoate, contingent, or vested rights.

Sec. 3340. In all cases of sales under judgment in partition where it appears that any married woman has an inchoate right of dower in any of the lands divided or sold, or that any person has a vested or contingent future right or estate in the lands, the court under whose judgment the sale is made shall ascertain and settle the proportional value of the inchoate, contingent, or vested right or estate, according to the principles of law applicable to annuities and survivorships, and shall direct the proportion of the proceeds of the sale to be invested, secured, or paid over in the manner considered the best to secure the rights and interests of the parties. The payment, investment, or other securing of the proceeds of the sale shall be a bar to that right, estate, or claim.

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

600.3344 Release of interest by married woman; payment from proceeds of sale; effect on rights.

Sec. 3344. Any married woman may release her right, interest, or estate to her husband and lawfully acknowledge this release. If the release is executed outside of this state it shall be executed, acknowledged, and certified as the laws of this state require for the execution, acknowledgment, and certification of deeds in any other state, territory, or district of the United States. Upon the release the shares of the sale arising from her contingent interest shall be paid to her. This release shall be a bar to her right, estate, or claim.

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

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

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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."

600.3348 Receiver; appointment; protection from waste, trespass, or injury.

Sec. 3348. Whenever it appears that to do so would benefit any part owner of the premises of which partition is sought, the court may appoint a receiver having such authority as is necessary to lease the premises; or protect them from waste, trespass, or injury; or for any other purpose.

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

600.3352 Claims barred by statute of limitations; acquiescence.

Sec. 3352. The authority given by this chapter to partition real estate does not authorize the revival or prosecution of any claim to lands which otherwise would be barred by the statute of limitations or by the acquiescence of any party who had the claim.

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

600.3356 Creditor with lien; transfer; impairment.

Sec. 3356. The partition of the premises shall not alter or impair the lien of any creditor on the premises in question, except that when the lien is on the undivided interest or estate of any of the parties, either in a portion or the whole of the premises partitioned, such lien, if partition can be made, shall thereafter be transferred, and be a charge only on the premises assigned to such party, and may be enforced against the same as though such lien had originally existed thereupon.

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

600.3360 Division of property among cestuis que trust in lieu of sale; authority from court.

Sec. 3360. In any estate vested in a trustee or trustees for the benefit of any person or corporation, whether by will or other grant or conveyance, where a provision is made for the sale of the trust property and distribution of the proceeds and where no limitation is placed upon the power of alienation, nor restriction made as to the time of the division and distribution of the proceeds of the trust property, and it appears to be more advantageous to the persons for whose benefit the trust was created to divide and distribute the trust property among them rather than to have the trustees sell the property and distribute the proceeds, the trustee may make a division and distribution of the trust estate among the persons entitled to the proceeds for the sale of the property in the same proportions as the terms of the instrument or grant which created the trust provide that the proceeds of the sale of the property should be distributed, upon authority being granted by the circuit court.

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

600.3364 Division of property among cestuis que trust in lieu of sale; procedure when all parties do not consent.

Sec. 3364. In all cases except where all the parties to be benefited by the distribution of the proceeds of the sale of the trust estate give their consent in writing to the division and distribution of the trust estate as above provided, the proceedings to obtain the authority of the court as aforesaid to divide and distribute said estate, may be instituted by the trustee or any person interested in such division and distribution, and shall conform to the provisions of this chapter relating to partition of lands, and the division and distribution, if authorized by the court, shall be effected in the manner provided by this chapter for partitioning the undivided interests of persons in real estate generally.

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

600.3368 Division of property among cestuis que trust in lieu of sale; procedure when all parties consent.

Sec. 3368. Such division or distribution of a trust estate may be made by a trustee without obtaining the authority of the court as aforesaid, when all the persons who would be entitled to share in the proceeds of the sale of such estate consent thereto in writing, and such trustee shall make such division and distribution when all of the parties interested as aforesaid so request in writing.

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

600.3372 Division of property among cestuis que trust in lieu of sale; consent of guardian of minor, insane, or incompetent person.

Sec. 3372. When any of the persons entitled to share in the distribution of the proceeds of the sale of such trust estate is a minor, or insane, or incompetent to give his consent, or make such request, the division and distribution shall not be made without the authority of the court as aforesaid, unless the minor, insane or incompetent person has a general guardian, in which event such general guardian, upon obtaining the authority of the court appointing such guardian to consent to such division and distribution, or request that the same shall be made by the trustee, shall have the same power and authority to consent to such division and distribution or make request therefor, and agree upon a method of effecting such division and distribution as a person of full age and otherwise competent to act in the premises could do. The authority of the court appointing such guardian to give such consent, or make such request, may be obtained by such guardian filing with such court a petition showing the circumstances which it is deemed renders it to the advantage of the minor, insane or incompetent person to have such distribution or division made.

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

CHAPTER 35
THE VOLUNTARY DISSOLUTION AND WINDING UP OF CORPORATIONS

600.3501 Voluntary dissolution of corporations; actions equitable in nature; stockholders and creditors as parties defendant; hearing.

Sec. 3501. (1) Whenever the directors, trustees, or other officers who have the management of the affairs of any corporation, or the majority of them, discover that the stock, property, and effects of the corporation are so far reduced by losses or otherwise that the corporation will not be able to pay all just demands to which it is liable, or to afford a reasonable security to those who deal with it, or whenever the directors, trustees, or officers, or a majority of them, for any reason, deem it beneficial to the stockholders to dissolve the corporation, they may institute a civil action in the circuit court for the county in which the corporation is located, for a judgment dissolving the corporation. Such actions are equitable in nature.

(2) All stockholders and creditors shall be made parties defendant. Hearing of the matter may be referred to a circuit court commissioner.

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

600.3505 Voluntary dissolution of corporations; dissolution; receiver; temporary receiver.

Sec. 3505. If it appears to the court that the corporation is insolvent or that dissolution thereof would be beneficial to the stockholders and not injurious to the public, the court may dissolve the corporation and appoint a receiver of its estate and effects. Pending the hearing, the court may appoint a temporary receiver and prescribe his powers and duties.

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

600.3510 Receiver; bond; powers; duties; administration of estate; common law assignments.

Sec. 3510. (1) Upon giving bond and qualifying, as the court may direct, such permanent receiver is vested with all the estate, real and personal, of such corporation and is trustee thereof for the benefit of its creditors and stockholders, and has all the powers, authority and remedies of an assignee for the benefit of creditors under RJA chapter 52, and also the power to continue the business of such corporation for such period as the court permits; and so far as they may be applicable, is subject to all the duties and obligations of such an assignee, except where other provisions are herein made.

(2) The provisions of law regulating common law assignments with reference to sales of property, notice to creditors to prove claims, the proving, contesting and allowing of claims, the making of set-offs, the powers of the court in chancery or judge thereof, the making and filing of accounts, the closing of the estate, the

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distribution of dividends and the compensation of the receiver, apply and shall be followed except that:

(a) stockholders as well as creditors shall be given notice of claims filed and may with like effect request that any claim be contested;

(b) stockholders shall be given notice of such other matters and in such manner as the court may require;

(c) in distributing dividends any surplus remaining after payment of expenses and after creditors are paid in full shall be distributed among the stockholders according to their respective rights as determined by the court.

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

600.3515 Sales, transfers, and levies subsequent to application for dissolution; validity.

Sec. 3515. All sales, assignments, transfers, mortgages and conveyances of any part of the assets of such corporation made after the filing of such application for dissolution, in payment of or as security for any existing or prior debt, and all judgments confessed by such corporation after that time, and all subsequent levies or garnishments are absolutely void as against the receiver who may be thereafter appointed.

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

600.3520 Repealed. 2002, Act 433, Imd. Eff. June 10, 2002.

Compiler's note: The repealed section pertained to corporations with expired charters.

600.3525 Chapter inapplicable to library; lyceums; religious corporation; academy; select school; burying ground corporations.

Sec. 3525. The provisions of this chapter do not extend to any incorporated library or lyceum society; to any religious corporation; to any incorporated academy or select school not organized for pecuniary profit; nor to the proprietors of any burying ground incorporated under the laws of this state.

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

CHAPTER 36
PROCEEDINGS AGAINST CORPORATIONS

600.3601 Restraint of unauthorized exercise of corporate rights, privileges, or franchises; injunction before answer; continuance.

Sec. 3601. (1) Upon complaint being filed by the attorney general, the circuit court may enjoin any corporation from assuming or exercising any franchise, liberty, or privilege or transacting any business not authorized by the corporation's charter. The court may in the same manner restrain any individuals from exercising any corporate rights, privileges, or franchises which have not been granted to them by the laws of this state.

(2) The court may issue the injunction before the answer, upon satisfactory proof that the defendants have usurped, exercised or claimed any franchise, privilege, liberty, or corporate right not granted to them; and after the answer the injunction may be continued until final judgment is had.

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

600.3605 Circuit courts; power; jurisdiction; plaintiffs; visitorial powers vested in corporate body or public officer.

Sec. 3605. (1) Circuit courts have the power, and actions may be brought in the circuit courts:

(a) to compel persons to account for their conduct in the management and disposition of the corporate funds and corporate property committed to their charge;

(b) to compel persons to pay to the corporation which they represent, and to its creditors, all sums of money and the value of all property which they have acquired to themselves or transferred to others or have lost or wasted by any violation of their duties as directors, managers, trustees, or other officers;

(c) to suspend any corporate trustee or other officer from exercising his office whenever it appears that he has abused his trust;

(d) to remove any corporate trustee or officer from his office upon proof or conviction of gross misconduct;

(e) to direct new elections to be held by the corporation or board duly authorized to hold elections to supply any vacancy created by any removal;

(f) in case there is no board, or all the members of the board are removed, then to report this to the governor, who is authorized to fill these vacancies with the consent of the senate;

(g) to set aside all alienations of property made by the trustees or other officers of any corporation contrary to the provisions of law or for purposes foreign to the lawful business and objects of the corporation, in cases

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where the persons receiving the alienated property knew the purposes for which the alienation was made; and

(h) to restrain and prevent any alienation of corporate property in cases where it is threatened or there is good reason to apprehend that it is intended to be made.

(2) This jurisdiction extends over all directors, managers, trustees, and other officers of corporations, and over any person who has held any of these offices in any corporation against whom proceedings are commenced within 1 year after he has ceased to be a director, manager, trustee, or other officer.

(3) This jurisdiction may be exercised at the instance of the attorney general, prosecuting in the behalf of the people of this state, or at the instance of any creditor of the corporation, or at the instance of any director, trustee, or other officer of the corporation who has a general superintendence of its concerns, or by any stockholder of the corporation.

(4) When any of the visitorial powers enumerated in subsection (1), over any corporation, are or shall be vested, by statute, in any corporate body or public officer, the provisions of subsection (1) shall not be construed to divest or impair the powers so vested.

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

600.3610 Sequestration of corporate property; distribution of assets upon final judgment.

Sec. 3610. (1) Whenever a judgment is obtained against any corporation, incorporated under the laws of this state, and an execution issued upon the judgment is returned unsatisfied, in part or in whole, upon the petition of the person who obtained the judgment, or his representative, the circuit court may sequester the stock, property, things in action, and effects of the corporation, and may appoint a receiver of the corporation.

(2) Upon a final judgment, the court shall cause a just and fair distribution of the property of the corporation, and of the proceeds thereof, to be made among the creditors of such corporation, in proportion to their debts respectively, who shall be paid in the same order as provided in the case of a voluntary dissolution of a corporation.

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

600.3615 Repealed. 2002, Act 433, Imd. Eff. June 10, 2002.

Compiler's note: The repealed section pertained to corporations insolvent for one year.

600.3620 Creditor's bill against directors or stockholders; jurisdiction of circuit court; accounts; receivers; determination of liability; distribution of property.

Sec. 3620. (1) Whenever any creditor of a corporation seeks to charge the directors, trustees or other superintending officers of such corporation, or the stockholders thereof, on account of any liability created by law, he may bring an action in the circuit courts to enforce such liability.

(2) The court shall proceed thereon as in other cases, and when necessary, shall cause an account to be taken of the property and debts due to and from such corporation, and shall appoint 1 or more receivers, who shall possess all the powers conferred, and are subject to all the obligations imposed on receivers in case of the voluntary dissolution of a corporation.

(3) But if, on the coming in of the answer, or upon the taking of any such account, it appears that such corporation is insolvent, and that it has no property or effects to satisfy such creditor, the court may proceed without appointing any receiver, to ascertain the respective liabilities of such directors and stockholders, and enforce the same, by its orders and judgments, as in other cases.

(4) Upon a final judgment being made upon any such application to restrain a corporation, or upon any such complaint filed against directors or stockholders, the court shall cause a just and fair distribution of the property of such corporation, and of the proceeds thereof, to be made among its creditors, in the order and in the proportions prescribed in the case of a voluntary dissolution of a corporation.

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

600.3625 Debt; enforcement of payment; stock subscriptions; determination of liability.

Sec. 3625. (1) In all cases in which the directors or other officers of a corporation, or the stockholders thereof, are parties to the action in which judgment is rendered, if the property of such corporation is insufficient to discharge its debts, the court shall proceed to compel each stockholder to pay in the amount due and remaining unpaid on the shares of the stock held by him, or so much thereof as is necessary to satisfy the debts of the company.

(2) If the debts of the company remain unsatisfied, the court shall proceed to ascertain the respective liabilities of the directors or other officers, and of the stockholders, and to adjudge the amount payable by each.

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

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600.3630 Discovery of corporate assets; answer by officer, agent, or stockholder; answers and examinations of witnesses; use of evidence.

Sec. 3630. (1) Upon any application to the court having jurisdiction, in any of the cases provided in this chapter, such court may compel such corporation to discover any stock, property, things in action or effects alleged to belong, or to have belonged to it, the transfer and disposition thereof, and the consideration, and all the circumstances of such disposition.

(2) Every officer, agent or stockholder of any corporation, against which proceedings are instituted, according to the provisions of this chapter, and every person to whom it is alleged that any transfer of any property or effects of such corporation has been made, or in whose possession or control any such property or effects are alleged to be, may be compelled, in the direction of the court, to answer a complaint filed to obtain any discovery specified in subsection (1), notwithstanding such answer may expose the corporation of which he is a member to a forfeiture of its corporate rights, or any of them.

(3) The answers of the officers and agents of any corporation are evidence against the corporation, in the same manner and to the same extent as if such answers had been given upon an examination of such officers or agents as witnesses in the cause, and such officers or agents may subsequently be examined as witnesses by either party, under the order of the court, but no such answer may be compelled, unless by special order of the court.

(4) Neither the answer of any such officer or agent, nor his testimony upon any such subsequent examination, may be used as evidence upon any indictment, or other criminal prosecution or proceeding against him.

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

600.3635 Injunction against other proceedings by creditors; notice to creditors to exhibit claims; failure to exhibit claims and become parties.

Sec. 3635. (1) Whenever any complaint is filed or any application is made against any corporation, its directors or other superintending officers, or its stockholders, according to the provisions of this chapter, the court may enjoin all other proceedings by any creditor against the defendants in the action, at the application of either party at any stage of the proceedings.

(2) Whenever it appears necessary or proper the court may order notice to be served or published in a reasonable manner requiring all the creditors of the corporation to exhibit their claims and become parties to the action within a reasonable time prescribed by the court.

(3) If any creditors fail to exhibit their claims and become parties within the time specified, they shall be precluded from all benefit of any judgment which is later made in the action and from any distribution which is made under the judgment.

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

600.3640 Inapplicability of chapter; library; lyceum; religious corporation; academy; select school; burying ground corporation; insurance or fraternal benefit association.

Sec. 3640. The provisions of this chapter do not extend to any incorporated library or lyceum society; to any religious corporation; to any incorporated academy or select school; or to the proprietors of any burying ground incorporated under the laws of this state; or to any insurance corporation, fraternal benefit association or society doing business under the laws of this state.

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

600.3645 Actions equitable in nature.

Sec. 3645. Actions brought under this chapter are equitable in nature.

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

CHAPTER 38
PUBLIC NUISANCES

600.3801 Nuisance; injunction; abatement; guilt.

Sec. 3801. Any building, vehicle, boat, aircraft, or place used for the purpose of lewdness, assignation or prostitution or gambling, or used by, or kept for the use of prostitutes or other disorderly persons, or used for the unlawful manufacture, transporting, sale, keeping for sale, bartering, or furnishing of any controlled substance as defined in section 7104 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.7104 of the Michigan Compiled Laws, or of any vinous, malt, brewed, fermented, spirituous, or intoxicating liquors or any mixed liquors or beverages, any part of which is intoxicating, is declared a

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nuisance, and the furniture, fixtures, and contents of the building, vehicle, boat, aircraft, or place and all intoxicating liquors therein are also declared a nuisance, and all controlled substances and nuisances shall be enjoined and abated as provided in this act and as provided in the court rules. Any person or his or her servant, agent, or employee who owns, leases, conducts, or maintains any building, vehicle, or place used for any of the purposes or acts set forth in this section is guilty of a nuisance.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1988, Act 2, Eff. Apr. 1, 1988.

600.3805 Action to abate; parties.

Sec. 3805. The attorney general of the state of Michigan, the prosecuting attorney or any citizen of the county, may maintain an action for equitable relief in the name of the state of Michigan, upon the relation of such attorney general, prosecuting attorney or citizen to abate said nuisance and to perpetually enjoin any person, his servant, agent, or employee, who shall own, lease, conduct or maintain such building, vehicle, boat, aircraft or place, from permitting or suffering such building, vehicle, boat, or aircraft or place owned, leased, conducted or maintained by him, or any other building, vehicle, boat, aircraft or place conducted or maintained by him to be used for any of the purposes or by any of the persons set forth in section 3801, or for any of the acts enumerated in said section. When the injunction has been granted, it shall be binding on the defendant throughout the judicial circuit in which it was issued.

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

600.3810 Owner; definition; authority of court; closing of premises; vehicles; parties-defendant.

Sec. 3810. (1) An owner of the premises within the meaning of this chapter is deemed to be the grantee or vendee of the last recorded deed or contract which describes the premises, or any part thereof upon which any nuisance exists as heretofore defined, and the naming of such person a party defendant gives the court authority to abate the nuisance by closing the premises and such defendant is subject to the order and judgment of the court.

(2) An owner of a vehicle within the meaning of this chapter is deemed to be the person in whose name the vehicle is titled, and any chattel mortgagee or assignee thereof or other lien holder whose lien has been filed in the office of the register of deeds prior to the commencement of suit, and the plaintiff shall join such mortgagee, assignee or lien holder as a party defendant.

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

600.3815 Admissible evidence; unnecessary proof; judgment and order.

Sec. 3815. (1) In any action brought under this chapter, evidence of the general reputation of the building, vehicle, boat, aircraft or place is admissible for the purpose of proving the existence of the nuisance.

(2) Proof of knowledge of the existence of the nuisance on the part of the defendants or any of them, is not required.

(3) It is not necessary for the court to find the property involved was being used as and for a nuisance at the time of the hearing, or for the plaintiff to prove that the nuisance was continuing at the time of the filing of the complaint, if the complaint is filed within 30 days after any act, any violation, or the existence of a condition herein defined as a nuisance, but on finding that the material allegations of the complaint are true, the court shall render judgment and order of abatement as hereinafter provided.

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

600.3820 Contempt; punishment; procedure; bail.

Sec. 3820. If any order or injunction granted under the provisions of this chapter is violated, the court may summarily try and punish the offender as for contempt, and the person so offending shall be punished by a fine of not more than $1,000.00, or by imprisonment in the county jail not more than 6 months, or by both fine and imprisonment, in the discretion of the court. Such violation shall be charged by a motion supported by affidavit, and the court, if satisfied of the sufficiency thereof, shall immediately issue a bench warrant for the arrest of such offender and to bring him before such court to answer for such misconduct. The court may, in its discretion, permit such person arrested to give bail and fix the amount thereof pending hearing of the matters charged in such motion.

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

600.3825 Order of abatement; closing of building; removal of contents; sale; vehicles; personal property; use of closed building; contempt.

Sec. 3825. (1) If the existence of the nuisance is established in an action as provided in this chapter, an

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order of abatement shall be entered as a part of the judgment in the case, which order shall direct the removal from the building or place of all furniture, fixtures and contents therein and shall direct the sale thereof in the manner provided for the sale of chattels under execution, and the effectual closing of the building or place against its use for any purpose, and so keeping it closed for a period of 1 year, unless sooner released as in this chapter provided.

(2) Any vehicle, boat, or aircraft found by the court to be a nuisance within the meaning of this chapter, is subject to the same order and judgment as any furniture, fixtures and contents as herein provided.

(3) Upon the sale of any furniture, fixtures, contents, vehicle, boat or aircraft as provided in this section, the officer executing the order of the court shall, after deducting the expenses of keeping such property and costs of such sale, pay all liens according to their priorities which may be established by intervention or otherwise at the hearing or in other proceedings brought for that purpose as being bona fide and as having been created without the lienor having any notice that such property was being used or was to be used for the maintenance of a nuisance as herein defined, and shall pay the balance to the state treasurer to be credited to the general fund of the state.

(4) If any person uses a building or place so directed to be closed, with knowledge that such building or place is closed by order of the court, he shall be punished as for contempt, as provided in section 3820.

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

600.3830 Removal and sale of property; fees; closing of building; loss of property exemptions; liability of officers.

Sec. 3830. (1) For removing and selling the movable property, the officer is entitled to charge and receive the same fees as he would for levying upon and selling like property upon execution, and for closing the building or place and keeping it closed, a reasonable sum shall be allowed by the court.

(2) Any person found guilty of maintaining a nuisance under the provisions of this chapter shall forfeit the benefit of all property exemptions, so far as the satisfaction of the order or judgment of the court requires the same, and the taking and disposing of any property of the defendant or defendants by virtue of such order or judgment by any officer directed to execute the same is not a trespass, nor shall such officer be liable either civilly or criminally therefor, if a proper return of such order or judgment and accounting for such property is made to the court within 10 days after the order or judgment is executed.

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

600.3835 Proceeds from sale of personalty; application.

Sec. 3835. The proceeds of the sale of the personal property, as provided in section 3830, shall be applied in payment of the costs of the action and abatement, and the balance, if any, shall be paid to the persons entitled thereto as the court may direct.

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

600.3840 Delivery of premises to owner; conditions; bond; abatement; liability of sureties; appeal; stay of order of abatement.

Sec. 3840. (1) If the owner of such building or place pays all costs of the proceeding, and files a bond with sureties approved by the circuit judge, in the penal sum of not less than $1,000.00 nor more than $50,000.00, conditioned that he will immediately abate the nuisance and prevent the same from being established or kept therein within a period of 1 year from the date of the judgment, the court may order such premises to be delivered to the owner and if the bond is given and costs therein paid before order of abatement, the action shall be thereby abated as to that building only.

(2) If it appears to the court that the conditions of the bond have been violated, the principal and sureties thereon are liable thereon for the full penalty of the bond in an action brought in the name of the state of Michigan, or upon motion in the action in which the bond was given.

(3) Should the defendants, or any of them, appeal to the supreme court from the order and judgment rendered, the injunction or order of abatement shall not be stayed pending the appeal, except that stay may be granted or the order of abatement may be modified pending such appeal upon the written order of 2 justices of the supreme court.

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

CHAPTER 40
ATTACHMENT AND GARNISHMENT

600.4001 Attachment; ex parte application; service of writ; jurisdiction.

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Sec. 4001. Upon ex parte application showing that the person against whom a claim is asserted is not subject to the judicial jurisdiction of the state or, after diligent effort, cannot be served with process as required to subject him to the judicial jurisdiction of the state, the circuit court shall have the power by attachment to apply to the satisfaction of the claim due or to become due any interest in things which are subject to the judicial jurisdiction of the state and belonging to the person against whom the claim is asserted. A copy of the writ of attachment shall be served upon the person against whom the claim is made in the same manner as provided by rules of the supreme court for service of process in other civil actions in which personal jurisdiction over the defendant is not required. The court may exercise the jurisdiction granted in this section only if action is taken in accordance with rules adopted by the supreme court to protect the parties.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 371, Eff. Apr. 1, 1975.

Compiler's note: Section 3 of Act 371 of 1974 provides: "The provisions of this act shall apply to all actions pending or commenced on or after the effective date of this act."

600.4011 Garnishment; property or obligation applicable to satisfaction of claim; jurisdiction; state and governmental units as garnishees; ex parte application for writ of garnishment; service; conditions to commencement of garnishment proceeding; immunity of sheriff or other public officer; fee; conveyance of money or property.

Sec. 4011. (1) Subject to sections 4061 and 4061a, and the conditions in subsections (2) to (10), the court has power by garnishment to apply the following property or obligation, or both, to the satisfaction of a claim evidenced by contract, judgment of this state, or foreign judgment, whether or not the state has jurisdiction over the person against whom the claim is asserted:

(a) Personal property belonging to the person against whom the claim is asserted but which is in the possession or control of a third person if the third person is subject to the judicial jurisdiction of the state and the personal property to be applied is within the boundaries of this state.

(b) An obligation owed to the person against whom the claim is asserted if the obligor is subject to the judicial jurisdiction of the state.

(2) Except as provided in sections 4061 and 4061a, the court may exercise the jurisdiction granted in this section only in accordance with the Michigan court rules. Except as otherwise provided by sections 4061 and 4061a and the Michigan court rules, the state and each governmental unit within the state, including but not limited to a public, municipal, quasi-municipal, or governmental corporation, unincorporated board, public body, or political subdivision, may be proceeded against as a garnishee in the same manner and with the same effect as a proceeding against an individual garnishee.

(3) A writ of garnishment may be issued before judgment only as provided in this subsection. Upon ex parte application showing that the person against whom the claim is asserted is not subject to the judicial jurisdiction of the state or, after diligent effort, cannot be served with process as required to subject the person to the judicial jurisdiction of the state, a copy of the writ of garnishment shall be served upon the person against whom the claim is made in the same manner as provided by the Michigan court rules for service of process in other civil actions in which personal jurisdiction over the defendant is not required. Upon entry of judgment in the principal action, the obligation or property garnished shall be applied to the satisfaction of the judgment.

(4) A garnishment proceeding shall not be commenced against the state or a governmental unit of the state, including but not limited to a public, municipal, quasi-municipal, or governmental corporation, unincorporated board, public body, or political subdivision, until after the plaintiff's claim has been reduced to judgment.

(5) A garnishment proceeding shall not be commenced against a person for money owing to a defendant on account of labor performed by the defendant until after the plaintiff's claim has been reduced to judgment.

(6) A sheriff or other public officer is not subject to garnishment for money or things received or collected by him or her pursuant to an execution or other legal process in the favor of the defendant or because of any money in his or her hands for which he or she is accountable merely as a public officer to the defendant.

(7) A garnishment proceeding shall not be commenced if the commencement of such a proceeding is forbidden by a statute of this state.

(8) Except as otherwise provided in sections 4012 and 4061, a plaintiff shall pay a fee of $1.00 to the garnishee at the time the garnishee is served with a writ of garnishment.

(9) If the court or garnishee possesses money or property pursuant to a writ of garnishment after the court releases the garnishee from liability under that writ, the court shall convey or order the conveyance of the money or property to any of the following, as the court determines appropriate:

(a) The defendant's attorney, if the defendant is represented by counsel in the garnishment proceeding.

(b) The defendant, if the defendant is not represented by counsel in the garnishment proceeding.

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(c) The plaintiff.

(10) A writ of garnishment is not effective if both of the following conditions are met:

(a) The plaintiff fails to provide the garnishee with information sufficient for the garnishee to identify the defendant.

(b) The garnishee provides the court with written notice of the insufficiency described in subdivision (a).

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 371, Eff. Apr. 1, 1975;—Am. 1994, Act 346, Eff. Mar. 1, 1995.

Compiler's note: Section 3 of Act 371 of 1974 provides: "The provisions of this act shall apply to all actions pending or commenced on or after the effective date of this act."

600.4012 Writ of garnishment as to periodic payments; duration; priority of writs of garnishment; liability of garnishee defendant; fee; "periodic payments" defined.

Sec. 4012. (1) Except for garnishment of a tax refund under section 4061a, and subject to subsection (2), a writ of garnishment of periodic payments remains in effect for the period prescribed by the Michigan court rules.

(2) A garnishee is not liable for a writ of garnishment of periodic payments under subsection (1) to the extent that the garnishee is required to satisfy another writ of garnishment against the same defendant having a higher priority or having the same priority but received at an earlier date. For purposes of this subsection, writs of garnishment have priority in the following order:

(a) A garnishment resulting from an obligation of court ordered support as defined in section 2 of the support and parenting time enforcement act, Act No. 295 of the Public Acts of 1982, being section 552.602 of the Michigan Compiled Laws.

(b) A levy of the state or a governmental unit of the state to satisfy a tax liability.

(c) Any other garnishments, in the order in which they are served.

(3) Except as otherwise provided by statute, a plaintiff shall pay a fee of $6.00 at the time a writ to the garnishee of garnishment of periodic payments is served upon the garnishee.

(4) As used in this section and section 8410a, "periodic payments" means wages, salary, commissions, and other earnings, land contract payments, rent, and other periodic debt or contract payments that are or become payable during the effective period of the writ of garnishment. Periodic payments do not mean any of the following:

(a) Payments by a financial institution of interest on a deposit account.

(b) Charges made by a financial institution automatically against an account which applies to a debt under an automatic payment authorization executed by the account owner.

(c) Payments made by a financial institution to honor a check or draft or to comply with an account holder's order of withdrawal of funds from an account.

(d) Interest earned on a certificate of deposit that is paid into a deposit account.

History: Add. 1991, Act 67, Eff. Dec. 31, 1991;—Am. 1994, Act 175, Imd. Eff. June 20, 1994;—Am. 1994, Act 346, Eff. Mar. 1, 1995;—Am. 1996, Act 10, Eff. June 1, 1996.

600.4015 Actions as cause of discipline or discharge of principal defendant from employment; reinstatement; civil action.

Sec. 4015. A garnishee defendant shall not use the fact that the principal defendant has had 1 or more actions brought against him under the provisions of this chapter or section 8306 as a cause of discipline or discharge of the principal defendant from employment. A garnishee defendant who violates the provisions of this section shall be required to reinstate the principal defendant to employment and reimburse all compensation lost by the discipline or discharge. The principal defendant may enforce his rights under this section by appropriate civil action.

History: Add. 1974, Act 371, Eff. Apr. 1, 1975.

Compiler's note: Section 3 of Act 371 of 1974 provides: "The provisions of this act shall apply to all actions pending or commenced on or after the effective date of this act."

600.4021 Attachment; venue.

Sec. 4021. The county in which some of the property to be attached is situated is a proper county of venue for attachment.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 371, Eff. Apr. 1, 1975.

Compiler's note: Section 3 of Act 371 of 1974 provides: "The provisions of this act shall apply to all actions pending or commenced on or after the effective date of this act."

600.4025 Venue; garnishment.

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Sec. 4025. The county which would be a proper county of venue as designated in RJA chapter 16 of an action against the defendant who is garnisheed is a proper county of venue for garnishment if

(1) the county is designated in RJA chapter 16 as a proper county of venue of the action against the principal defendant; or

(2) there is no common proper county of venue designated in RJA chapter 16 of an action against the principal and garnishee defendant; or

(3) personal jurisdiction cannot be obtained over the principal defendant.

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

600.4031 Exemptions; attachment and garnishment; partial exemptions.

Sec. 4031. (1) The provisions of the statutes relating to exemptions from execution, and the manner of levying upon property belonging to a class or species in which exemptions are by law allowed, shall be applicable to the application of property and obligations to claims by attachment and garnishment.

(2) In any garnishment proceeding where the indebtedness of the garnishee to the principal defendant is money owed to the principal defendant on account of

(a) the sale to the garnishee of milk or cream or both produced on the farm or farms of the principal defendant, the garnishee's liability to the plaintiff is limited to 40% of such money;

(b) personal labor performed by the principal defendant or his family, the garnishee's liability to the plaintiff is limited by the exemptions allowed under section 7511.

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

600.4035 Attachment; effect; personalty; realty.

Sec. 4035. An attachment shall bind goods and chattels from the time they were attached. An attachment of realty or any right or interest therein shall constitute a lien thereon, effective from the time when a certified copy of the attachment including a description of the realty shall be deposited in the office of the register of deeds in the county where the realty is situated.

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

600.4041 Attachment on realty; discharge.

Sec. 4041. Any attachment on realty or any right or interest therein shall be discharged upon the record thereof by the register of deeds whenever there shall be presented to him a certificate executed by the sheriff, and approved by the plaintiff, his personal representatives or assigns, or his attorney of record in said cause, duly acknowledged; specifying that the attachment has been removed or otherwise satisfied or discharged; or upon the presentation to the register of deeds of the certificate of the circuit court for the county, signed by the sheriff and the clerk of the court and seal thereof, certifying that it has been made to appear to the court that the attachment has been duly removed or otherwise settled.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1965, Act 284, Imd. Eff. July 22, 1965.

600.4045 Attachment or garnishment; dissolution by bond.

Sec. 4045. In every case where property is attached or garnishment is served, the attachment or garnishment may be dissolved by the posting of a bond in accordance with the rules of the supreme court.

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

600.4051 False answer by garnishee or agent; civil liability.

Sec. 4051. Any person summoned as a garnishee or any officer, agent, or other person who appears and answers for a corporation summoned as a garnishee, who knowingly and wilfully answers falsely upon his disclosure or examination on oath is liable to the plaintiff in garnishment, or to his executors or administrators, to pay out of his own goods and estate the full amount due on the judgment recovered with interest, to be recovered in a civil action.

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

600.4061 Garnishment against state; employees designated to receive process; procedures.

Sec. 4061. (1) A plaintiff shall serve garnishment process issued from a court in Michigan against the state of Michigan upon the state treasurer or other state employee designated by the state treasurer to receive garnishment process. The state treasurer shall designate as many employees as he or she considers necessary to receive garnishment process, at least 2 of whom shall have offices in Lansing.

(2) The state treasurer shall designate the employees under subsection (1) in writing and maintain a copy of the written designation in the state treasurer's office. If the state treasurer revokes the designation, the revocation shall be made in the same manner as the designation. If a designated employee ceases to be

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employed by the state treasurer to receive process under subsection (1), the designation of that person is revoked immediately upon termination of his or her employment.

(3) In a garnishment proceeding in which the state is the garnishee, a plaintiff shall do all of the following:

(a) Serve upon the state treasurer or designated employee a writ of garnishment that includes a verified statement signed by the plaintiff, or his or her attorney or agent, identifying the full amount including interest and taxed costs, claimed by the plaintiff to be due upon the judgment against the defendant.

(b) At the time of service of the writ of garnishment, pay to the state treasurer or designated employee a fee of $6.00.

(c) Within 7 days after service of the writ of garnishment on the state treasurer or designated employee, do both of the following:

(*i*) If the writ of garnishment is for a state tax refund or credit, serve a copy of the writ of garnishment upon the defendant in the manner prescribed by the Michigan court rules.

(*ii*) Serve upon the state treasurer any discovery request for information related to the garnishment proceeding that may be in the possession of the department of treasury.

(4) After receiving a discovery request pursuant to subsection (3)(c), the state treasurer shall provide only that information in the possession of the department of treasury that is not otherwise exempted by law from disclosure. The plaintiff shall pay to the state treasurer the reasonable costs incurred by the state treasurer in providing the requested information.

(5) After receiving service of a writ of garnishment as provided in subsection (3), the state treasurer or designated employee shall do 1 of the following:

(a) If the writ is not for the garnishment of a state tax refund or credit, respond in the manner prescribed for garnishment procedures under the Michigan court rules.

(b) If the writ is for garnishment of a state tax refund, respond in the manner prescribed by section 4061a.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1994, Act 346, Eff. Mar. 1, 1995.

600.4061a Interception of state tax refund or credit.

Sec. 4061a. (1) The state treasurer shall intercept a state tax refund or credit that is subject to a writ of garnishment served upon the state treasurer pursuant to section 4061. Upon intercepting a state tax refund or credit pursuant to a writ of garnishment, the state treasurer shall do all of the following:

(a) Calculate the amount available from the interception to satisfy all or part of the garnishment, and within 90 days after establishing other liability for which the state tax refund or credit may be applied under section 30a of Act No. 122 of the Public Acts of 1941, being section 205.30a of the Michigan Compiled Laws, do both of the following:

(*i*) File with the court a verified disclosure that identifies the intercepted amount, less any setoff, counterclaim, or other demand of the state against the defendant.

(*ii*) Serve upon the plaintiff and defendant a copy of the disclosure described in subparagraph (*i*).

(b) Unless notified by the court that objections to the writ of garnishment have been filed, deposit the amount available for the garnishment with either of the following pursuant to the terms of the writ not less than 28 days after filing the disclosure pursuant to subdivision (a):

(*i*) The clerk of the court.

(*ii*) The plaintiff's attorney of record in the garnishment action, or, if the plaintiff is not represented by counsel, the plaintiff or the plaintiff's designee.

(2) Objections to the writ of garnishment of a tax refund shall be filed with the court within 14 days after the date of service of the disclosure on the defendant.

(3) If an interception of a state tax refund or credit does not occur before October 31 of the year during which a writ of garnishment for a state tax refund or credit is to be processed, both of the following apply:

(a) The state treasurer is not required to provide to the defendant or file with the court a disclosure.

(b) The state treasurer is not required to provide to the plaintiff a disclosure unless the plaintiff provides the state treasurer with a written request for a disclosure between November 1 and December 31 of the tax year following the tax year for which a writ of garnishment of a state tax refund or credit was filed.

(4) A disclosure described in subsection (1) is not required to be made under oath.

(5) The state's liability to the plaintiff under a writ of garnishment issued under this section is limited to the amount of the tax refund or credit due to the defendant for the period the writ is in effect, less any setoff, counterclaim, or other demand of the state against the defendant. As used in this subsection, “state” includes the state treasurer.

(6) If all or a portion of an intercepted state tax refund or credit is deposited with the clerk of the court under subsection (1), the court shall convey the deposited amount to the plaintiff's attorney of record in the garnishment action or, if the plaintiff is not represented by counsel, to the plaintiff.

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(7) Michigan court rules that do not conflict with this section or section 4061 govern a garnishment in which the state is a garnishee.

(8) As used in this section, "state treasurer" includes an employee designated by the state treasurer to act on his or her behalf.

History: Add. 1994, Act 346, Eff. Mar. 1, 1995.

600.4065 Evidence in criminal proceedings; disclosure.

Sec. 4065. No disclosure made under the provisions of the garnishment statutes or rules shall be used in evidence upon a criminal prosecution except upon a prosecution of the garnishee for perjury in making his disclosure.

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

CHAPTER 43
HABEAS CORPUS

600.4301 Habeas corpus; provisions of chapter; applicability.

Sec. 4301. The provisions of sections 4301 to 4379 shall be construed to apply to every writ of habeas corpus authorized to be issued under any statute of this state, insofar as they are consistent with the statute granting the right to habeas corpus.

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

600.4304 Habeas corpus; power to issue writ.

Sec. 4304. The writ of habeas corpus to inquire into the cause of detention, or an order to show cause why the writ should not issue, may be issued by the following:

(1) The supreme court, or a justice thereof.

(2) The court of appeals, or a judge thereof.

(3) The circuit courts, or a judge thereof.

(4) The municipal courts of record, including but not limited to the recorder's court of the city of Detroit, common pleas court, or a judge thereof.

(5) The district courts, or a judge thereof.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1967, Act 65, Imd. Eff. June 20, 1967;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

600.4307 Habeas corpus; right to bring action.

Sec. 4307. An action for habeas corpus to inquire into the cause of detention may be brought by or on the behalf of any person restrained of his liberty within this state under any pretense whatsoever, except as specified in section 4310.

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

600.4310 Habeas corpus; persons not entitled to writ.

Sec. 4310. An action for habeas corpus to inquire into the cause of detention may not be brought by or on behalf of the following persons:

(1) Persons detained by virtue of any process issued by any court of the United States, or any judge thereof, in cases where such courts or judges have exclusive jurisdiction under the laws of the United States, or have acquired exclusive jurisdiction by the commencement of suits in such courts;

(2) Persons committed for treason or felony, or for suspicion thereof, or as accessories before the fact to a felony, where the cause is plainly and specially expressed in the warrant of commitment;

(3) Persons convicted, or in execution, upon legal process, civil or criminal;

(4) Persons committed on original process in any civil action on which they were liable to be arrested and imprisoned, unless excessive and unreasonable bail is required.

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

600.4313 Habeas corpus; refusal to consider; malfeasance of judge.

Sec. 4313. Any judge who wilfully or corruptly refuses or neglects to consider an application, action, or motion for habeas corpus, is guilty of malfeasance in office.

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

600.4316 Habeas corpus; granting of writ.

Sec. 4316. Any court or judge empowered to grant the writ of habeas corpus shall, upon proper application, grant the preliminary writ (or an order to show cause) without delay, unless the party applying

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therefor is not entitled to the writ.

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

600.4319 Habeas corpus; custody of child.

Sec. 4319. If the action for habeas corpus is brought by a parent, foster-parent, or other relative of the child, to obtain custody of a child under the age of 16 years from a parent, foster-parent, or other relative of the child, issuance of the writ of habeas corpus is not mandatory.

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

600.4322 Habeas corpus; "prisoner" defined.

Sec. 4322. The term "prisoner", as used in connection with habeas corpus, means the person on whose behalf the writ is issued, such as an inmate of a penal or mental institution, the child whose custody is sought, and other persons alleged to be restrained of their liberty.

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

600.4325 Habeas corpus; person served; duty to bring body of prisoner.

Sec. 4325. If a writ of habeas corpus is issued, the person on whom it is served shall bring the body of the person in his custody according to the command of the writ, except as provided in section 4328.

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

600.4328 Habeas corpus; sickness or infirmity of prisoner.

Sec. 4328. If, from the sickness or infirmity of the prisoner directed to be produced by any writ of habeas corpus, the prisoner cannot, without danger, be brought before the court or judge, the party having custody of the prisoner may state that fact in his answer. The court or judge, if satisfied of the truth of the allegation, and if the answer is otherwise sufficient, shall proceed to dispose of the matter on the record.

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

600.4331 Habeas corpus; refusal or neglect to obey; arrest; close custody; proceeding against sheriff; prisoner to be brought before court; power of county.

Sec. 4331. (1) If the person upon whom the writ of habeas corpus was duly served refuses or neglects to obey the writ without sufficient excuse, the court or judge before whom the writ was to be answered, upon due proof of the service thereof, shall direct the arrest of such person.

(2) The sheriff of any county within this state, or other officer, who is directed to make the arrest, shall apprehend such person, and bring him before the court or judge. The person shall be committed to close custody in the jail of the county in which the court or judge is, without being allowed the liberties thereof, until the person complies with the writ.

(3) If the person ordered arrested is the sheriff of any county, the order may be directed to any coroner or other person, to be designated therein, who has thereby full power to arrest the sheriff. Such sheriff upon being brought up may be committed to the jail of any county other than his own.

(4) The person directed to make the arrest shall also bring the prisoner named in the writ of habeas corpus before the court or judge which issued the writ.

(5) In making the arrest the sheriff or other person so directed may call to his aid the power of the county as in other cases.

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

600.4334 Arrest in support of writ.

Sec. 4334. If any person attempts wrongfully to carry the prisoner out of the county or state after service of a writ of habeas corpus or order to show cause, the person serving the writ or order to show cause, or other officer, shall arrest the person so resisting, and bring him together with the prisoner before the court or judge issuing the writ or order to show cause.

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

600.4337 Warrant for prisoner in lieu of habeas corpus; issuance.

Sec. 4337. Whenever it appears by satisfactory proof, that anyone is held in illegal confinement or custody, and that there is good reason to believe that he will be carried out of the state, or suffer some irreparable injury, before he can be relieved by the issuing of a writ of habeas corpus, any court or judge authorized to issue such writs may issue a warrant, reciting the facts, and directed to any sheriff, constable or other person, and commanding the officer or person to take the prisoner, and forthwith to bring him before the court or judge, to be dealt with according to law.

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

600.4340 Arrest of person having custody of prisoner; warrant.

Sec. 4340. When the proof mentioned in section 4337 is sufficient to justify an arrest of the person having the prisoner in his custody, as for a criminal offense committed in the taking or detaining of the prisoner, the warrant shall also contain an order for the arrest of such person for that offense.

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

600.4343 Arrest of person having custody of prisoner; execution of warrant.

Sec. 4343. Any officer or person to whom the warrant is directed shall execute the warrant by bringing the prisoner therein named, and the person who detains him, if so commanded by the warrant, before the court or judge issuing the warrant. The person detaining the prisoner shall make answer as if a writ of habeas corpus had been issued in the first instance.

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

600.4346 Arrest of person having custody of prisoner; procedure.

Sec. 4346. If the person having the prisoner in his custody is brought before the court or judge, as for a criminal offense, he shall be examined, committed, bailed or discharged by the court or judge in the like manner as in other criminal cases of like nature.

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

600.4349 Custody of prisoner.

Sec. 4349. The court or judge issuing the writ of habeas corpus may commit the prisoner to the custody of such individual or individuals as the court or judge considers proper.

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

600.4352 Discharge of prisoner; enforcement of order; obedience by sheriff or other custodian.

Sec. 4352. (1) If no legal cause is shown for the restraint, or for the continuation thereof, the court or judge shall discharge the person restrained from the restraint under which he is held.

(2) Obedience to any order for the discharge of any prisoner may be enforced by the court or judge granting such order, by arrest in the same manner as is herein provided for disobedience to a writ of habeas corpus, and with like effect in all respects. The person guilty of disobedience to an order for the discharge of any prisoner is liable to the party aggrieved in the sum of $1,000.00 damages, in addition to any special damages the party may have sustained.

(3) No sheriff or other officer is liable to any civil action for obeying any such order of discharge.

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

600.4355 Remanding of prisoner.

Sec. 4355. The court or judge shall forthwith remand the person restrained if the person restrained is detained in custody, either:

(1) By virtue of process issued by any court or judge of the United States, in a case where such court or judge has exclusive jurisdiction; or

(2) By virtue of the final judgment or decree of any competent court of civil or criminal jurisdiction, or of any execution issued upon such judgment or decree; or

(3) For any contempt specially and plainly charged in the commitment by some court, officer or body having authority to commit for the contempt so charged; and

(4) The time during which such party may be legally detained has not expired.

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

600.4358 Discharge of prisoner in civil cases.

Sec. 4358. If the prisoner is in custody by virtue of civil process from any court legally constituted, or issued by any officer in the course of judicial proceedings before him, authorized by law, the prisoner shall be discharged only if 1 of the following situations exists:

(1) Where the jurisdiction of the court or officer has been exceeded, either as to matter, place, sum or person;

(2) Where, though the original imprisonment was lawful, the party is entitled to be discharged;

(3) Where the process is void;

(4) Where the process, though in proper form, has been issued in a case not allowed by law;

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(5) Where the person having the custody of the prisoner is not the person empowered by law to detain him; or

(6) Where the process is not authorized by any judgment, order or decree of any court, nor by any provision of law.

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

600.4361 Remanding or commitment of prisoner.

Sec. 4361. If the prisoner is not entitled to his discharge, and is not bailed, the court or judge shall place him under the restraint from which he was taken, if the person under whose restraint he was is legally entitled thereto. If not so entitled, the court or judge shall commit the prisoner to the custody of such officer or person as by law is entitled thereto.

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

600.4364 Recommitment of prisoner; causes.

Sec. 4364. No person who has been discharged by the order of any court or judge upon habeas corpus shall be again restrained for the same cause. It is not the same cause if:

(1) He was discharged from a commitment on a criminal charge, and is afterwards committed for the same offense, by the legal order or process of the court wherein he is bound by recognizance to appear, or in which he is indicted or convicted for the same offense; or

(2) After a discharge for defect of proof, or for any material defect in the commitment, in a criminal case, the prisoner is again arrested on sufficient proof, and committed by legal process for the same offense; or

(3) In a civil suit the party was discharged for any illegality in the judgment or process and is afterwards imprisoned by legal process for the same cause of action; or

(4) In any civil suit in which process may lawfully issue against the body, he was discharged from commitment on original process, and is afterwards committed on execution in the same cause, or on original process in any other suit, after such first suit was discontinued.

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

600.4367 Recommitment of prisoner; violation of section; penalty.

Sec. 4367. If any person knowingly:

(1) violates section 4364, or

(2) causes section 4364 to be violated, or

(3) aids or assists in the violation of section 4364; he is guilty of a misdemeanor, and is liable to the party aggrieved in the sum of $1,000.00 damages.

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

600.4370 Concealment of prisoner; misdemeanor.

Sec. 4370. Any one having under his power any person who would be entitled to a writ of habeas corpus to inquire into the cause of his detention, or for whose relief any such writ, warrant, or order to show cause was issued, who shall, with intent to elude the service of the writ, or to avoid the effect thereof, place any such prisoner under the power of another, or conceal him, or change the place of his confinement, is guilty of a misdemeanor.

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

600.4373 Concealment of prisoner; aiding; misdemeanor.

Sec. 4373. Every person who knowingly aids or assists in the violation of section 4370 is guilty of a misdemeanor.

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

600.4376 Concealment of prisoner; misdemeanor; penalty.

Sec. 4376. Every person convicted of any of the misdemeanors specified in sections 4367, 4370 and 4373 shall be punished by a fine not exceeding $1,000.00, or by imprisonment in the county jail not exceeding 6 months, or by both such fine and imprisonment, in the discretion of the court.

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

600.4379 Refusal to deliver copy of authority for detention of prisoner; time; civil liability.

Sec. 4379. Any officer or other person who refuses or neglects for 6 hours to deliver a copy of any order, warrant, process or other authority by which he detains any person, to any one who demands such copy and tenders the lawful fees therefor, is liable to the person so detained in the sum of $200.00 damages.

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

600.4385 Habeas corpus for witness; issuance; transfer of prisoner.

Sec. 4385. (1) The judges of every court of record have the power to issue a writ of habeas corpus for the purpose of bringing before that court, or another court or body authorized to examine witnesses, any prisoner who may be detained in any jail or prison within this state, to be examined as a witness.

(2) The judge may order in the writ that the prisoner be placed in the custody of a designated officer for transportation to the place of examination and return, instead of requiring the person having custody of the prisoner to produce the prisoner at the place of examination.

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

600.4387 Habeas corpus; liability of officer for disobedience to writ.

Sec. 4387. Whenever any writ of habeas corpus is issued pursuant to section 4385, the officer on whom the writ is served shall obey the writ in the manner and within the time prescribed by statute or court rule. Every officer who neglects or refuses so to do, is liable in the sum of $500.00 to:

(1) the people of this state, if the writ was issued upon the application of the attorney general, or a prosecuting attorney; or

(2) the party upon whose application the writ was issued.

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

CHAPTER 44
MANDAMUS

600.4401 Action for mandamus against state officer; commencement; rule for joinder of claims or consolidation of actions; rule for referral of action to circuit court.

Sec. 4401. (1) An action for mandamus against a state officer shall be commenced in the court of appeals, or in the circuit court in the county in which venue is proper or in Ingham county, at the option of the party commencing the action.

(2) The supreme court may provide by rule for the joinder of claims or consolidation of actions in the court of appeals or the circuit court if those claims or actions include a prayer for mandamus against a state officer and arise out of the same circumstances or raise a similar issue of law.

(3) The supreme court may provide by rule for the referral of an action from the court of appeals to the circuit court to determine and report its findings of fact or to hear and decide the action if substantial fact finding is necessary to determine the applicability of mandamus relief.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1967, Act 65, Imd. Eff. June 20, 1967;—Am. 1976, Act 317, Eff. Jan. 1, 1977.

Compiler's note: Section 2 of Act 317 of 1976 provides: "As provided by the rule of the supreme court, this amendatory act may apply to actions pending on January 1, 1977."

600.4411 Mandamus; violation; penalty.

Sec. 4411. Whenever mandamus is directed to any public officer, body or board, corporation or corporate officer, commanding them to perform any duty, specially enjoined upon them by any provisions of law, in addition to ordering the performance of such duty, if it appears to the court that such officer, or any member of such body or board, has, without just excuse, refused or neglected to perform the duty so enjoined, the court may impose a fine not exceeding $250.00 upon every such officer or member of such board or body.

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

600.4421 Mandamus; payment of fine; bar to action.

Sec. 4421. The payment of such fine shall be a bar to any action for any penalty incurred by such officer, or member of such body or board, by reason of his refusal or neglect to perform the duty so enjoined.

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

600.4431 Mandamus; damages; costs; public officer.

Sec. 4431. Damages and costs may be awarded in an action for mandamus. No damages may be allowed in mandamus against a public officer who, in good faith, acted erroneously.

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

CHAPTER 45
QUO WARRANTO

600.4501 Quo warranto; attorney general; private party.

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Sec. 4501. The attorney general shall bring an action for quo warranto when the facts clearly warrant the bringing of that action. If the attorney general receives information from a private party and refuses to act, that private party may bring the action upon leave of court.

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

600.4505 Usurpation of office; determination; judgment for relator; proceedings.

Sec. 4505. (1) In actions brought against persons for usurpation of office, the judgment may determine the right of the defendant to hold the office. If a party plaintiff alleges that he is entitled to the office, the court may decide which of the parties is entitled to hold the office.

(2) If judgment is rendered in favor of a party who is averred to be entitled to the office, he is entitled, after taking the oath of office, and executing any official bond which is required by law, to take the office. Such party shall be given all the books and papers in the custody of the defendant, or within his power, belonging to the office.

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

600.4511 Usurpation of office; damages.

Sec. 4511. When an action is brought against a person for usurping an office and the person rightfully entitled to the office is a party and avers his right to it, and judgment is rendered in his favor, he is entitled to any damages sustained because of the usurpation by the defendant of the office from which the defendant has been evicted. The claim for damages may be joined with the claim for quo warranto, or brought separately within 1 year after the judgment in the action for quo warranto.

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

600.4515 Usurpation of office; ouster; costs; fine.

Sec. 4515. Whenever any defendant in a quo warranto proceeding is found or adjudged guilty of usurping or intruding into or unlawfully holding or exercising any office, franchise, or privilege, judgment shall be rendered that the defendant be ousted and altogether excluded from that office, franchise, or privilege. In addition to awarding costs against the defendant, the court may, in its discretion, impose a fine upon the defendant found guilty, not exceeding $2,000.00.

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

600.4521 Judgment against corporation; dissolution; fine.

Sec. 4521. If a corporation has, by any misuser, nonuser, or surrender, forfeited its corporate rights, privileges and franchises, the judgment in an action for quo warranto shall oust and exclude such corporation from such corporate rights, privileges and franchises, and may dissolve the corporation. In addition to such judgment or in lieu thereof (except in case of such surrender), the court may impose a fine not exceeding $10,000.00 upon the corporation. The fine will not prevent further prosecution for any continuance or repetition of the conduct complained of.

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

600.4525 Judgment against corporation; collection of fine and costs.

Sec. 4525. If such judgment is rendered or if fine is imposed against any corporation, or against any persons claiming to be a corporation, the court may cause the fine and the costs of the action to be collected by execution against the persons claiming to be a corporation, or against the directors or other officers of any such corporation.

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

600.4531 Judgment against corporation; restraint; receiver; accounting; distribution of assets; duty of attorney general.

Sec. 4531. Whenever any such judgment is rendered, any court having equity jurisdiction has the same powers to restrain the corporation against which it is rendered; to appoint a receiver of its property and effects; and to take an account and make distribution thereof among its creditors, as in the case of the voluntary dissolution of a corporation, and the attorney general shall, immediately after the rendering of any such judgment, institute proceedings for that purpose.

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

600.4535 Judgment; filing of record of judgment; notice; publication.

Sec. 4535. Whenever any such judgment is rendered against a corporation, a copy of the record of such judgment shall be forthwith filed in the office of the corporation and securities commission. The corporation

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and securities commission shall forthwith cause notice of the substance and effect of such recovery to be published for 4 successive weeks in some newspaper printed at the seat of government, and in a newspaper printed in the county where the principal office or place of business of such corporation is, if a newspaper is printed there.

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

600.4541 Forfeited property; recovery by attorney general.

Sec. 4541. Whenever by the provisions of law or order of the court any property, real or personal, is forfeited to the people of this state or to any officers for their use, an action for the recovery of such property alleging the grounds of such forfeiture may be filed by the attorney general in the circuit court.

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

600.4545 Election fraud or error; circuit court; time for filing action; plaintiffs; defendant; procedure.

Sec. 4545. (1) An action may be brought in the circuit court of any county of this state whenever it appears that material fraud or error has been committed at any election in such county at which there has been submitted any constitutional amendment, question, or proposition to the electors of the state or any county, township, or municipality thereof.

(2) Such action shall be brought within 30 days after such election by the attorney general or the prosecuting attorney of the proper county on his own relation, or on the relation of any citizen of said county without leave of the court, or by any citizen of the county by special leave of the court or a judge thereof. Such action shall be brought against the municipality wherein such fraud or error is alleged to have been committed.

(3) After such action is brought the procedure shall conform as near as may be to that provided by law for actions for quo warranto.

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

CHAPTER 47

600.4701 Definitions.

Sec. 4701. As used in this chapter:

(a) "Crime" means committing, attempting to commit, conspiring to commit, or soliciting another person to commit any of the following offenses in connection with which the forfeiture of property is sought:

(*i*) A violation of part 111 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11101 to 324.11153.

(*ii*) A violation of part 121 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.12101 to 324.12117.

(*iii*) A violation of section 4, 5, or 7 of the medicaid false claim act, 1977 PA 72, MCL 400.604, 400.605, and 400.607.

(*iv*) A violation of section 2 or 3 of the Michigan antitrust reform act, 1984 PA 274, MCL 445.772 and 445.773.

(*v*) A violation described in section 409 of the uniform securities act, 1964 PA 265, MCL 451.809, or section 508 of the uniform securities act (2002), 2008 PA 551, MCL 451.2508.

(*vi*) A violation of section 5 or 7 of 1978 PA 33, MCL 722.675 and 722.677.

(*vii*) A violation of section 49, 75, 94, 95, 96, 100, 104, 105, 106, 110, 112, 117, 118, 119, 120, 121, 124, 145c, 145d, 157q, 157r, 174, 175, 176, 180, 181, 182, 213, 214, 218, 219a, 224, 248, 249, 250, 251, 252, 253, 254, 255, 263, 264, 271, 272, 273, 274, 300, 356, 357, 357a, 359, 360, 529, 530, 531, 535, 540c, or 540g or chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.49, 750.75, 750.94, 750.95, 750.96, 750.100, 750.104, 750.105, 750.106, 750.110, 750.112, 750.117, 750.118, 750.119, 750.120, 750.121, 750.124, 750.145c, 750.145d, 750.157q, 750.157r, 750.174, 750.175, 750.176, 750.180, 750.181, 750.182, 750.213, 750.214, 750.218, 750.219a, 750.224, 750.248, 750.249, 750.250, 750.251, 750.252, 750.253, 750.254, 750.255, 750.263, 750.264, 750.271, 750.272, 750.273, 750.274, 750.300, 750.356, 750.357, 750.357a, 750.359, 750.360, 750.529, 750.530, 750.531, 750.535, 750.540c, 750.540g, and 750.543a to 750.543z.

(*viii*) A violation of 1979 PA 53, MCL 752.791 to 752.797.

(*ix*) A violation of section 601 of the occupational code, 1980 PA 299, MCL 339.601.

(b) "Instrumentality of a crime" means any property, other than real property, the use of which contributes directly and materially to the commission of a crime.

(c) "Person" means an individual, corporation, limited liability company, partnership, or other business

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entity, or an unincorporated or voluntary association.

(d) "Proceeds of a crime" means any property obtained through the commission of a crime, including any appreciation in the value of the property.

(e) "Security interest" means any interest in real or personal property that secures payment or performance of an obligation.

(f) "Substituted proceeds of a crime" means any property obtained or any gain realized by the sale or exchange of proceeds of a crime.

History: Add. 1988, Act 104, Eff. June 1, 1988;—Am. 1993, Act 245, Eff. Apr. 1, 1994;—Am. 1995, Act 229, Eff. Jan. 1, 1996;—Am. 1996, Act 327, Eff. Apr. 1, 1997;—Am. 1997, Act 156, Eff. Mar. 1, 1998;—Am. 1998, Act 141, Eff. Sept. 1, 1998;—Am. 1998, Act 547, Eff. Mar. 23, 1999;—Am. 2000, Act 184, Eff. Sept. 18, 2000;—Am. 2002, Act 142, Eff. May 1, 2002;—Am. 2007, Act 156, Eff. June 1, 2008;—Am. 2009, Act 83, Imd. Eff. Aug. 31, 2009.

600.4702 Property subject to seizure and forfeiture; encumbrances; substituted proceeds of crime.

Sec. 4702. (1) Except as otherwise provided in this section, the following property is subject to seizure by, and forfeiture to, a local unit of government or this state under this chapter:

(a) All personal property that is the proceeds of a crime, the substituted proceeds of a crime, or an instrumentality of a crime.

(b) All real property that is the proceeds of a crime or the substituted proceeds of a crime, except real property that is the primary residence of the spouse or a dependent child of the owner, unless that spouse or dependent child had prior knowledge of, and consented to the commission of, the crime.

(c) In the case of a crime that is a violation of chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z, all property described in subdivisions (a) and (b) and all real property or personal property that performed 1 of the following functions:

(*i*) Contributed directly and materially to the commission of the crime.

(*ii*) Was used to conceal the crime.

(*iii*) Was used to escape from the scene of the crime.

(*iv*) Was used to conceal the identity of 1 or more of the individuals who committed the crime.

(2) Property is not subject to seizure or forfeiture if either of the following circumstances exists:

(a) The owner of the property did not have prior knowledge of, or consent to the commission of, the crime.

(b) The owner served written notice of the commission of the crime upon an appropriate law enforcement agency, and served a written notice to quit upon the person who committed the crime.

(3) The forfeiture of property encumbered by a security interest is subject to the interest of the holder of the security interest who did not have prior knowledge of, or consent to the commission of, the crime.

(4) The forfeiture of property encumbered by an unpaid balance on a land contract is subject to the interest of the land contract vendor, if the vendor did not have prior knowledge of, or consent to the commission of, the crime.

(5) The forfeiture of the substituted proceeds of a crime is limited to the value of the proceeds of the crime plus the amount by which any restitution or damages owed to the victim of the crime exceeds the value of the proceeds of the crime.

History: Add. 1988, Act 104, Eff. June 1, 1988;—Am. 2002, Act 142, Eff. May 1, 2002.

600.4703 Order of seizure; seizure without process; order authorizing filing of lien notice; return of property to victim; property in custody of seizing agency; powers of seizing agency; disposition of seized money.

Sec. 4703. (1) Personal property subject to forfeiture under this chapter may be seized pursuant to an order of seizure issued by the court having jurisdiction over the property upon a showing of probable cause that the property is subject to forfeiture.

(2) Personal property subject to forfeiture under this chapter may be seized without process under any of the following circumstances:

(a) The property is the proceeds of a crime or an instrumentality of a crime and the seizure is incident to a lawful arrest.

(b) The seizure is pursuant to a valid search warrant.

(c) The seizure is pursuant to an inspection under a valid administrative inspection warrant.

(d) There is probable cause to believe that the property is directly or indirectly dangerous to health or safety.

(e) Exigent circumstances exist that preclude the obtaining of a court order, and there is probable cause to believe that the property is the proceeds of a crime or an instrumentality of a crime.

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(f) The property is the subject of a prior judgment in favor of this state in a forfeiture proceeding.

(3) The attorney general, or the prosecuting attorney or the city or township attorney for the local unit of government in which the property is located, may apply ex parte for an order authorizing the filing of a lien notice against real property subject to forfeiture under this chapter. The application shall be supported by a sworn affidavit setting forth probable cause for a forfeiture action pursuant to this chapter. An order authorizing the filing of a lien notice may be issued upon a showing of probable cause to believe that the property is the proceeds of a crime or the substituted proceeds of a crime.

(4) Property that belongs to the victim of a crime shall promptly be returned to the victim, except in the following circumstances:

(a) If the property is contraband.

(b) If the ownership of the property is disputed until the dispute is resolved.

(c) If the property is required to be retained as evidence pursuant to section 4(4) of the crime victim's rights act, 1985 PA 87, MCL 780.754.

(5) Personal property seized under this chapter is not subject to any other action to recover personal property, but is considered to be in the custody of the seizing agency subject only to subsection (4) and sections 4705 to 4707, or to an order and judgment of the court having jurisdiction over the forfeiture proceedings. Except as provided in subsection (6), when property is seized under this chapter, the seizing agency may do either or both of the following:

(a) Place the property under seal.

(b) Remove the property to a place designated by the court.

(6) The seizing agency may deposit money seized under this chapter into an interest-bearing account in a financial institution. As used in this subsection, "financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and that maintains a principal office or branch office located in this state under the laws of this state or the United States.

History: Add. 1988, Act 104, Eff. June 1, 1988;—Am. 2006, Act 128, Imd. Eff. May 5, 2006.

600.4703a Seizure of computer or computer information storage device; copy provided to court; retention as confidential record; “computer” and “computer storage device” defined.

Sec. 4703a. (1) If a computer or computer information storage device is seized for a violation of Act No. 53 of the Public Acts of 1979, being sections 752.791 to 752.797 of the Michigan Compiled Laws, the seizing agency shall immediately make a copy of all information contained in that computer or computer information storage device under the supervision of the court and in a manner approved by the court having jurisdiction and provide that copy to the court.

(2) The court shall retain the copy received under subsection (1) as a confidential record. The copy shall be used only to verify the integrity of the information contained in the computer or computer information storage device seized. Upon conclusion of the proceedings, the court shall order the copy of the information destroyed.

(3) As used in this section:

(a) “Computer” means that term as defined in section 2(3) of Act No. 53 of the Public Acts of 1979, being section 752.792 of the Michigan Compiled Laws.

(b) “Computer storage device” means a tape, disk, card, or other device used or intended to be used to store information for use by a computer.

History: Add. 1996, Act 327, Eff. Apr. 1, 1997.

600.4704 Notice generally.

Sec. 4704. (1) Within 7 days after personal property is seized or a lien notice is filed against real property under section 4703, the seizing agency or, if the property is real property, the attorney general, the prosecuting attorney, or the city or township attorney shall give notice of the seizure of the property and the intent to forfeit and dispose of the property according to this chapter to each of the following persons:

(a) If charges have been filed against a person for a crime, the person charged.

(b) Each person with a known ownership interest in the property.

(c) Each mortgagee, person holding a security interest, or person having a lien that appears on the certificate of title or is on file with the secretary of state or appropriate register of deeds, if the property is real property, a mobile home, motor vehicle, watercraft, or other personal property.

(d) Each holder of a preferred ship mortgage of record in the appropriate public office pursuant to 46 USC 30101, 31301-31343, if the property is a watercraft more than 28 feet long or a watercraft that has a capacity

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of 5 net tons or more.

(e) Each person whose security interest is recorded with the appropriate public office pursuant to the federal aviation act of 1958, Public Law 85-726, if the property is an aircraft, aircraft engine, or aircraft propeller, or a part of an aircraft, aircraft engine, or aircraft propeller.

(f) Each person with a known security interest in the property.

(g) Each victim of the crime.

(2) The notice required under subsection (1) shall be a written notice delivered to the person or sent to the person by certified mail. If the name and address of the person are not reasonably ascertainable or delivery of the notice cannot reasonably be accomplished, the notice shall be published in a newspaper of general circulation in the county in which the personal property was seized or the real property is located for 10 successive publishing days. Proof of written notice or publication shall be filed with the court having jurisdiction over the seizure or forfeiture.

(3) If personal property was seized, the seizing agency shall immediately notify the prosecuting attorney for the county in which the property was seized or, if the attorney general is actively handling a case involving or relating to the property, the attorney general of the seizure of the property and the intent to forfeit and dispose of the property according to this chapter.

(4) An attorney for a person described in subsection (1)(a) shall be afforded a period of 60 days within which to examine money seized under section 4703. This 60-day period shall begin to run after notice is given under subsection (1) but before the money is deposited into a financial institution.

History: Add. 1988, Act 104, Eff. June 1, 1988;—Am. 2006, Act 128, Imd. Eff. May 5, 2006.

600.4705 Motion to return property or discharge lien; grounds; hearing; burden of proof; order; filing lien against vehicle and returning vehicle to owner; admissibility of testimony in criminal prosecution.

Sec. 4705. (1) A person who did not have prior knowledge of, or consent to the commission of, the crime may move the court having jurisdiction to return the property or discharge the lien on the grounds that the property was illegally seized, that the property is not subject to forfeiture under this chapter, or that the person has an ownership or security interest in the property and did not have prior knowledge of, or consent to the commission of, the crime. The court shall hear the motion within 30 days after the motion is filed.

(2) At the hearing on the motion filed under subsection (1), the attorney general, or the prosecuting attorney or the city or township attorney for the local unit of government in which the property was seized or the lien was filed, shall establish the following:

(a) Probable cause to believe that the property is subject to forfeiture under this chapter and that the person filing the motion had prior knowledge of, or consented to the commission of, the crime.

(b) If the person filing the motion claims the property was illegally seized, that the property was properly seized.

(3) If the attorney general, prosecuting attorney, or city or township attorney fails to sustain his or her burden of proof under subsection (2), the court shall order the return of the property, including any interest earned on money deposited in a financial institution as described in section 4703(6), or the discharge of the lien.

(4) If a motor vehicle is seized under section 4703, the owner of the vehicle may move the court having jurisdiction over the forfeiture proceedings to require the seizing agency to file a lien against the vehicle and to return the vehicle to the owner. The court shall hear the motion within 7 days after the motion is filed. If the owner of the vehicle establishes at the hearing that he or she holds the legal title of the vehicle and that it is necessary for him or her or his or her family to use the vehicle pending the outcome of the forfeiture action, the court may order the seizing agency to return the vehicle to the owner. If the court orders the return of the vehicle to the owner, the court shall order the seizing agency to file a lien against the vehicle.

(5) The testimony of a person at a hearing held under this section is not admissible against him or her in any criminal proceeding except in a criminal prosecution for perjury. The testimony of a person at a hearing held under this section does not waive the person's constitutional right against self-incrimination.

History: Add. 1988, Act 104, Eff. June 1, 1988;—Am. 2006, Act 128, Imd. Eff. May 5, 2006.

600.4706 Return of personal property to owner; discharge of lien against real property or motor vehicle; time limitation.

Sec. 4706. Except as otherwise provided by law, personal property seized pursuant to section 4703 shall be returned to the owner, or a lien filed against real property under section 4703 or against a motor vehicle under section 4705 shall be discharged, within 7 days after the occurrence of any of following:

(a) A warrant is not issued against a person for the commission of a crime within 7 days after the property

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is seized or, if the property is real property, within 7 days after the lien is filed.

(b) All charges against the consenting legal owner relating to the commission of a crime are dismissed.

(c) The consenting legal owner charged with committing a crime is acquitted of the crime.

(d) In the case of multiple defendants, all persons charged with committing a crime are acquitted of the crime.

(e) Entry of a court order pursuant to this chapter for the return of the property or the discharge of the lien.

History: Add. 1988, Act 104, Eff. June 1, 1988.

600.4706a Notice that property returned or lien discharged.

Sec. 4706a. (1) Within 7 days after personal property is returned to the owner, or a lien filed against real property or a motor vehicle is discharged pursuant to section 4706, the seizing agency, or if the property is real property, the attorney general, the prosecuting attorney, or the city or township attorney who gave notice of the seizure of the property and the intent to forfeit and dispose of the property pursuant to section 4704, shall give notice to the persons who received notice pursuant to section 4704 that the property has been returned to the owner or that the lien has been discharged pursuant to section 4706.

(2) The notice required under subsection (1) shall be a written notice delivered to the person or sent to the person by certified mail. If the name and address of the person are not reasonably ascertainable or delivery of the notice cannot reasonably be accomplished, the notice shall be published in a newspaper of general circulation in the county in which the personal property was seized or the real property is located for 10 successive publishing days.

History: Add. 1988, Act 104, Eff. June 1, 1988.

600.4707 Notice of seizure of property or filing of lien and intent to begin forfeiture and disposal proceedings; time limitation; filing claim; civil action for forfeiture; burden of proof.

Sec. 4707. (1) If property subject to forfeiture under this chapter has a total value of less than $100,000.00, within 7 days after the conviction of a person of a crime, the state or local unit of government seeking forfeiture of the property shall give notice of the seizure of the property or, if a lien has been filed, the filing of the lien, and the intent to begin proceedings to forfeit and dispose of the property according to this chapter to each of the persons to whom notice is required to be given under section 4704. Notice shall be given in the same manner as required under section 4704.

(2) Within 21 days after receipt of the notice or of the date of the first publication of the notice under subsection (1), a person claiming an interest in property subject to the notice may file a claim with the local unit of government or the state expressing his or her interest in the property.

(3) If no claim is filed within the 21-day period as described in subsection (2), the local unit of government or the state shall declare the property forfeited and shall dispose of the property according to section 4708.

(4) If a claim is filed within the 21-day period as described in subsection (2), the local unit of government or the state shall transmit the claim with a list and description of the property to the attorney general or to the prosecuting attorney or the city or township attorney for the local unit of government in which the personal property was seized or the real property is located. The attorney general, the prosecuting attorney, or the city or township attorney shall institute a civil action for forfeiture within 7 days after the expiration of the 21-day period.

(5) If property subject to forfeiture under this chapter has a total value of more than $100,000.00, the attorney general, or the prosecuting attorney or the city or township attorney for the local unit of government in which the personal property was seized or the real property is located, shall institute a civil action for forfeiture within 7 days after the conviction of a person of a crime.

(6) At the forfeiture proceeding, the plaintiff shall prove the following by a preponderance of the evidence:

(a) If the property is personal property, that the property is the proceeds of a crime, the substituted proceeds of a crime, or an instrumentality of a crime.

(b) If the property is real property, that the property is the proceeds of a crime or the substituted proceeds of a crime.

(c) If a person, other than the person convicted of the crime, claims an ownership or security interest in the property, that the person claiming the interest in the property had prior knowledge of, or consented to the commission of, the crime.

(7) If the plaintiff fails to meet the burden of proof under subsection (6), the property shall be returned to the owner within 7 days.

History: Add. 1988, Act 104, Eff. June 1, 1988.

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600.4708 Sale of property; disposition of proceeds or other things of value; priority; appointment, compensation, and authority of receiver.

Sec. 4708. (1) When property is forfeited under this chapter, the unit of government that seized or filed a lien against the property may sell the property that is not required to be destroyed by law and that is not harmful to the public and may dispose of the proceeds and any money, including any interest earned on money deposited in a financial institution as described in section 4703(6), negotiable instrument, security, or other thing of value that is forfeited pursuant to this chapter in the following order of priority:

(a) Pay any outstanding security interest of a secured party who did not have prior knowledge of, or consent to the commission of, the crime.

(b) Satisfy any order of restitution in the prosecution for the crime.

(c) Pay the claim of each person who shows that he or she is a victim of the crime to the extent that the claim is not covered by an order of restitution.

(d) Pay any outstanding lien against the property that has been imposed by a governmental unit.

(e) Pay the proper expenses of the proceedings for forfeiture and sale, including, but not limited to, expenses incurred during the seizure process and expenses for maintaining custody of the property, advertising, and court costs.

(f) The balance remaining after the payment of restitution, the claims of victims, outstanding liens, and expenses shall be distributed by the court having jurisdiction over the forfeiture proceedings to the unit or units of government substantially involved in effecting the forfeiture. Seventy-five percent of the money received by a unit of government under this subdivision shall be used to enhance enforcement of the criminal laws and 25% of the money shall be used to implement the crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834. A unit of government receiving money under this subdivision shall report annually to the department of management and budget the amount of money received under this subdivision that was used to enhance enforcement of the criminal laws and the amount that was used to implement the crime victim's rights act.

(2) In the course of selling real property pursuant to subsection (1), the court that enters an order of forfeiture, on motion of the unit of government to whom the property is forfeited, may appoint a receiver to dispose of the real property forfeited. The receiver is entitled to reasonable compensation. The receiver has authority to do all of the following:

(a) List the forfeited real property for sale.

(b) Make whatever arrangements are necessary for the maintenance and preservation of the forfeited real property.

(c) Accept offers to purchase the forfeited real property.

(d) Execute instruments transferring title to the forfeited real property.

History: Add. 1988, Act 104, Eff. June 1, 1988;—Am. 2006, Act 128, Imd. Eff. May 5, 2006.

600.4709 Jurisdiction.

Sec. 4709. The forfeiture action and related proceedings provided for in this chapter shall be brought in the district court pursuant to that court's equity jurisdiction established under section 8303, except that in a local unit of government in which there is a municipal court, the circuit court shall have original jurisdiction over the forfeiture action and related proceedings provided for in this chapter.

History: Add. 1988, Act 104, Eff. June 1, 1988.

CHAPTER 48

COLLECTION OF PENALTIES, FINES, AND FORFEITED RECOGNIZANCES

600.4801 Definitions.

Sec. 4801. As used in this chapter:

(a) “Costs” means any monetary amount that the court is authorized to assess and collect for prosecution, adjudication, or processing of criminal offenses, civil infractions, civil violations, and parking violations, including court costs, the cost of prosecution, and the cost of providing court-ordered legal assistance to the defendant.

(b) “Fee” means any monetary amount, other than costs or a penalty, that the court is authorized to impose and collect pursuant to a conviction, finding of responsibility, or other adjudication of a criminal offense, a civil infraction, a civil violation, or a parking violation, including a driver license reinstatement fee.

(c) “Penalty” includes fines, forfeitures, and forfeited recognizances.

(d) “Civil violation” means a violation of a law of this state or a local ordinance, other than a criminal offense or a violation that is defined or designated as a civil infraction, that is punishable by a civil fine or

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forfeiture under the applicable law or ordinance.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1993, Act 317, Eff. Jan. 1, 1994.

600.4803 Penalty, fee, or costs; failure to pay as subject to late penalty; waiver; disposition of late penalty; "funding unit" defined.

Sec. 4803. (1) A person who fails to pay a penalty, fee, or costs in full within 56 days after that amount is due and owing is subject to a late penalty equal to 20% of the amount owed. The court shall inform a person subject to a penalty, fee, or costs that the late penalty will be applied to any amount that continues to be unpaid 56 days after the amount is due and owing. Penalties, fees, and costs are due and owing at the time they are ordered unless the court directs otherwise. The court shall order a specific date on which the penalties, fees, and costs are due and owing. If the court authorizes delayed or installment payments of a penalty, fee, or costs, the court shall inform the person of the date on which, or time schedule under which, the penalty, fee, or costs, or portion of the penalty, fee, or costs, will be due and owing. A late penalty may be waived by the court upon the request of the person subject to the late penalty.

(2) Within 30 days after receiving a late penalty, the clerk of the court shall transmit the amount received to the treasurer or chief financial officer of the funding unit of the court, for deposit in the general fund of the funding unit.

(3) As used in this section, "funding unit" means 1 of the following as applicable:

(a) For the circuit court, each county in the circuit.

(b) For the recorder's court of the city of Detroit, the county.

(c) For the district court, the district funding unit of the district, as defined in section 8104.

(d) For a municipal court, the political unit where the municipal court is located.

History: Add. 1993, Act 317, Eff. Jan. 1, 1994;—Am. 1996, Act 374, Eff. Oct. 1, 1996.

600.4805 Penalty; recovery.

Sec. 4805. Unless otherwise specially provided for by law, if a penalty, fee, or costs are incurred by any person and the act or omission for which the penalty, fee, or costs are imposed is not also a misdemeanor, the penalty, fee, or costs may be recovered in the same manner as civil judgments for money in the same court.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 2003, Act 178, Eff. Oct. 1, 2003.

600.4811 Penalty; amount not specified, action.

Sec. 4811. When a penalty is imposed by law for any act or omission, not exceeding any specified sum, an action may be brought for the highest sum so specified. The jury, or court before whom the trial is had, shall award the sum deemed proportionate to the offense, within the limitation prescribed by law.

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

600.4815 Fines and costs; execution.

Sec. 4815. Execution may issue for the collection of fines and costs imposed for misdemeanors, or offenses punishable by fine or imprisonment, or fine and imprisonment, in all cases where no alternative sentence or judgment of imprisonment has been rendered. No person may be imprisoned under and by virtue of such execution for a greater period than 90 days.

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

600.4821 Execution on forfeited recognizance; redemption of real estate.

Sec. 4821. If any recognizance to the people of this state is forfeited, judgment shall be for the amount of the penalty of the recognizance. Execution shall be awarded and executed upon such judgment in the same manner as upon judgments in personal actions, and with like effect. If any real estate is sold by virtue of an execution awarded on such judgment, it may be redeemed as in other cases.

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

600.4825 Penalty; township officers; notice to prosecuting attorney.

Sec. 4825. Every township officer who knows, or has good reason to believe, that any penalty has been incurred within his township, shall forthwith give notice thereof to the prosecuting attorney of the county.

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

600.4831 Penalty; prosecution by prosecuting attorney.

Sec. 4831. (1) Where the prosecuting attorney knows, or has reason to believe, that a penalty has been incurred within his county, or has been notified of such penalty by a township officer, he shall prosecute for such penalty without delay.

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(2) If the township supervisor has commenced a suit to recover such penalty, the prosecuting attorney shall, on request by such supervisor, attend to and conduct such suit on behalf of the plaintiff.

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

600.4835 Penalty; remission by circuit court.

Sec. 4835. The circuit court for the county in which such court was held, or in which such recognizance was taken, may, upon good cause shown, remit any penalty, or any part thereof, upon such terms as appear just and equitable to the court. But this section does not authorize such court to remit any fine imposed by any court upon a conviction for any criminal offense, nor any fine imposed by any court for an actual contempt of such court, or for disobedience of its orders or process.

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

600.4841 Collections; payment to county treasurer.

Sec. 4841. (1) All officers or other persons who collect or receive any moneys on account of any penalty shall pay over the same to the county treasurer on or before the last day of the month following.

(2) Upon learning that any person has neglected to pay over such moneys within such time, the county treasurer shall proceed in the circuit court for the county to collect such moneys.

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

600.4845 Moneys from fines and penalties; duties of county treasurer.

Sec. 4845. (1) The county treasurer shall credit all fines for the violation of the penal laws to the library fund and all other penalties to the general fund; and he shall account therefor to the board of supervisors annually.

(2) In case of the sale of any real estate upon an execution upon judgment rendered for the breach of any recognizance in any criminal case the county treasurer shall, in case there are no bidders to the full amount of any such judgment or the value of the property advertised, bid off the same. If the same is not redeemed within the time allowed by law for the redemption thereof, the county treasurer shall sell the same for the best price he can obtain therefor, and place the money received in the general fund.

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

600.4851 County law library fund; maximum sums credited from library fund; payment upon order of circuit judge or presiding judge; annual report.

Sec. 4851. (1) In each county the county treasurer shall credit semiannually to a fund to be known as the county law library fund, from the library fund, an amount as follows:

(a) In counties having a population of 250,000 or more, but less than 1,000,000 inhabitants, the sum credited shall not exceed:

(*i*) For 1981, $4,000.00.

(*ii*) For 1982, $6,250.00.

(*iii*) For 1983 and each year thereafter, $8,500.00.

(b) In counties having a population of 50,000 or more, but less than 250,000 inhabitants, the sum credited shall not exceed:

(*i*) For 1981, $3,000.00.

(*ii*) For 1982, $4,750.00.

(*iii*) For 1983 and each year thereafter, $6,500.00.

(c) In counties of 35,000 or more, but less than 50,000 inhabitants, the sum credited shall not exceed:

(*i*) For 1981, $2,000.00.

(*ii*) For 1982, $3,250.00.

(*iii*) For 1983 and each year thereafter, $4,500.00.

(d) In counties of 20,000 or more, but less than 35,000 inhabitants, the sum credited shall not exceed:

(*i*) For 1981, $1,500.00.

(*ii*) For 1982, $2,500.00.

(*iii*) For 1983 and each year thereafter, $3,500.00.

(e) In counties of 10,000 or more, but less than 20,000 inhabitants, the sum credited shall not exceed:

(*i*) For 1981, $1,000.00.

(*ii*) For 1982, $1,750.00.

(*iii*) For 1983 and each year thereafter, $2,500.00.

(f) In counties of less than 10,000 inhabitants, the sum credited shall not exceed:

(*i*) For 1981, $750.00.

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(*ii*) For 1982, $1,375.00.

(*iii*) For 1983 and each year thereafter, $2,000.00.

(2) All money credited to the county law library fund shall be paid out by the county treasurer only upon the order of the circuit judge in multiple county circuits or upon the order of the presiding judge in single county circuits for the purpose of establishing, operating, and maintaining a law library for the use of the circuit, district, and probate courts in the county and for the officers of the courts and persons having business in the courts.

(3) The county law librarian, or other person as the circuit or presiding judge shall designate, shall make a detailed report before January 2 of each year of the sums expended for books for the county law library. The annual report shall be filed with the county clerk.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1982, Act 18, Imd. Eff. Mar. 3, 1982;—Am. 1982, Act 173, Imd. Eff. June 4, 1982.

CHAPTER 49

600.4901 "Panel" defined.

Sec. 4901. As used in this chapter, "panel" means a mediation panel selected pursuant to section 4905.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.4903 Mediation of action alleging medical malpractice; time for referring action to mediation; hearing by mediation panel.

Sec. 4903. (1) An action alleging medical malpractice shall be mediated pursuant to this chapter.

(2) The judge to whom an action alleging medical malpractice is assigned or the chief judge shall refer the action to mediation by written order not less than 91 days after the filing of the answer or answers.

(3) An action referred to mediation pursuant to subsection (2) shall be heard by a mediation panel selected pursuant to section 4905.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.4905 Mediation panel; selection and qualifications of members; judge as member; grounds for disqualification as mediator.

Sec. 4905. (1) A mediation panel shall be composed of 5 voting members, 3 of whom shall be licensed attorneys, 1 of whom shall be a licensed or registered health care provider selected by the defendant or defendants and 1 of whom shall be a licensed or registered health care provider selected by the plaintiff or plaintiffs. If a defendant is a specialist, the health care provider members of the panel shall specialize in the same or a related, relevant area of health care as the defendant.

(2) Except as otherwise provided in subsection (1), the procedure for selecting mediation panel members

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and their qualifications shall be as prescribed by the Michigan court rules or local court rules.

(3) A judge may be selected as a member of a mediation panel, but may not preside at the trial of any action in which he or she served as a mediator.

(4) The grounds for disqualification of a mediator are the same as that provided in the Michigan court rules for the disqualification of a judge.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.4907 Mediation clerk; designation; setting time and place for mediation hearing; notice; adjournments.

Sec. 4907. (1) The court shall designate the clerk of the court, the court administrator, the assignment clerk, or some other person to serve as the mediation clerk.

(2) The mediation clerk shall set a time and place for the mediation hearing and send notice to the mediators and the attorneys of record at least 28 days before the date set for the mediation hearing.

(3) Adjournments of mediation hearings shall be granted only for good cause, in accordance with the Michigan court rules.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.4909 Mediation fee.

Sec. 4909. (1) Within 14 days after the mailing of the notice of the mediation hearing, each party shall submit payment to the mediation clerk of a mediation fee of $75.00 in the manner specified in the notice of the mediation hearing. However, if a judge is a member of the panel, the fee shall be $50.00. Only a single fee is required of each party, even if there are counterclaims, cross-claims, or third-party claims. The mediation clerk shall arrange payment to the mediators.

(2) If a claim is derivative of another claim, the claims shall be treated as a single claim, with 1 fee to be paid and a single award made by the mediators.

(3) In the case of multiple injuries to members of a single family, the plaintiffs may elect to treat the action as involving 1 claim, with the payment of 1 fee and the rendering of 1 lump sum award to be accepted or rejected. If such an election is not made, a separate fee shall be paid for each plaintiff, and the mediation panel shall then make separate awards for each claim, which may be individually accepted or rejected.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of

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the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.4911 Submission of documents and brief or summary to mediation clerk; penalty for failure to submit materials.

Sec. 4911. (1) At least 7 days before the mediation hearing date, each party shall submit to the mediation clerk 5 copies of the documents pertaining to the issues to be mediated and 5 copies of a concise brief or summary setting forth that party's factual or legal position on issues presented by the action. In addition, 1 copy of each shall be served on each attorney of record.

(2) Failure to submit the materials to the mediation clerk as prescribed in subsection (1) shall subject the offending party to a $60.00 penalty to be paid at the time of the mediation hearing and distributed equally among the mediators.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.4913 Right of party to attend mediation hearing; personal appearance to demonstrate unusual conditions; testimony prohibited; rules of evidence inapplicable; factual information; limitation on oral presentation; requests and inquiries by panel; admissibility of statements, briefs, or summaries.

Sec. 4913. (1) A party has the right, but is not required, to attend a mediation hearing. If scars, disfigurement, or other unusual conditions exist, they may be demonstrated to the mediation panel by a personal appearance; however, testimony shall not be taken or permitted of any party.

(2) The Michigan rules of evidence shall not apply before the mediation panel. Factual information having a bearing on damages or liability shall be supported by documentary evidence, if possible.

(3) Oral presentation shall be limited to 15 minutes per side unless multiple parties or unusual circumstances warrant additional time. The mediation panel may request information on applicable insurance policy limits and may inquire about settlement negotiations, unless a party objects.

(4) Statements by the attorneys and the briefs or summaries are not admissible in any subsequent court or evidentiary proceeding.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.4915 Evaluation by panel; notice; contents of evaluation; determination that action or

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defense is frivolous; posting cash or surety bond; payment of costs and attorney fees; separate awards; treating claims as single claim.

Sec. 4915. (1) Except as otherwise provided in subsection (2), within 14 days after the mediation hearing, the panel shall make an evaluation and notify the attorney for each party of its evaluation in writing. The evaluation shall include a specific finding on the applicable standard of care. If an award is not unanimous, the evaluation shall so indicate.

(2) If the panel unanimously determines that a complete action or defense is frivolous as to any party, the panel shall so state as to that party. If the action proceeds to trial, the party who has been determined to have a frivolous action or defense shall post a cash or surety bond, approved by the court, in the amount of $5,000.00 for each party against whom the action or defense was determined to be frivolous. If judgment is entered against the party who posted the bond, the bond shall be used to pay all reasonable costs incurred by the other parties and any costs allowed by law or by court rule, including court costs and reasonable attorney fees.

(3) The evaluation shall include a separate award as to each cross-claim, counterclaim, or third-party claim that has been filed in the action. For the purpose of this subsection, all such claims filed by any 1 party against any other party shall be treated as a single claim.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.4917 Filing written acceptance or rejection of evaluation; failure to file as acceptance; disclosure of acceptance or rejection; notice; rules applicable in mediations involving multiple parties.

Sec. 4917. (1) Each party shall file a written acceptance or rejection of the mediation panel's evaluation with the mediation clerk within 28 days after service of the panel's evaluation. The failure to file a written acceptance or rejection within the 28 days constitutes acceptance.

(2) A party's acceptance or rejection of the panel's evaluation shall not be disclosed until the expiration of the 28-day period, at which time the mediation clerk shall send a notice indicating each party's acceptance or rejection of the panel's evaluation.

(3) In mediations involving multiple parties, the following rules apply:

(a) Each party has the option of accepting all of the awards covering the claims by or against that party or of accepting some and rejecting others. However, as to any particular opposing party, the party shall either accept or reject the evaluation in its entirety.

(b) A party who accepts all of the awards may specifically indicate that he or she intends the acceptance to be effective only if all opposing parties accept. If this limitation is not included in the acceptance, an accepting party is considered to have agreed to entry of judgment as to that party and those of the opposing parties who accept, with the action to continue between the accepting party and those opposing parties who reject.

(c) If a party makes a limited acceptance under subdivision (b) and some of the opposing parties accept and others reject, for the purposes of the cost provisions of section 4921, the party who made the limited acceptance is considered to have rejected as to those opposing parties who accept.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases

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filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.4919 Entry of judgment; action to proceed to trial upon rejection; placing copies of evaluation, acceptances, and rejections in sealed envelope; filing envelope with clerk of court; opening envelope; evaluation not exceeding jurisdictional limitation of district court.

Sec. 4919. (1) If all the parties accept the mediation panel's evaluation, judgment shall be entered in that amount, which shall include all fees, costs, and interest to the date of judgment.

(2) In a case involving multiple parties, judgment shall be entered as to those opposing parties who have accepted the portions of the evaluation that apply to them.

(3) Except as otherwise provided in this chapter for multiple parties, if all or part of the evaluation of the mediation panel is rejected, the action shall proceed to trial.

(4) The mediation clerk shall place a copy of the mediation evaluation and the parties' acceptances and rejections in a sealed envelope for filing with the clerk of the court. In a nonjury action, the envelope shall not be opened and the parties shall not reveal the amount of the evaluation until the judge has rendered judgment.

(5) If the mediation evaluation of an action pending in the circuit court does not exceed the jurisdictional limitation of the district court, the mediation clerk shall so inform the trial judge.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.4921 Payment of actual costs; adjustment of verdict; scope of actual costs; condition prohibiting award of costs.

Sec. 4921. (1) If a party has rejected an evaluation and the action proceeds to trial, that party shall pay the opposing party's actual costs unless the verdict is more favorable to the rejecting party than the mediation evaluation. However, if the opposing party has also rejected the evaluation, that party is entitled to costs only if the verdict is more favorable to that party than the mediation evaluation.

(2) For the purpose of subsection (1), a verdict shall be adjusted by adding to it assessable costs and interest on the amount of the verdict from the filing of the complaint to the date of the mediation evaluation. After this adjustment, the verdict is considered more favorable to a defendant if it is more than 10% below the evaluation, and is considered more favorable to the plaintiff if it is more than 10% above the evaluation.

(3) For the purpose of this section, actual costs include those costs taxable in any civil action and a reasonable attorney fee as determined by the trial judge for services necessitated by the rejection of the mediation evaluation.

(4) Costs shall not be awarded if the mediation award was not unanimous.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after

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January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.4923 Delay of trial date scheduled in advance of date set for mediation hearing; applicability of section.

Sec. 4923. A trial date scheduled in advance of the date set for a mediation hearing shall not be delayed because the mediation hearing was not held, unless the court finds that the interests of justice are served by the mediation proceeding. This section shall not apply if the mediation hearing was adjourned under section 4907(3).

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

CHAPTER 49A

600.4951 Mediation of civil action based on tort; exception; time for referring action to mediation; hearing.

Sec. 4951. (1) Each civil action based on tort in which it is claimed that damages exceed $10,000.00, except an action alleging medical malpractice, shall be mediated pursuant to this chapter.

(2) The judge to whom a civil action as prescribed in subsection (1) is assigned or the chief judge shall refer the action to mediation by written order not less than 91 days after the filing of the answer or answers.

(3) A civil action referred to mediation pursuant to subsection (2) shall be heard by a mediation panel selected pursuant to section 4953.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.4953 Mediation panel; selection and qualifications of member; judge as member; grounds for disqualification as mediator.

Sec. 4953. (1) Mediation panels shall be composed of 3 members.

(2) The procedure for selecting mediation panel members and their qualifications shall be as prescribed by the Michigan court rules or local court rules.

(3) A judge may be selected as a member of a mediation panel, but may not preside at the trial of any action in which he or she served as a mediator.

(4) The grounds for disqualification of a mediator are the same as that provided in the Michigan court rules for the disqualification of a judge.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

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"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.4955 Mediation clerk; designation; setting time and place for mediation hearing; notice; adjournments.

Sec. 4955. (1) The court shall designate the clerk of the court, the court administrator, the assignment clerk, or some other person to serve as the mediation clerk.

(2) The mediation clerk shall set a time and place for the mediation hearing and send notice to the mediators and the attorneys at least 28 days before the date set for the mediation hearing.

(3) Adjournments of mediation hearings may be granted only for good cause, in accordance with the Michigan court rules.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.4957 Mediation fee.

Sec. 4957. (1) Within 14 days after the mailing of the notice of the mediation hearing, each party shall submit payment to the mediation clerk of a mediation fee of $75.00 in the manner specified in the notice of the mediation hearing. However, if a judge is a member of the panel, the fee is $50.00. Only a single fee is required of each party, even if there are counterclaims, cross-claims, or third-party claims. The mediation clerk shall arrange payment to the mediators.

(2) If a claim is derivative of another claim, the claims shall be treated as a single claim, with 1 fee to be paid and a single award made by the mediators.

(3) In the case of multiple injuries to members of a single family, the plaintiffs may elect to treat the action as involving 1 claim, with the payment of 1 fee and the rendering of 1 lump sum award to be accepted or rejected. If such an election is not made, a separate fee shall be paid for each plaintiff, and the mediation panel will then make separate awards for each claim, which may be individually accepted or rejected.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

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600.4959 Submission of documents and brief or summary to mediation clerk; penalty for failure to submit materials.

Sec. 4959. (1) At least 7 days before the mediation hearing date, each party shall submit to the mediation clerk 3 copies of the documents pertaining to the issues to be mediated and 3 copies of a concise brief or summary setting forth that party's factual or legal position on issues presented by the action and, in addition, 1 copy of each shall be served on each attorney of record.

(2) Failure to submit the materials to the mediation clerk as prescribed in subsection (1) subjects the offending party to a $60.00 penalty to be paid at the time of the mediation hearing and distributed equally among the mediators.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.4961 Right of party to attend mediation hearing; personal appearance to demonstrate unusual conditions; testimony prohibited; rules of evidence inapplicable; factual information; limitation on oral presentation; requests and inquiries by panel; admissibility of statements, briefs, or summaries.

Sec. 4961. (1) A party has the right, but is not required, to attend a mediation hearing. If scars, disfigurement, or other unusual conditions exist, they may be demonstrated to the mediation panel by a personal appearance; however, testimony shall not be taken or permitted of any party.

(2) The Michigan rules of evidence do not apply before the mediation panel. Factual information having a bearing on damages or liability shall be supported by documentary evidence, if possible.

(3) Oral presentation shall be limited to 15 minutes per side unless multiple parties or unusual circumstances warrant additional time. The mediation panel may request information on applicable insurance policy limits and may inquire about settlement negotiations, unless a party objects.

(4) Statements by the attorneys with regard to mediation under this chapter and the briefs or summaries presented are not admissible in any court or evidentiary proceeding.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.4963 Evaluation by panel; notice; indicating award not unanimous; determination that action or defense is frivolous; posting cash or surety bond; payment of costs and attorney fees; separate awards; treating claims as single claim.

Sec. 4963. (1) Except as otherwise provided in subsection (2), within 14 days after the mediation hearing, the panel shall make an evaluation and notify the attorney for each party of its evaluation in writing. If an award is not unanimous, the evaluation shall so indicate.

(2) If the panel unanimously determines that a complete action or defense is frivolous as to any party, the

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panel shall so state as to that party. If the action proceeds to trial, the party who has been determined to have a frivolous action or defense shall post a cash or surety bond, approved by the court, in the amount of $5,000.00 for each party against whom the action or defense was determined to be frivolous. If judgment is entered against the party who posted the bond, the bond shall be used to pay all reasonable costs incurred by the other parties and any costs allowed by law or by court rule, including court costs and reasonable attorney fees.

(3) The evaluation shall include a separate award as to each cross-claim, counterclaim, or third-party claim that has been filed in the action. For the purpose of this subsection, all such claims filed by any 1 party against any other party shall be treated as a single claim.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.4965 Filing written acceptance or rejection of evaluation; failure to file as rejection; disclosure of acceptance or rejection; notice; provisions applicable to mediations involving multiple parties.

Sec. 4965. (1) Each party shall file a written acceptance or rejection of the mediation panel's evaluation with the mediation clerk within 28 days after service of the panel's evaluation. The failure to file a written acceptance or rejection within the 28 days constitutes acceptance.

(2) A party's acceptance or rejection of the panel's evaluation shall not be disclosed until the expiration of the 28-day period, at which time the mediation clerk shall send a notice indicating each party's acceptance or rejection of the panel's evaluation.

(3) In mediations involving multiple parties, the following shall apply:

(a) Each party has the option of accepting all of the awards covering the claims by or against that party or of accepting some and rejecting others. However, as to any particular opposing party, the party shall either accept or reject the evaluation in its entirety.

(b) A party who accepts all of the awards may specifically indicate that he or she intends the acceptance to be effective only if all opposing parties accept. If this limitation is not included in the acceptance, an accepting party is considered to have agreed to entry of judgment as to that party and those of the opposing parties who accept, with the action to continue between the accepting party and those opposing parties who reject.

(c) If a party makes a limited acceptance under subdivision (b) and some of the opposing parties accept and others reject, for the purposes of the cost provisions of section 4910, the party who made the limited acceptance is considered to have rejected as to those opposing parties who accept.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

In subsection (3)(c), the reference "section 4910" evidently should be "section 4969."

600.4967 Entry of judgment; action to proceed to trial upon rejection; placing copies of

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evaluation, acceptances, and rejections in sealed envelope; filing envelope with clerk of court; opening envelope; evaluation not exceeding jurisdictional limitation of district court.

Sec. 4967. (1) If all the parties accept the mediation panel's evaluation, judgment shall be entered in that amount, which shall include all fees, costs, and interest to the date of judgment.

(2) In a case involving multiple parties, judgment shall be entered as to those opposing parties who have accepted the portions of the evaluation that apply to them.

(3) Except as otherwise provided in this chapter for multiple parties, if all or part of the evaluation of the mediation panel is rejected, the action shall proceed to trial.

(4) The mediation clerk shall place a copy of the mediation evaluation and the parties' acceptances and rejections in a sealed envelope for filing with the clerk of the court. In a nonjury action, the envelope shall not be opened and the parties shall not reveal the amount of the evaluation until the judge has rendered judgment.

(5) If the mediation evaluation of an action does not exceed the jurisdictional limitation of the district court, the mediation clerk shall so inform the trial judge.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.4969 Payment of actual costs; adjustment of verdict; scope of actual costs; condition prohibiting award of costs.

Sec. 4969. (1) If a party has rejected an evaluation and the action proceeds to trial, that party shall pay the opposing party's actual costs unless the verdict is more favorable to the rejecting party than the mediation evaluation. However, if the opposing party has also rejected the evaluation, that party is entitled to costs only if the verdict is more favorable to that party than the mediation evaluation.

(2) For the purpose of subsection (1), a verdict shall be adjusted by adding to it assessable costs and interest on the amount of the verdict from the filing of the complaint to the date of the mediation evaluation. After this adjustment, the verdict is considered more favorable to a defendant if it is more than 10% below the evaluation, and is considered more favorable to the plaintiff if it is more than 10% above the evaluation.

(3) For the purpose of this section, actual costs include those costs taxable in any civil action and a reasonable attorney fee as determined by the trial judge for services necessitated by the rejection of the mediation evaluation.

(4) Costs shall not be awarded if the mediation award was not unanimous.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

CHAPTER 50
ARBITRATIONS

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600.5001 Arbitration agreements; parties; award; enforcement; rescission; collective labor contracts excepted.

Sec. 5001. (1) All persons, except infants and persons of unsound mind, may, by an instrument in writing, submit to the decision of 1 or more arbitrators, any controversy existing between them, which might be the subject of a civil action, except as herein otherwise provided, and may, in such submission, agree that a judgment of any circuit court shall be rendered upon the award made pursuant to such submission.

(2) A provision in a written contract to settle by arbitration under this chapter, a controversy thereafter arising between the parties to the contract, with relation thereto, and in which it is agreed that a judgment of any circuit court may be rendered upon the award made pursuant to such agreement, shall be valid, enforceable and irrevocable save upon such grounds as exist at law or in equity for the rescission or revocation of any contract. Such an agreement shall stand as a submission to arbitration of any controversy arising under said contract not expressly exempt from arbitration by the terms of the contract. Any arbitration had in pursuance of such agreement shall proceed and the award reached thereby shall be enforced under this chapter.

(3) The provisions of this chapter shall not apply to collective contracts between employers and employees or associations of employees in respect to terms or conditions of employment.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1962, Act 27, Eff. Mar. 28, 1963.

600.5005 Arbitration of claims to real estate.

Sec. 5005. A submission to arbitration shall not be made respecting the claim of any person to any estate, in fee, or for life, in real estate, except as provided in Act No. 59 of the Public Acts of 1978, as amended, being sections 559.101 to 559.272 of the Michigan Compiled Laws. However, a claim to an interest for a term of years, or for 1 year or less, in real estate, and controversies respecting the partition of lands between joint tenants or tenants in common, concerning the boundaries of lands, or concerning the admeasurement of dower, may be submitted to arbitration.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1982, Act 496, Eff. Jan. 17, 1983.

600.5011 Arbitration agreements; revocation.

Sec. 5011. Neither party shall have power to revoke any agreement or submission made as provided in this chapter without the consent of the other party; and if either party neglects to appear before the arbitrators after due notice, the arbitrators may nevertheless proceed to hear and determine the matter submitted to them upon the evidence produced by the other party. The court may order the parties to proceed with arbitration.

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

600.5015 Arbitration agreements; appointment of arbitrators.

Sec. 5015. If the arbitration agreement provides a method of appointment of arbitrators, this method shall be followed. In the absence thereof, or if the agreed method fails or for any reason cannot be followed, or when an arbitrator appointed fails or is unable to act and his successor has not been duly appointed, the court on application of a party shall appoint 1 or more arbitrators. An arbitrator so appointed has all the powers of one specifically named in the agreement.

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

600.5021 Arbitration agreements; conduct of arbitration.

Sec. 5021. The arbitration shall be conducted in accordance with the rules of the supreme court.

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

600.5025 Arbitration agreements; circuit courts; enforcement; judgment on award.

Sec. 5025. Upon the making of an agreement described in section 5001, the circuit courts have jurisdiction to enforce the agreement and to render judgment on an award thereunder. The court may render judgment on the award although the relief given is such that it could not or would not be granted by a court of law or equity in an ordinary civil action.

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

600.5031 Arbitration agreement; venue.

Sec. 5031. All proceedings in court under this chapter shall be had in the circuit court of the county provided in the agreement. In the absence of such provision proceedings shall be had

(1) in the circuit court of the county where the adverse party resides or has a place of business, or

(2) if he has no residence or place of business in this state, in the circuit court of the county where the

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applicant resides or has a place of business, or

(3) if the arbitration involves real property, in the circuit court of the county in which the property, or any part thereof, is located, or

(4) if neither (1), (2), nor (3) is applicable, in the circuit court of any county. All subsequent applications shall be made to the court hearing the initial application unless the court otherwise directs.

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

600.5033 Confirmation of arbitration award rendered in another state; judgment; modifying, correcting, or refusing to confirm award.

Sec. 5033. (1) A court of competent jurisdiction may confirm an arbitration award rendered in another state and enter judgment thereon.

(2) The court may modify, correct, or refuse to confirm the award as provided by law or court rule.

History: Add. 1975, Act 140, Eff. Sept. 1, 1975.

600.5035 Construction of chapter.

Sec. 5035. Nothing contained in this chapter shall be construed to impair, diminish, or in any manner to affect the equitable power and authority of any court over arbitrators, awards, or the parties thereto; nor to impair or affect any action upon any award, or upon any bond or other engagement to abide an award.

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

CHAPTER 50A
HEALTH CARE ARBITRATION

600.5040-600.5065 Repealed. 1993, Act 78, Eff. Apr. 1, 1994.

CHAPTER 50B.
DOMESTIC RELATIONS ARBITRATION

600.5070 Scope of chapter.

Sec. 5070. (1) This chapter provides for and governs arbitration in domestic relations matters. Arbitration proceedings under this chapter are also governed by court rule except to the extent those provisions are modified by the arbitration agreement or this chapter. This chapter controls if there is a conflict between this chapter and chapter 50.

(2) This chapter does not apply to arbitration in a domestic relations matter if, before the effective date of the amendatory act that added this chapter, the court has entered an order for arbitration and all the parties have executed the arbitration agreement.

History: Add. 2000, Act 419, Eff. Mar. 28, 2001.

600.5071 Stipulation to binding arbitration; agreement.

Sec. 5071. Parties to an action for divorce, annulment, separate maintenance, or child support, custody, or parenting time, or to a postjudgment proceeding related to such an action, may stipulate to binding arbitration by a signed agreement that specifically provides for an award with respect to 1 or more of the following issues:

(a) Real and personal property.

(b) Child custody.

(c) Child support, subject to the restrictions and requirements in other law and court rule as provided in this act.

(d) Parenting time.

(e) Spousal support.

(f) Costs, expenses, and attorney fees.

(g) Enforceability of prenuptial and postnuptial agreements.

(h) Allocation of the parties' responsibility for debt as between the parties.

(i) Other contested domestic relations matters.

History: Add. 2000, Act 419, Eff. Mar. 28, 2001.

600.5072 Court order to participate in arbitration; conditions; domestic violence exclusion; waiver; child abuse or neglect exclusion.

Sec. 5072. (1) The court shall not order a party to participate in arbitration unless each party to the domestic relations matter acknowledges, in writing or on the record, that he or she has been informed in plain

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language of all of the following:

(a) Arbitration is voluntary.

(b) Arbitration is binding and the right of appeal is limited.

(c) Arbitration is not recommended for cases involving domestic violence.

(d) Arbitration may not be appropriate in all cases.

(e) The arbitrator's powers and duties are delineated in a written arbitration agreement that all parties must sign before arbitration commences.

(f) During arbitration, the arbitrator has the power to decide each issue assigned to arbitration under the arbitration agreement. The court will, however, enforce the arbitrator's decisions on those issues.

(g) The party may consult with an attorney before entering into the arbitration process or may choose to be represented by an attorney throughout the entire process.

(h) If the party cannot afford an attorney, the party may wish to seek free legal services, which may or may not be available.

(i) A party to arbitration will be responsible, either solely or jointly with other parties, to pay for the cost of the arbitration, including fees for the arbitrator's services. In comparison, a party does not pay for the court to hear and decide an issue, except for payment of filing and other court fees prescribed by statute or court rule for which the party is responsible regardless of the use of arbitration.

(2) If either party is subject to a personal protection order involving domestic violence or if, in the pending domestic relations matter, there are allegations of domestic violence or child abuse, the court shall not refer the case to arbitration unless each party to the domestic relations matter waives this exclusion. A party cannot waive this exclusion from arbitration unless the party is represented by an attorney throughout the action, including the arbitration process, and the party is informed on the record concerning all of the following:

(a) The arbitration process.

(b) The suspension of the formal rules of evidence.

(c) The binding nature of arbitration.

(3) If, after receiving the information required under subsection (2), a party decides to waive the domestic violence exclusion from arbitration, the court and the party's attorney shall ensure that the party's waiver is informed and voluntary. If the court finds a party's waiver is informed and voluntary, the court shall place those findings and the waiver on the record.

(4) A child abuse or neglect matter is specifically excluded from arbitration under this act.

History: Add. 2000, Act 419, Eff. Mar. 28, 2001.

600.5073 Arbitrator; appointment; qualifications; immunity; list of qualified arbitrators.

Sec. 5073. (1) Arbitration under this chapter may be heard by a single arbitrator or by a panel of 3 arbitrators. The court shall appoint an arbitrator agreed to by the parties if the arbitrator is qualified under subsection (2) and consents to the appointment. An arbitrator appointed under this chapter is immune from liability in regard to the arbitration proceeding to the same extent as the circuit judge who has jurisdiction of the action that is submitted to arbitration.

(2) The court shall not appoint an arbitrator under this chapter unless the individual meets all of the following qualifications:

(a) Is an attorney in good standing with the state bar of Michigan.

(b) Has practiced as an attorney for not less than 5 years before the appointment and has demonstrated an expertise in the area of domestic relations law.

(c) Has received training in the dynamics of domestic violence and in handling domestic relations matters that have a history of domestic violence.

(3) The office of the friend of the court, an alternative dispute resolution clerk, or another individual designated by the chief judge may make available a list of arbitrators who meet the qualifications of this section. The list shall include a summary of each arbitrator's qualifications and experience.

History: Add. 2000, Act 419, Eff. Mar. 28, 2001.

600.5074 Arbitrator; powers and duties; sworn statement listing party's place of employment, sources of income, and assets and liabilities; release.

Sec. 5074. (1) An arbitrator appointed under this chapter shall hear and make an award on each issue submitted for arbitration under the arbitration agreement subject to the provisions of the agreement.

(2) An arbitrator appointed under this chapter has all of the following powers and duties:

(a) To administer an oath or issue a subpoena as provided by court rule.

(b) To issue an order regarding discovery proceedings relative to the issues being arbitrated.

(c) Subject to provisions of the arbitration agreement, to issue an order allocating arbitration fees and

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expenses between the parties or to 1 party, including imposing a fee or expense on a party or attorney as a sanction.

(d) To issue an order requiring a party to produce specified information that the arbitrator considers relevant to, and helpful in resolving, an issue subject to the arbitration.

(3) If the arbitrator considers it relevant to an issue being arbitrated, the arbitrator may order the filing of sworn statements that identify each party's place of employment and other sources of income and that list the assets and liabilities of each party. The arbitrator shall not release the sworn statements required under this section until after all parties have filed those sworn statements. The arbitrator shall attempt to release the sworn statements to the opposite parties at approximately the same time.

(4) A sworn statement ordered under subsection (3) shall list at least all of the following assets:

(a) Real property.

(b) Checking and savings account balances, regardless of the form in which the money is held.

(c) Stocks and bonds.

(d) Income tax refunds due the parties.

(e) Life insurance, including cash value and amount payable at death.

(f) Loans held as a creditor or money owed to the parties in whatever form.

(g) Retirement funds and pension benefits.

(h) Professional licenses.

(i) Motor vehicles, boats, mobile homes, or any other type of vehicle including untitled vehicles.

(j) Extraordinary tools of a trade.

(k) Cemetery lots.

(*l*) Ownership interests in businesses.

(m) Limited partnerships.

(n) Other assets in whatever form.

(5) A sworn statement ordered under subsection (3) shall list at least all of the following liabilities:

(a) Secured and unsecured credits.

(b) Taxes.

(c) Rents and security deposits.

(d) All other liabilities in whatever form.

History: Add. 2000, Act 419, Eff. Mar. 28, 2001.

600.5075 Disqualification of arbitrator.

Sec. 5075. (1) An arbitrator, attorney, or party in an arbitration proceeding under this chapter shall disclose any circumstance that may affect an arbitrator's impartiality, including, but not limited to, bias, a financial or personal interest in the outcome of the arbitration, or a past or present business or professional relationship with a party or attorney. Upon disclosure of such a circumstance, a party may request disqualification of the arbitrator and shall make that request as soon as practicable after the disclosure. If the arbitrator does not withdraw within 14 days after a request for disqualification, the party may file a motion for disqualification with the circuit court.

(2) The circuit court shall hear a motion under subsection (1) within 21 days after the motion is filed. If the court finds that the arbitrator is disqualified, the court may appoint another arbitrator agreed to by the parties or may void the arbitration agreement and proceed as if arbitration had not been ordered.

History: Add. 2000, Act 419, Eff. Mar. 28, 2001.

600.5076 Meeting with arbitrator; order to produce material information.

Sec. 5076. (1) As soon as practicable after the appointment of the arbitrator, the parties and attorneys shall meet with the arbitrator to consider all of the following:

(a) Scope of the issues submitted.

(b) Date, time, and place of the hearing.

(c) Witnesses, including experts, who may testify.

(d) Schedule for exchange of expert reports or summary of expert testimony.

(e) Subject to subsection (2), exhibits, documents, or other information each party considers applicable and material to the case and a schedule for production or exchange of the information. If a party knew or reasonably should have known about the existence of information the party is required to produce, that party waives objection to producing that information if the party does not object before the hearing.

(f) Disclosure required under section 5075.

(2) The arbitrator shall order each party to produce information that is applicable and material to an issue under arbitration, including, but not limited to, any of the following:

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(a) A current, complete, and accurate sworn financial disclosure statement.

(b) Financial disclosure statements for the past 3 years.

(c) State and federal income tax returns for the previous 3 years or other time period as ordered by the arbitrator.

(d) If a court has issued an order concerning an issue subject to arbitration, a copy of the order, state and federal income tax returns for the year the order was issued, and a financial statement for the time at which the order was issued, which statement includes at least gross and net income and assets and liabilities.

(e) Proposed award for each issue subject to arbitration.

History: Add. 2000, Act 420, Eff. Mar. 28, 2001.

600.5077 Record of arbitration hearing.

Sec. 5077. (1) Except as provided by this section, court rule, or the arbitration agreement, a record shall not be made of an arbitration hearing under this chapter. If a record is not required, an arbitrator may make a record to be used only by the arbitrator to aid in reaching the decision. The parties may provide in the arbitration agreement that a record be made of those portions of a hearing related to 1 or more issues subject to arbitration.

(2) A record shall be made of that portion of a hearing that concerns child support, custody, or parenting time in the same manner required by the Michigan court rules for the record of a witness's testimony in a deposition.

History: Add. 2000, Act 420, Eff. Mar. 28, 2001.

600.5078 Award; error or omissions.

Sec. 5078. (1) Unless otherwise agreed by the parties and arbitrator in writing or on the record, the arbitrator shall issue the written award on each issue within 60 days after either the end of the hearing or, if requested by the arbitrator, after receipt of proposed findings of fact and conclusions of law.

(2) Subject to the other restrictions in this subsection, if the parties reach an agreement regarding child support, custody, or parenting time, the agreement shall be placed on the record by the parties under oath and shall be included in the arbitrator's written award. An arbitrator shall not include in the award a child support amount that deviates from the child support formula developed by the state friend of the court bureau unless the arbitrator complies with the same requirements for such a deviation prescribed for the court under the law that applies to the domestic relations dispute that is being arbitrated.

(3) An arbitrator under this chapter retains jurisdiction to correct errors or omissions in an award until the court confirms the award. Within 14 days after the award is issued, a party to the arbitration may file a motion to correct errors or omissions. The other party to the arbitration may respond to such a motion within 14 days after the motion is filed. The arbitrator shall issue a decision on the motion within 14 days after receipt of a response to the motion or, if a response is not filed, within 14 days after expiration of the response period.

History: Add. 2000, Act 420, Eff. Mar. 28, 2001.

600.5079 Enforcement of arbitration award or order; filing judgment, order, or motion to settle judgment with circuit court; sanctions.

Sec. 5079. (1) The circuit court shall enforce an arbitrator's award or other order issued under this chapter in the same manner as an order issued by the circuit court. A party may make a motion to the circuit court to enforce an arbitrator's award or order.

(2) The plaintiff in an action that was submitted to arbitration under this chapter shall file with the circuit court a judgment, order, or motion to settle the judgment within 21 days after the arbitrator's award is issued unless otherwise agreed to by the parties in writing or unless the arbitrator or court grants an extension. If the plaintiff fails to comply with this subsection, another party to the action may file a judgment, order, or motion to settle the judgment and may request sanctions.

History: Add. 2000, Act 420, Eff. Mar. 28, 2001.

600.5080 Vacation or modification of award concerning child support, custody, or parenting time; standards and procedures regarding review of arbitration awards.

Sec. 5080. (1) Subject to subsection (2), the circuit court shall not vacate or modify an award concerning child support, custody, or parenting time unless the court finds that the award is adverse to the best interests of the child who is the subject of the award or under the provisions of section 5081.

(2) A review or modification of a child support amount, child custody, or parenting time shall be conducted and is subject to the standards and procedures provided in other statutes, in other applicable law, and by court rule that are applicable to child support amounts, child custody, or parenting time.

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(3) Other standards and procedures regarding review of arbitration awards described in this section are governed by court rule.

History: Add. 2000, Act 420, Eff. Mar. 28, 2001.

600.5081 Vacation or modification of arbitration award; application; grounds; rehearing; other standards and procedures relating to review of arbitration awards.

Sec. 5081. (1) If a party applies to the circuit court for vacation or modification of an arbitrator's award issued under this chapter, the court shall review the award as provided in this section or section 5080.

(2) If a party applies under this section, the court shall vacate an award under any of the following circumstances:

(a) The award was procured by corruption, fraud, or other undue means.

(b) There was evident partiality by an arbitrator appointed as a neutral, corruption of an arbitrator, or misconduct prejudicing a party's rights.

(c) The arbitrator exceeded his or her powers.

(d) The arbitrator refused to postpone the hearing on a showing of sufficient cause, refused to hear evidence material to the controversy, or otherwise conducted the hearing to prejudice substantially a party's rights.

(3) The fact that the relief granted in an arbitration award could not be granted by a court of law or equity is not grounds for vacating or refusing to confirm the award.

(4) An application to vacate an award on grounds stated in subsection (2)(a) shall be made within 21 days after the grounds are known or should have been known.

(5) If the court vacates an award, the court may order a rehearing before a new arbitrator chosen as provided in the agreement or, if there is no such provision, by the court. If the award is vacated on the grounds stated in subsection (2)(a) or (c), the court may order a rehearing before the arbitrator who made the award.

(6) Other standards and procedures relating to review of arbitration awards described in subsection (1) are governed by court rule.

History: Add. 2000, Act 420, Eff. Mar. 28, 2001.

600.5082 Appeal.

Sec. 5082. An appeal from an arbitration award under this chapter that the circuit court confirms, vacates, modifies, or corrects shall be taken in the same manner as from an order or judgment in other civil actions.

History: Add. 2000, Act 420, Eff. Mar. 28, 2001.

CHAPTER 52
ASSIGNMENTS FOR THE BENEFIT OF CREDITORS

600.5201 Common law assignments for the benefit of creditors; requirements for validity; bond of assignee; filing; approval; attachment or execution on assigned property; acknowledgment; inventory.

Sec. 5201. (1) All assignments commonly called common law assignments for the benefit of creditors are void unless the same are without preferences as between such creditors and are of all the property of the assignor not exempt from execution, and the instrument of assignment (or a duplicate thereof), a list of creditors of the assignor, and a bond for the faithful performance of the trust by the assignee are filed in the office of the clerk of the circuit court where said assignor resides, or if he is not a resident of the state, then of the county where the assigned property is principally located, within 10 days after the making thereof.

(2) No such assignment is effectual to convey the title to the property to the assignee until such bond is filed with and approved by said clerk.

(3) No attachment or execution levied upon any assigned property of such assignor after such assignment and before the expiration of the time provided herein for filing such bond, is valid, and does not create any lien upon such property.

(4) Such assignment shall be acknowledged before some officer authorized to take acknowledgments. Such inventory shall be a detailed statement as near as may be of the general description, value and location of all the property and rights assigned, and in cases of persons engaged in business, specifying the original cost of any goods, wares, merchandise, fixtures and furniture. Such list of creditors shall, as far as the assignor can state the same, contain the name and post office address of each creditor, the amount due as near as may be over and above all defenses, the actual consideration for the debt, when contracted, and all securities and the value thereof held by each creditor. Such inventory and list of creditors shall be sworn by the assignor to be

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full, true and correct to the best of his knowledge, information and belief.

(5) Such bond shall be to the assignor for the joint and several use and benefit of himself and each, any and all of the creditors of such assignor in a penal sum at least double the value of the assigned property as shown by such inventory, and conditioned for the prompt and faithful administration of the trust by the assignee and shall be signed by the assignee and sufficient surety or sureties, who shall, under oath endorsed on said bond, testify that they are worth in the aggregate over and above all exemptions, incumbrances and debts, the penal sum of said bond.

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

600.5205 Property conveyed; general powers of assignee.

Sec. 5205. Such assignment shall be deemed to convey to the assignee all property of the assignor not exempt from execution, and all rights legal or equitable of said assignor. The assignee shall also be trustee of the estate of the debtor for the benefit of his creditors and may recover all property or rights or equities in property which might be recovered by any creditor. When more than 1 assignee is appointed, the debts and property of the assignor may be collected and received by 1 of them and when there are more than 2 assignees, every power and authority of the whole may be exercised by any 2 of them. The survivor or survivors of any assignees shall have all their powers and rights and all property in the hands of any assignee at the time of his death, removal or incapacity, shall be delivered to the remaining assignee or assignees if there be any, or to the successor of the one so dying, removed or incapacitated, who may demand and sue for the same.

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

600.5211 Specific powers of assignee.

Sec. 5211. Among other things the assignee has the power to:

(1) Sue in his own name as such assignee and recover all the estate, debts and things in action belonging to or due to such assignor in the manner and with like effect as he might or could have done if an assignment had not been made, but no suit seeking equitable relief shall be brought by the assignee involving less than $500.00 without the consent of the court.

(2) Take into his hands all the estate of such assignor whether delivered to him or afterwards discovered, and all books, vouchers and papers relating to the same;

(3) From time to time sell the assets at public auction or at private sale, as herein provided;

(4) Redeem all mortgages and conditional contracts or other incumbrances and pledges of personal property; or sell such property subject to such incumbrances, contracts or pledges;

(5) Settle all matters and accounts between such assignor and his debtors and creditors and examine, on oath to be administered by him, any person touching such matters and accounts;

(6) Compound with any person indebted to such assignor, under order of said court or judge;

(7) Prosecute or defend suits pending in favor of or against the assignor.

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

600.5215 Appraisal of property; sale; notice.

Sec. 5215. As soon as practicable after receiving said assignment, the assignees shall cause an appraisement of such property to be made by 2 disinterested competent persons under oath, and filed with the clerk of the court. Within 10 days after completion of the appraisal, the assignee shall apply to the circuit court or the judge thereof for the exercise of its equitable power to direct the disposition of the assets. Such application shall be by petition, showing what, in the opinion of the assignee, is the most advantageous method of effecting such disposition. Notice of such application of not less than 10 days shall be given by mail to all creditors known to the assignee, and proof thereof filed with the clerk prior to such hearing. The assigned property and assets shall be sold at public or at private sale, in 1 parcel or separately, as said court or judge may direct. At least 14 days' notice of the time and place of any public sale shall be given by publishing the same in a newspaper printed and circulated in the county where the sale shall be made, if there be one, and if not then in such paper as the court shall direct, once in each week for at least 2 successive weeks prior to said sale and by mailing a copy of the same to all creditors. All sales of personal property shall be for cash, but on sales of real property credit may be given for not exceeding 1 year and for not more than 3/4 of the purchase money, which shall be secured by mortgage on the property sold.

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

600.5221 Proof of claims; notice; filing; list of creditors.

Sec. 5221. Within 10 days after receiving such trust, the assignee shall give notice to all creditors

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personally or by mail (accompanied by blank proof of claim) requiring them to prove their claims within 90 days thereafter by a proof of claim to be filed with the assignee, or in default thereof, that the assignee will proceed to distribute the estate as soon as practicable without reference to claims not proved when dividends are paid. It shall not be obligatory upon the assignee to receive proofs of claim after the expiration of said 90 day period except upon order of the court, and the court shall not allow any claim by any creditor so notified to be received after the expiration of 1 year from the date on which the assignment is filed. Within 10 days after the expiration of said 90 day period the assignee shall serve personally or by mail upon each of the creditors a complete list of all creditors who have filed proof of claim giving in each instance the name, post office address and amount claimed. After the expiration of 20 days from the time when said notice is given, the assignee shall file all proofs of claim with the clerk of the court accompanied by any notices of contest which he may decide to make.

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

600.5225 Proof of claims; contents; verification.

Sec. 5225. Each proof of claim must be sworn to and must state the actual amount unpaid and owing, the actual consideration thereof, when the same was contracted, when the same has become or will become due, whether any or what securities are held therefor, whether any and what payments have been made thereon, that the sum claimed is justly owing from the assignor to the claimant, and that the claimant has not, nor has any other person for his use, received any security or satisfaction whatever other than that set forth in such proof. When the claim is founded upon an account an itemized statement thereof shall be given and when the claim is founded upon any note or similar instrument, a copy thereof shall be attached and the production of the original may be required by the assignee.

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

600.5231 Contest of claims; procedure, costs; filing fee.

Sec. 5231. The assignee may contest any claim. Any creditor desirous of having a claim contested may by writing request the assignee to do so and the service of any such request shall operate to stay the payment of any dividend upon such claim until the further order of the court; or any creditor may petition the court for an order requiring the assignee to contest any claim. The contest of any claim shall be instituted by serving, personally or by mail, a notice upon the claimant stating that such claim will be contested and for what reasons. Upon said proof of claim and proof of such service being filed with the clerk of said court, he shall enter such contest as cause in the name of such creditor against such assignor. The circuit court of such county shall proceed with the trial of said cause in the same manner as in other suits at law and shall have power to cause further pleadings to be filed and to allow new or amended ones as may be deemed necessary. The costs or any part thereof may be awarded to either party as the court may deem just and right under the circumstances. Whenever costs are awarded to the creditor, they shall be taxed and shall be paid by the assignee out of the assets if he has sufficient for that purpose. On the filing of the assignment referred to in section 5201, the assignor shall pay to the clerk of the court filing fee of $5.00. For all subsequent proceedings, fees shall be due and payable in accordance with the provisions of the statute relating generally to trials in circuit court.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, Act 240, Eff. Sept. 6, 1963.

600.5235 Set-off of mutual debts and credits.

Sec. 5235. In all cases of mutual debts or mutual credits between the estate of an assignor and a creditor, the account shall be stated and 1 debt shall be set off against the other and the balance only shall be allowed or paid. A set-off or counter claim shall not be allowed in favor of any debtor of the assignor which is not provable against his estate, or which was purchased by or transferred to such debtor after the filing of the assignment or prior to the filing thereof with a view to such use and with knowledge or notice that such assignor was insolvent.

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

600.5241 Circuit courts; jurisdiction; supervisory powers; specific powers; examination; assignor and others; assignee; orders; circuit court commissioner.

Sec. 5241. Circuit courts have original jurisdiction to hear and determine matters concerning assignments, commonly called common law assignments for the benefit of creditors, according to the following provisions.

(1) The circuit court of the county where the assignor resides, or if the assignor is not a resident of the state then the circuit court of the county where the assigned property is principally located, has supervisory power over all matters, questions, and disputes arising under all those assignments commonly called common law

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assignments for the benefit of creditors, except as otherwise provided.

(2) Upon the application of the assignee or of any other interested person the proper circuit court may make all necessary and proper orders for:

(a) the management and disposition of the assigned property;

(b) the allowance of claims;

(c) the re-examination of claims;

(d) the distribution of the assets and avails;

(e) the recovery of all property claimed by third persons;

(f) the prevention of any fraudulent transfer or change in the property or effects of the assignor or the allowance or payment of any unjust or fraudulent claims;

(g) the furnishing from time to time of new bonds or sureties who shall qualify under the court rules, and

(h) the removal of any assignee for cause and the appointment of a successor to any assignee who dies, resigns, or is removed.

(3) On the application of the assignee or any creditor the judge of this court may require the assignor or any other person to appear before him on reasonable notice and submit to examination under oath upon all matters relating to:

(a) the disposal of the property of the assignor;

(b) the assignor's trade and dealings with others and his accounts concerning his trade and dealings with others;

(c) all debts due or claimed from the assignor;

(d) any and all other matters concerning the assignor's property and estate or the concealment and embezzlement of his property and estate, and

(e) the due settlement of the estate according to law. At the request of any party to the proceedings the examination may be reduced to writing and filed with the clerk of the county.

At the request of any party to the proceedings the examination may be reduced to writing and filed with the clerk of the county.

(4) At any time before the final settlement of the accounts of the assignee the judge of the proper circuit court may require the attendance of and examine the assignee as to all matters appertaining to the estate of the assignor or the administration of the trust, and upon the examination he may make any order which he deems proper in regard to costs.

(5) No power conferred upon the judge by the above subsections (1) through (4) shall be exercised by a circuit court commissioner except under a special reference made by the court.

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

600.5245 Assignee; accounts; reports; completion of duties; extension of time; notice.

Sec. 5245. The assignee shall keep a regular account of all money received by him, to which account every creditor or other interested person shall be at liberty at all reasonable times to have access. Within 3 months after receiving such trust, the assignee shall file a report in said clerk's office of the condition of said estate, containing a statement of all property whatsoever received by him and the disposition made thereof, and of all moneys received, disbursed and on hand, and shall quarterly thereafter make like report covering all matters since the preceding report. It shall be the duty of the assignee to close his trust if practicable within 1 year from the date the assignment is filed, but such court or judge shall have power upon cause shown to extend the time allowed for that purpose, for such further periods as may be reasonably necessary, but in case of application for any such extension, notice thereof by mail or otherwise as said court or judge may direct shall be given to the creditors who shall have the right to appear and be heard with reference thereto.

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

600.5251 Payment of claims; order; method; time.

Sec. 5251. (1) Funds available for distribution shall be applied to the payment of the following items and in the following order:

(a) All taxes legally due and owing by the assignor to the United States, state, county or municipality;

(b) The cost of administration;

(c) All labor debts entitled to preference under the laws of this state;

(d) All other debts which under the laws of the United States or of this state are entitled to priority;

(e) All other claims preferred and allowed;

(f) Any remaining surplus to be paid to the assignor, his representatives or assigns.

(2) In case the funds shall be insufficient to pay any class in full, then the same shall be distributed pro rata among such class. No dividend on general claims shall be paid until 20 days after the second notice required

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by section 5221 has been given and proof of service thereof filed with the clerk. If at the time any dividend is made, any suit or claim be pending in which a demand against such assignor may be established, the assignee shall retain in his hands the proportion which would belong to such demand if established, and the necessary costs and expenses of such suit or proceeding to be applied according to the event thereof or to be distributed in a subsequent dividend. Any creditor, who shall have neglected to make proof of his claim before any dividend but who shall make proof before a subsequent dividend, shall receive the sum or sums he would have been entitled to on any former dividend or dividends before any further distribution be made to other creditors. It shall be the duty of the assignee to endeavor to make payment of all dividends to the persons entitled thereto. If any dividend that shall have been declared shall remain unpaid to the person entitled thereto until the estate is otherwise ready to be closed, the assignee shall consider it relinquished and shall distribute it among the other creditors unless otherwise ordered by the court.

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

600.5255 Compensation of assignee; application; notice to creditors.

Sec. 5255. The assignee shall receive for his services, such compensation as may be allowed by the court. In the event of an estate being administered by more than 1 assignee or by successive assignees, the court shall apportion the compensation between them according to the services actually rendered so that there shall not be paid to the assignees for the administering of any estate a greater amount than 1 assignee would be entitled to. The court may in its discretion withhold all compensation from any assignee who has been removed for cause. Ten days' notice by mail shall be given to the creditors of all applications for the allowance to the assignee of compensation and expenses, stating the amount of compensation and the items of expenses for which allowance is asked.

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

600.5261 Civil action for enforcement of trust; grounds; appointment of receiver or assignee; summary examination; powers, duties, and compensation of receiver.

Sec. 5261. In case there is any fraud in the matter of the assignment, or if the assignee fails to file it, or to qualify or to comply with any of the provisions of this chapter, or to promptly and faithfully execute the trust, any person interested therein may bring a civil action in the proper county for the enforcement of the trust. The court in its discretion may appoint a receiver or assignee therein and may order the summary examination of any party or witness at any stage of the cause or other proceedings under this chapter, relative to the matters of the trust, and enforce attendance and the giving of testimony. A receiver shall have the same rights, powers, duties, and compensation and be subject to all the obligations and liabilities of an assignee.

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

600.5265 Nature of proceedings.

Sec. 5265. Proceedings under this chapter, except the contest of claims under section 5231, are equitable in nature.

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

CHAPTER 53
RECEIVERSHIP FOR WAGE EARNERS

600.5301 Assignment of future wages; notice to creditor and employer; exception.

Sec. 5301. Any person employed by any person, firm, corporation, a local government or agency, or the state, or an agency thereof, who is or may be working for wages or for a salary for others, including those paid on a commission basis or who are paid through any combination thereof, who has debts which he is unable to pay, may file a full and complete list of his creditors with the clerk of the district or municipal court where he lives or where he is employed. Upon making an assignment of all his future wages to the clerk of the court to continue during the pendency of the proceedings as hereinafter set forth, he may have a notice served upon each creditor. The notice shall set forth the fact that the proceedings are pending and contain a full list of his creditors and the amount alleged to be due to each creditor and shall prescribe a time within which the creditor shall file a sworn proof of claim with the clerk of the court, which time shall not be less than 10 days nor more than 20 days from the date of service of the notice upon the creditor and shall be signed by the clerk of the court. The notice shall act as an immediate stay of proceedings by every creditor so served as against the wages, salary, or commission so assigned. The clerk of the court shall thereupon also notify the employer of the pendency of the court proceedings in suitable form as prescribed by the court. The notice shall constitute a notification to the employer to pay any and all moneys due or to become due to the

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employee from thenceforth, to the clerk of the court, unless and until served with a notice to the contrary. The provisions of this chapter shall not apply to any city having a common pleas court.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1969, Act 341, Eff. Jan. 1, 1970;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

600.5305 List of creditors; contents of petition.

Sec. 5305. The list of creditors above mentioned shall be in the form of a petition under oath and under the pains and penalties of perjury, and shall set forth whether the petitioner is a married man or not and the name, age and relationship of each person depending upon him for support and shall give the name and address of each and every creditor of the petitioner, the amount of the indebtedness, the nature of the claim, and shall contain a statement in addition to the above as to whether or not the claim is disputed by either party as to amount, and in case said claim is disputed it shall give the amount claimed by the creditor and the amount claimed by the debtor.

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

600.5311 Exemptions.

Sec. 5311. After the filing of such petition and assignment of wages, the court shall make an order directing the clerk to pay the petitioner his legal exemptions, which shall be as follows:

(1) If the petitioner is a householder having a family, 60% but not less than $15.00 per week for which such wages, salary or commission are due, and in addition $2.00 per week for each person other than husband or wife under 18 years of age or incapable of self support because mentally or physically defective and legally dependent upon him for support.

(2) If the petitioner is not a householder having a family, he shall be entitled to 40% but not less than $10.00 per week.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1972, Act 21, Imd. Eff. Feb. 19, 1972.

600.5315 Exemptions by agreement; support of children.

Sec. 5315. If all creditors sign a written agreement so to do, the debtor may be paid more than the amounts herein provided for. If the petitioner is required by an order of a court of competent jurisdiction to pay money for the support and maintenance of children, then upon the filing with the court of a certified copy of the order, there shall be exempted such further sum as may be required to comply with the order, which the clerk shall forward to the person or official named in the order to receive the same.

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

600.5321 Distribution of balance.

Sec. 5321. The court shall further direct the clerk to pay the remainder of any moneys in his possession, over and above the exemptions of the petitioner, to the creditors, to be divided equally among all creditors listed, but the clerk shall not be obliged to make such distribution oftener than once in 60 days and then only if there is at least $100.00 to be distributed, but when making a distribution to creditors may pay claims or unpaid balances of $5.00 or less in full and divide the balance of the money equally among the balance of the creditors. Any money not called for by any creditor, or checks returned undelivered and remaining in the clerk's office for 6 months after the proceedings are dismissed, may be paid by the clerk to the petitioner.

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

600.5325 Clerk as agent of listed creditors; title to funds.

Sec. 5325. The clerk of the court shall be the agent of each creditor listed, as to funds paid into court to which such creditors are entitled under the provisions of this chapter, and upon payment of any such funds to the clerk of the court the title thereto shall immediately pass to the creditors entitled thereto by the provisions of this chapter and their heirs and assigns, and shall become part of the estate of such creditors. This provision shall not apply to moneys not called for by any creditor or checks returned not delivered and remaining in the clerk's office for 6 months after a petition is dismissed.

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

600.5331 Fixing amount of claim; disputed claim; costs; intervention.

Sec. 5331. (1) The judge shall fix the amount of each claim, regardless of whether or not it exceeds the jurisdiction of the court in civil actions, for the purpose of participating in the funds only. The fixing of these amounts shall not be construed to be a judgment, but a creditor may at any time during the pendency of the proceeding or afterwards, take any legal action he may desire against the debtor and any means to collect any judgment secured, excepting to garnish the assigned wages. In the case of a judgment creditor who is such when the petition is filed, the amount fixed shall be the amount of the judgment with costs and legal interest,

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less any payments thereon. When a creditor reduces his claim to judgment during the pendency of the proceedings, the amount of his claim for participating in the funds shall thereupon be fixed at the amount of the judgment and costs, but in such case payments previously made to creditors shall not be affected.

(2) The judge, debtor, or any creditor may dispute the claim of any creditor, at any time during the pendency of the proceedings. Upon the determination of the judge to dispute a claim, or upon the filing of a written notice of intention by the debtor or creditor to do so, the judge shall cause notice of hearing to be served on the debtor, the creditor whose claim is disputed, and the objector, and have a hearing thereon, and may issue subpoenas to compel the attendance of witnesses as in civil actions therein.

(3) Any costs incurred by the hearing may be taxed against either the debtor, the objector, or the creditor whose claim is disputed, as the judge may deem just, and may be deducted from any funds in the custody of the court which would otherwise be paid to the person against whom taxed, and paid to the person in whose favor they are taxed.

(4) Any person claiming to be a creditor of any person taking advantage of this chapter who has not been listed may intervene and prove his claim the same as though his claim had been listed.

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

600.5335 Payment of wages by employer.

Sec. 5335. Payment by any employer to the clerk of the court in pursuance of notice from the court to him or it of the filing of a petition by an employee, shall be payment to the employee the same as if received by said employee personally. Any employer who pays any wages, salary or commission to any employee after receiving notice of said assignment, shall be liable for any sums so paid on garnishment proceedings taken by any creditor.

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

600.5341 Garnishment; effect.

Sec. 5341. No creditor so named in this proceeding shall have any right to garnishee the petitioner therein, and it shall be the duty of the employer in any case when served with a notice of garnishment against said employee, nevertheless to pay said wages to the clerk of the court aforesaid together with notice that such wages have been garnisheed together with any other pertinent facts pertaining to the case. When and in case any creditor not listed shall garnishee any wages so assigned, he shall have the right to have his cost expended in said garnishment added to the amount due him by proof to the court that said garnishment was instituted in good faith and without knowledge of said assignment proceedings.

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

600.5345 Duration of assignment proceedings.

Sec. 5345. Such proceedings shall be continued indefinitely until all debts of said petitioner are paid or they may be dismissed by the court after notice to interested parties upon the petition of the debtor or upon the court's own motion or upon the petition of any creditor who can show by evidence that the debtor is attempting to deceive the court or to be unfair or is in collusion with any person, persons, firm, firms, corporation or corporations, in connection with the receivership.

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

600.5351 Secured creditors.

Sec. 5351. Nothing in this chapter shall be construed to deprive the creditor holding security from pursuing his rights under the instrument giving him such security, and no creditor shall be deprived of any remedy given him by the laws of the state except they shall not have the right to garnishee or obtain any interest in the wages, salary or commission of any person claiming the advantages of this chapter.

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

600.5355 Notices; manner of giving; change of employment.

Sec. 5355. All notices provided for in this chapter may be given by registered mail with return receipt demanded, and if the return receipt is not received the court may order the same served as process is served in said court, and the cost thereof shall be paid by the petitioner. When and if the petitioner changes his employer he shall notify the clerk of the court and execute a new assignment of his wages and the clerk shall notify the new employer.

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

600.5361 Debts incurred after filing petition; not included.

Sec. 5361. The petitioner shall not have the right to file or list any indebtedness incurred after the filing of

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the petition.

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

600.5365 Statute of limitations tolled during pendency of proceedings.

Sec. 5365. The statute of limitations shall not run against any debt or liability of a petitioner during the pendency of the proceedings herein provided for, whether such indebtedness or liability existed at the time of the filing of the petition or was incurred afterwards.

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

600.5371 Court fees upon petition; defrayment of incidental expenses.

Sec. 5371. Upon the filing of the petition and assignment of wages as herein provided, said petitioner shall pay to the clerk of said court the sum of 50 cents as a filing fee and the further sum of 50 cents for each creditor named in the petition and each year thereafter the sum of 50 cents for each creditor listed and not paid in full. In the event of any contest between the debtor and any creditor or 1 creditor and another creditor, the moving party in such contest shall before having same determined pay to the clerk of the court the sum of 50 cents as a hearing fee for such service and the court shall have the right to direct the clerk to retain from the exemptions of petitioners such sums as may be necessary to defray the actual costs for providing notices, stamps, clerical help in the clerk's office, and other incidental expenses of paying for the administration of this chapter, and charge the same to the petitioners. The clerk shall deduct from the exemptions of petitioners the fee of 50 cents per creditor above provided for second and subsequent years, unless the petitioner shall pay same when due. All fees herein provided for shall be for the use of the city.

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

600.5375 Repealed. 1969, Act 209, Eff. Jan. 1, 1970.

Compiler's note: The repealed section pertained to receivership for wage earners; cities to which applicable.

CHAPTER 54
ASSIGNMENT OF ACCOUNTS RECEIVABLE

600.5401-600.5445 Repealed. 1962, Act 174, Eff. Jan. 1, 1964.

CHAPTER 54A.
BANKRUPTCY

600.5451 Bankruptcy; exemptions from property of estate; exception; exempt property sold, damaged, destroyed, or acquired for public use; amounts adjusted by state treasurer; definitions.

Sec. 5451. (1) A debtor in bankruptcy under the bankruptcy code, 11 USC 101 to 1330, may exempt from property of the estate property that is exempt under federal law or, under 11 USC 522(b)(2), the following property:

(a) All of the following:

(*i*) Family pictures.

(*ii*) Arms and accoutrements required by law to be kept by a person.

(*iii*) Wearing apparel, excluding furs.

(*iv*) Cemeteries, tombs, and rights of burial in use as repositories for the dead of the judgment debtor's family or kept for burial of the judgment debtor.

(*v*) Professionally prescribed health aids.

(b) Provisions and fuel for comfortable subsistence of each householder and his or her family for 6 months.

(c) The interest, not to exceed a value of $450.00 in each item and an aggregate value of $3,000.00, in household goods, furniture, utensils, books, appliances, and jewelry.

(d) The interest, not to exceed $500.00 in value, in a seat, pew, or slip occupied by the judgment debtor or the judgment debtor's family in a house or place of public worship.

(e) The interest, not to exceed $2,000.00 in value, in crops, farm animals, and feed for the farm animals.

(f) The interest, not to exceed $500.00 in value, in household pets.

(g) The interest, not to exceed $2,775.00 in value, in 1 motor vehicle.

(h) The interest, not to exceed $500.00 in value, in 1 computer and its accessories.

(i) The interest, not to exceed $2,000.00 in value, in the tools, implements, materials, stock, apparatus, or other things to enable a person to carry on the profession, trade, occupation, or business in which the person is principally engaged.

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(j) Money or other benefits paid, provided, or allowed to be paid, provided, or allowed, by a stock or mutual life, health, or casualty insurance company because of the disability due to injury or sickness of an insured person, whether the debt or liability of the insured person or beneficiary was incurred before or after the accrual of benefits under the insurance policy or contract, except that this exemption does not apply to actions to recover for necessities contracted for after the accrual of the benefits.

(k) The interest, not exceeding $1,000.00 in par value, in shares held by a member, who is a householder, of an association incorporated under the savings and loan act of 1980, 1980 PA 307, MCL 491.102 to 491.1202, except that this exemption does not apply to a person who has a homestead exempted under the general laws of this state.

(*l*) All individual retirement accounts, including Roth IRAs, or individual retirement annuities as defined in section 408 or 408a of the internal revenue code, 26 USC 408 and 408a, and the payments or distributions from those accounts or annuities. This exemption applies to the operation of the federal bankruptcy code as permitted by section 522(b)(2) of the bankruptcy code, 11 USC 522. This exemption does not apply to the amount contributed to an individual retirement account or individual retirement annuity within 120 days before the debtor files for bankruptcy. This exemption does not apply to any of the following:

(*i*) The portion of an individual retirement account or individual retirement annuity that is subject to an order of a court pursuant to a judgment of divorce or separate maintenance.

(*ii*) The portion of an individual retirement account or individual retirement annuity that is subject to an order of a court concerning child support.

(*iii*) The portion of an individual retirement account or individual retirement annuity that is attributable to contributions to the individual retirement account or premiums on the individual retirement annuity, including the earnings or benefits from those contributions or premiums, that, in the tax year made or paid, exceeded the deductible amount allowed under section 408 of the internal revenue code, 26 USC 408. This limitation on contributions does not apply to a rollover of a pension, profit-sharing, stock bonus plan, or other plan that is qualified under section 401 of the internal revenue code, 26 USC 401, or an annuity contract under section 403(b) of the internal revenue code, 26 USC 403.

(m) The right or interest of a person in a pension, profit-sharing, stock bonus, or other plan that is qualified under section 401 of the internal revenue code, 26 USC 401, or an annuity contract under section 403(b) of the internal revenue code, 26 USC 403, if the plan or annuity is subject to the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829. This exemption does not apply to any amount contributed to a pension, profit-sharing, stock bonus, or other qualified plan or a 403(b) annuity if the contribution occurs within 120 days before the debtor files for bankruptcy. This exemption does not apply to the right or interest of a person in a pension, profit-sharing, stock bonus, or other qualified plan or a 403(b) annuity to the extent that the right or interest is subject to either of the following:

(*i*) An order of a court pursuant to a judgment of divorce or separate maintenance.

(*ii*) An order of a court concerning child support.

(n) The interest of the debtor, the codebtor, if any, and the debtor's dependents, not to exceed $30,000.00 in value or, if the debtor or a dependent of the debtor at the time of the filing of the bankruptcy petition is 65 years of age or older or disabled, not to exceed $45,000.00 in value, in a homestead.

(o) Property described in section 1 of 1927 PA 212, MCL 557.151, or real property, held jointly by a husband and wife as a tenancy by the entirety, except that this exemption does not apply with regard to a claim based on a joint debt of the husband and wife.

(p) If the owner of a homestead dies, leaving a surviving spouse but no children, the surviving spouse before his or her remarriage, unless the surviving spouse is the owner of a homestead in his or her own right, may exempt the homestead and the rents and profits of the homestead.

(2) An exemption under this section does not apply to a mortgage, lien, or security interest in the exempt property that is consensually given or lawfully obtained unless the lien is obtained by judgment, attachment, levy, or similar legal process in connection with a court action or proceeding against the debtor.

(3) If property that is exempt under this section is sold, damaged, destroyed, or acquired for public use, the right to receive proceeds or, if the owner receives proceeds and holds them in a manner that makes them identifiable as proceeds, the proceeds received are exempt from the property of a federal bankruptcy estate in the same manner and amount as the exempt property. An exemption under this subsection may be claimed up to 1 year after the receipt of the proceeds by the owner.

(4) On March 1, 2005 and at the end of each 3-year period after 2005, the state treasurer shall adjust each dollar amount in this section or, for each adjustment after March 1, 2005, each adjusted amount, by an amount determined by the state treasurer to reflect the cumulative change in the consumer price index for the 3-year period ending on the December 31 preceding the adjustment date and rounded to the nearest $25.00. The state treasurer shall publish the adjusted amounts. The adjusted amounts apply to cases filed on or after April 1

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following the adjustment date.

(5) As used in this section:

(a) "Consumer price index" means the consumer price index for all urban consumers in the area of Detroit-Ann Arbor-Flint, Michigan, published by the United States department of labor or, if the United States department of labor ceases publishing that index, the most similar index available.

(b) "Disabled" means unable to engage in substantial gainful activity, as defined by 42 USC 1382c(a)(3)(E), as a result of a physical or mental impairment and receiving supplemental security income under 42 USC 1382(a)(3)(A) and (C).

(c) "Proceeds" means money payable or paid as a result of 1 or more of the following:

(*i*) Sale of the property.

(*ii*) Insurance or other indemnification for damage or destruction of the property.

(*iii*) Compensation for the acquisition for public use of the property.

(d) "Homestead" means 1 of the following owned or being purchased under an executory contract by the debtor that the debtor or a dependent of the debtor occupies as his or her principal residence:

(*i*) If the land is located outside of a recorded plat, city, or village, a residential dwelling and appurtenances and the land on which they are situated, not exceeding 40 acres.

(*ii*) If the land is located within a recorded plat, city, or village, a residential dwelling and appurtenances and the land on which they are situated, not exceeding 1 lot or parcel.

(*iii*) A residential dwelling situated on land not owned by the debtor.

(*iv*) A condominium unit.

(*v*) A unit in a cooperative.

(*vi*) A motor home.

(*vii*) A boat or other watercraft.

(e) "Residential dwelling" includes, but is not limited to, a house or a manufactured or mobile home.

History: Add. 2004, Act 575, Imd. Eff. Jan. 3, 2005.

CHAPTER 55
PRISONER LITIGATION REFORM

600.5501 Civil action concerning prison conditions; jurisdiction.

Sec. 5501. A civil action concerning prison conditions shall be brought in the circuit court or the court of claims, as appropriate.

History: Add. 1999, Act 147, Imd. Eff. Nov. 1, 1999.

600.5503 Exhaustion of administrative remedies; dismissal; appointment of counsel; prohibition.

Sec. 5503. (1) A prisoner shall not file an action concerning prison conditions until the prisoner has exhausted all available administrative remedies.

(2) The court shall on its own motion or on the motion of a party dismiss an action concerning prison conditions brought by a prisoner as to 1 or more defendants if the court is satisfied that the action is frivolous or seeks monetary relief from a defendant who is immune from the requested relief.

(3) The court shall not appoint counsel paid for in whole or in part at taxpayer expense to a prisoner for the purpose of filing a civil action concerning prison conditions.

History: Add. 1999, Act 147, Imd. Eff. Nov. 1, 1999.

600.5505 Applicability of MCL 600.2963; conditions for dismissal.

Sec. 5505. (1) Section 2963 applies to civil actions concerning prison conditions.

(2) The court shall dismiss a case at any time, regardless of any filing fee that may have been paid, if the court finds any of the following:

(a) A prisoner's allegation of indigency is untrue.

(b) The action or appeal is frivolous.

(c) The action or appeal seeks monetary relief against a defendant who is immune from the requested relief.

(d) A prisoner fails to comply with subsection (1).

History: Add. 1999, Act 147, Imd. Eff. Nov. 1, 1999.

600.5507 Claim of indigency; limitations; exceptions; disclosure of previous civil actions and appeals; conditions for dismissal.

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Sec. 5507. (1) A prisoner shall not claim indigency under section 2963 in a civil action concerning prison conditions or an appeal of a judgment in a civil action concerning prison conditions or be allowed legal representation by an attorney who is directly or indirectly compensated for his or her services in whole or in part by state funds if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any prison, brought an action or appeal in a court of this state that was dismissed on the grounds that it was frivolous, unless the prisoner has suffered serious physical injury or is under imminent danger of suffering serious physical injury or has suffered or is under imminent danger of suffering conduct prohibited under section 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

(2) A prisoner who brings a civil action or appeals a judgment concerning prison conditions shall, upon commencement of the action or initiation of the appeal, disclose the number of civil actions and appeals that the prisoner has previously initiated.

(3) The court shall dismiss a civil action or appeal at any time, regardless of any filing fee that may have been paid, if the court finds any of the following:

(a) The prisoner's claim of injury or of imminent danger under subsection (1) is false.

(b) The prisoner fails to comply with the disclosure requirements of subsection (2).

History: Add. 1999, Act 147, Imd. Eff. Nov. 1, 1999.

600.5509 Complaint; review by court; dismissal; reply; waiver; requirement; reasons for decision by court.

Sec. 5509. (1) The court shall review as soon as practicable a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity.

(2) On review, the court shall dismiss the complaint or a portion of the complaint if the court finds either of the following:

(a) The complaint or a portion of the complaint is frivolous.

(b) The complaint seeks monetary relief from a defendant who is immune from the requested relief.

(3) A defendant may waive the right to reply to an action brought by a prisoner. Notwithstanding any other law or rule of procedure, a waiver under this subsection does not constitute an admission of the allegations contained in the complaint. Relief shall not be granted to the plaintiff unless a reply has been filed.

(4) The court may require a defendant to reply to a complaint in a civil action concerning prison conditions if it finds that the plaintiff is likely to prevail on the merits.

(5) If, after reviewing the complaint, the court does not dismiss the complaint under this section, the court shall indicate in the record the reasons for that decision.

History: Add. 1999, Act 147, Imd. Eff. Nov. 1, 1999.

600.5511 Action for mental or emotional injury suffered while in custody; showing of physical injury; payment of damages to prisoner; satisfaction of outstanding restitution orders; notification to crime victims.

Sec. 5511. (1) A person shall not bring an action against this state or a subdivision of this state, or an official, employee, or agent of this state or a subdivision of this state, for mental or emotional injury suffered while in custody without a showing of physical injury arising out of the incident giving rise to the mental or emotional injury.

(2) Subject to section 220h of 1953 PA 232, MCL 791.220h, and the crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, any damages awarded to a prisoner in connection with a civil action brought against a prison or against an official, employee, or agent of a prison shall be paid directly to satisfy any outstanding restitution orders pending against the prisoner, including, but not limited to, restitution orders issued under the state correctional facility reimbursement act, 1935 PA 253, MCL 800.401 to 800.406, the prisoner reimbursement to the county act, 1984 PA 118, MCL 801.81 to 801.93, 1982 PA 14, MCL 801.301, and the crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, any outstanding costs and fees, and any other debt or assessment owed to the jurisdiction housing the prisoner. The remainder of the award after full payment of all pending restitution orders, costs, and fees shall be forwarded to the prisoner.

(3) Before payment of any damages awarded to a prisoner in connection with a civil action described in subsection (2), the court awarding the damages shall make reasonable efforts to notify the victims of the crime for which the prisoner was convicted and incarcerated concerning the pending payment of damages.

History: Add. 1999, Act 147, Imd. Eff. Nov. 1, 1999.

600.5513 Revocation of prisoner's good time or disciplinary credit; conditions.

Sec. 5513. In a civil action brought by a prisoner, the court may order the revocation of a prisoner's good

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time credit, disciplinary credit, or both, if, on its own motion or the motion of a party, the court finds that the prisoner filed an action prohibited under section 5503 or 5505 and 1 of the following applies:

(a) The claim was filed for a malicious purpose.

(b) The claim was filed solely to harass the party against whom it was filed.

(c) The prisoner testified falsely or otherwise knowingly presents false evidence or information to the court.

History: Add. 1999, Act 147, Imd. Eff. Nov. 1, 1999.

600.5515 Participation of prisoner in pretrial or hearing proceedings.

Sec. 5515. (1) To the extent practicable, in an action brought by a prisoner, pretrial proceedings in which the prisoner's participation is required or permitted shall be conducted by telephone, video conference, or other telecommunications technology without removing the prisoner from the prison in which the prisoner is confined.

(2) Subject to the agreement of the official of the state or local unit of government with custody over the prisoner, hearings may be conducted at the prison in which the prisoner is confined. To the extent practicable, the court shall allow counsel to participate by telephone, video conference, or other communications technology in a hearing held at the prison.

History: Add. 1999, Act 147, Imd. Eff. Nov. 1, 1999.

600.5517 Prospective relief; conditions; limitation.

Sec. 5517. (1) The court shall not grant or approve any prospective relief in a civil action concerning prison conditions unless the court finds that the relief is narrowly drawn, extends no further than necessary to correct the violation of the right, and is the least intrusive means necessary to correct the violation of the right. The court shall give substantial weight to any adverse effect on public safety or the operation of the criminal justice system caused by the relief.

(2) A court shall not order prospective relief that requires or permits a government official to exceed his or her authority under state or local law or otherwise violates local law, unless all of the following conditions exist:

(a) State law permits the relief to be ordered in violation of local law.

(b) The relief is necessary to correct the violation of a right under state or local law.

(c) No other relief will correct the violation of the right.

(3) This section does not authorize a court, in exercising its remedial powers, to order the construction of prisons or the raising of taxes, or to repeal or detract from otherwise applicable limitations on the remedial powers of the court.

History: Add. 1999, Act 147, Imd. Eff. Nov. 1, 1999.

600.5519 Preliminary injunctive relief.

Sec. 5519. The court may enter a temporary restraining order or an order for preliminary injunctive relief in a civil action concerning prison conditions to the extent otherwise authorized by law. Preliminary injunctive relief shall be narrowly drawn, extend no further than necessary to correct the harm the court finds requires preliminary relief, and be the least intrusive means necessary to correct that harm. The court shall give substantial weight to any adverse effect on public safety or the operation of the criminal justice system caused by the preliminary relief in tailoring the preliminary relief. Preliminary injunctive relief shall automatically expire 90 days after the preliminary injunctive order is entered, unless the court makes the findings required under section 5517(1) for the entry of prospective relief and makes the order final before the expiration of the 90-day period.

History: Add. 1999, Act 147, Imd. Eff. Nov. 1, 1999.

600.5521 Prospective relief; termination or modification.

Sec. 5521. (1) Except as provided in sections 5519 and 5523, prospective relief ordered in a civil action concerning prison conditions shall be terminable upon the motion of a party or intervenor as follows:

(a) Two years after the date the court granted or approved the prospective relief.

(b) One year after the date the court entered an order denying termination of prospective relief.

(c) In the case of an order issued on or before the date the amendatory act that added this chapter is enacted into law, 2 years after that date of enactment.

(2) This section does not prevent the parties from agreeing to terminate or modify relief before the relief is terminated under subsection (1).

History: Add. 1999, Act 147, Imd. Eff. Nov. 1, 1999.

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600.5523 Immediate termination of prospective relief; court findings; limitations.

Sec. 5523. (1) A defendant or intervenor is entitled to the immediate termination of a prospective relief ordered in a civil action concerning prison conditions if the relief was ordered in the absence of a finding by the court that the relief is narrowly drawn, extends no further than necessary to correct the violation of the state right, and is the least intrusive means necessary to correct the violation of a right under state or local law.

(2) Prospective relief shall not terminate if the court makes written findings based on the record that prospective relief remains necessary to correct a current or ongoing violation of the right, extends no further than necessary to correct the violation of the right, and is narrowly drawn and the least intrusive means to correct the violation.

(3) A party shall not seek modification or termination before the relief is terminable under section 5521 to the extent that modification or termination would otherwise be legally permissible.

History: Add. 1999, Act 147, Imd. Eff. Nov. 1, 1999.

600.5525 Consent decree.

Sec. 5525. In a civil action concerning prison conditions, the court shall not enter or approve a consent decree unless it complies with the limitations on relief set forth in sections 5517 and 5519.

History: Add. 1999, Act 147, Imd. Eff. Nov. 1, 1999.

600.5527 Prospective relief; ruling on motion; automatic stay; postponement of stay for good cause; appeal.

Sec. 5527. (1) The court shall promptly rule on a motion to modify or terminate prospective relief in a civil action concerning prison conditions.

(2) Any prospective relief subject to a pending motion shall be automatically stayed during 1 of the following periods:

(a) Beginning on the thirtieth day after the motion is filed, in the case of a motion made under section 5521 or 5523, and ending on the date the court enters a final order ruling on the motion.

(b) Beginning on the one hundred eightieth day after the motion is filed, in the case of a motion made under any other law, and ending on the date the court enters a final order ruling on the motion.

(3) The court may postpone the effective date of an automatic stay specified in subsection (2) for good cause for not more than 60 days. As used in this subsection, “good cause” does not include the congestion of the court's calendar.

(4) An order staying, suspending, delaying, or barring the operation of an automatic stay described in subsection (2), other than an order to postpone the effective date of the automatic stay under subsection (3), shall be treated as an order denying the dissolution of or modification of an injunction and may be appealed as of right regardless of how the order is styled or whether the order is termed a preliminary or final ruling.

History: Add. 1999, Act 147, Imd. Eff. Nov. 1, 1999.

600.5529 Actions dismissed as frivolous; compilation, maintenance, and use of list.

Sec. 5529. (1) The state court administrative office shall compile and maintain a list of the civil actions concerning prison conditions brought by a prisoner that are dismissed as frivolous. The list shall include an account of the amount of unpaid fees and costs associated with each dismissed case. The list shall be made available to the courts of this state for the purpose of ascertaining the existence and number of civil actions concerning prison conditions filed by each prisoner, and any associated unpaid fees and costs, for the purposes described in this chapter.

(2) A court in which a civil action concerning prison conditions is brought shall refer to the list described in subsection (1) to determine the number and existence of civil actions concerning prison conditions previously filed by a prisoner and any associated unpaid fees and costs.

History: Add. 1999, Act 147, Imd. Eff. Nov. 1, 1999.

600.5531 Definitions.

Sec. 5531. As used in this chapter:

(a) “Civil action concerning prison conditions” means any civil proceeding seeking damages or equitable relief arising with respect to any conditions of confinement or the effects of an act or omission of government officials, employees, or agents in the performance of their duties, but does not include proceedings challenging the fact or duration of confinement in prison, or parole appeals or major misconduct appeals under section 34 or section 55 of 1953 PA 232, MCL 791.234 and 791.255.

(b) “Consent decree” means any relief entered by the court that is based in whole or in part upon the consent or acquiescence of the parties but does not include private settlements.

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(c) “Frivolous” means that term as defined in section 2591 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2591.

(d) “Prison” means a facility that incarcerates or detains juveniles or adults accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of state or local law.

(e) “Prisoner” means a person subject to incarceration, detention, or admission to a prison who is accused of, convicted of, sentenced for, or adjudicated delinquent for violations of state or local law or the terms and conditions of parole, probation, pretrial release, or a diversionary program.

(f) “Private settlement agreement” means an agreement entered into among the parties that is not subject to judicial enforcement other than the reinstatement of the civil proceeding that the agreement settled.

(g) “Prospective relief” means all relief other than monetary damages.

(h) “Relief” means all relief in any form that may be granted or approved by the court, and includes consent decrees but does not include private settlement agreements.

History: Add. 1999, Act 147, Imd. Eff. Nov. 1, 1999.

CHAPTER 56
PROCEEDINGS TO RECOVER THE POSSESSION OF LAND IN CERTAIN CASES

600.5601-600.5679 Repealed. 1972, Act 120, Eff. July 1, 1972.

CHAPTER 57
SUMMARY PROCEEDINGS TO RECOVER POSSESSION OF PREMISES

600.5701 Definitions.

Sec. 5701. As used in this chapter:

(a) “Summary proceedings” means a civil action to recover possession of premises and to obtain certain ancillary relief as provided by this chapter and by court rules adopted in connection therewith.

(b) “Premises” includes lands, tenements, condominium property, cooperative apartments, air rights and all manner of real property. It includes structures fixed or mobile, temporary or permanent, vessels, mobile trailer homes and vehicles which are used or intended for use primarily as a dwelling or as a place for commercial or industrial operations or storage.

(c) “Lease” includes a written or verbal lease or license agreement for use or possession of premises.

(d) “District” means the judicial districts provided for in chapter 81.

History: Add. 1972, Act 120, Eff. July 1, 1972.

600.5704 Jurisdiction.

Sec. 5704. The district court, municipal courts and the common pleas court of Detroit have jurisdiction over summary proceedings to recover possession of premises under this chapter.

History: Add. 1972, Act 120, Eff. July 1, 1972.

600.5706 Venue.

Sec. 5706. (1) This section governs venue in all courts having jurisdiction over summary proceedings and is not jurisdictional.

(2) In districts where the district court is operative, the following are the proper places in which to commence and try summary proceedings:

(a) The county in which the premises or any part of the premises are situated, in districts of the first class.

(b) The district in which the premises or any part of the premises are situated, in districts of the second or third class.

(3) In districts where the district court is not operative, the municipal court of the city in which the premises or any part of the premises are situated is a proper court in which to commence and try summary proceedings. A municipal court having jurisdiction pursuant to section 9928 over a township in which the premises or any part of the premises are situated is a proper court in which to commence and try summary proceedings.

(4) Summary proceedings brought in a county, district, or court not designated as a proper county, district, or court may be tried in that county, district, or court, unless a defendant moves for a change of venue or the court upon its own motion orders a change of venue. The defendant's motion or the court's order shall be made within the time and in the manner provided by court rule and the court shall transfer such a proceeding to a proper county, district, or court on the condition that the plaintiff pay to the court to which the action is transferred an additional filing fee and on such other conditions relative to expense and costs as may be provided by court rule.

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(5) On such grounds and conditions as may be provided by court rule, the venue of summary proceedings commenced in a proper county, district, or court may be changed to any other county, district, or court and the proceeding tried in that county, district, or court. The court to which any transfer is made pursuant to this subsection or subsection (4) has full jurisdiction of the proceeding as though the proceeding were originally commenced in that court.

History: Add. 1972, Act 120, Eff. July 1, 1972;—Am. 1980, Act 438, Eff. Sept. 1, 1981.

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."

600.5708 Rules.

Sec. 5708. Except as otherwise provided in this chapter, the procedure in summary proceedings shall be regulated by rules adopted by the supreme court and by local court rules not inconsistent therewith.

History: Add. 1972, Act 120, Eff. July 1, 1972.

600.5711 Entry.

Sec. 5711. A person may not make any entry into or upon premises unless the entry is permitted by law. If entry is permitted by law, he shall not enter with force but only in a peaceable manner.

History: Add. 1972, Act 120, Eff. July 1, 1972.

600.5714 Summary proceedings to recover possession of premises; holding over by tenant or occupant of public housing or by tenant of mobile home park.

Sec. 5714. (1) A person entitled to premises may recover possession of the premises by summary proceedings in the following circumstances:

(a) When a person holds over premises after failing or refusing to pay rent due under the lease or agreement by which the person holds the premises within 7 days from the service of a written demand for possession for nonpayment of the rent due. For the purpose of this subdivision, rent due does not include any accelerated indebtedness by reason of a breach of the lease under which the premises are held.

(b) When a person holds over premises for 24 hours following service of a written demand for possession for termination of the lease pursuant to a clause in the lease providing for termination because a tenant, a member of the tenant's household, or other person under the tenant's control has unlawfully manufactured, delivered, possessed with intent to deliver, or possessed a controlled substance on the leased premises. This subdivision applies only if a formal police report has been filed by the landlord alleging that the person has unlawfully manufactured, delivered, possessed with intent to deliver, or possessed a controlled substance on the leased premises. For purposes of this subdivision, "controlled substance" means a substance or a counterfeit substance classified in schedule 1, 2, or 3 pursuant to sections 7211 to 7216 of the public health code, 1978 PA 368, MCL 333.7211 to 333.7216.

(c) When a person holds over premises in 1 or more of the following circumstances:

(*i*) After termination of the lease, pursuant to a power to terminate provided in the lease or implied by law.

(*ii*) After the term for which the premises are demised to the person or to the person under whom he or she holds.

(*iii*) After the termination of the person's estate by a notice to quit as provided by section 34 of 1846 RS

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66, MCL 554.134.

(d) When the person in possession willfully or negligently causes a serious and continuing health hazard to exist on the premises, or causes extensive and continuing physical injury to the premises, which was discovered or should reasonably have been discovered by the party seeking possession not earlier than 90 days before the institution of proceedings under this chapter and when the person in possession neglects or refuses for 7 days after service of a demand for possession of the premises to deliver up possession of the premises or to substantially restore or repair the premises.

(e) When a person takes possession of premises by means of a forcible entry, holds possession of premises by force after a peaceable entry, or comes into possession of premises by trespass without color of title or other possessory interest.

(f) When a person continues in possession of premises sold by virtue of a mortgage or execution, after the time limited by law for redemption of the premises.

(g) When a person continues in possession of premises sold and conveyed by a personal representative under license from the probate court or under authority in the will.

(2) A tenant or occupant of housing operated by a city, village, township, or other unit of local government, as provided in 1933 (Ex Sess) PA 18, MCL 125.651 to 125.709c, is not considered to be holding over under subsection (1)(b) or (c) unless the tenancy or agreement has been terminated for just cause, as provided by lawful rules of the local housing commission or by law.

(3) A tenant of a mobile home park is not considered to be holding over under subsection (1)(b) or (c) unless the tenancy or lease agreement is terminated for just cause pursuant to chapter 57a.

History: Add. 1972, Act 120, Eff. July 1, 1972;—Am. 1988, Act 336, Eff. May 1, 1989;—Am. 1990, Act 310, Imd. Eff. Dec. 14, 1990;—Am. 2004, Act 105, Eff. Sept. 1, 2004.

600.5716 Demand for possession or payment; form and contents.

Sec. 5716. A demand for possession or payment shall be in writing, addressed to the person in possession and shall give the address or other brief description of the premises. The reasons for the demand and the time to take remedial action shall be clearly stated. When nonpayment of rent or other sums due under the lease is claimed, the amount due at the time of the demand shall be stated. The demand shall be dated and signed by the person entitled to possession, his attorney or agent.

History: Add. 1972, Act 120, Eff. July 1, 1972.

600.5718 Demand for possession or payment; service.

Sec. 5718. The demand provided for in section 5716 may be served by delivering it personally to the person in possession, or by delivering it on the premises to a member of his family or household or an employee, of suitable age and discretion, with a request that it be delivered to the person in possession, or by sending it by first-class mail addressed to the person in possession. If the demand is mailed, the date of service for purposes of this chapter is the next regular day for delivery of mail after the day when it was mailed.

History: Add. 1972, Act 120, Eff. July 1, 1972.

600.5720 Judgment for possession of premises for alleged termination of tenancy; grounds for not entering; retaliatory termination of tenancy; presumptions; burden.

Sec. 5720. (1) A judgment for possession of the premises for an alleged termination of tenancy shall not be entered against a defendant if 1 or more of the following is established:

(a) That the alleged termination was intended primarily as a penalty for the defendant's attempt to secure or enforce rights under the lease or agreement or under the laws of the state, of a governmental subdivision of this state, or of the United States.

(b) That the alleged termination was intended primarily as a penalty for the defendant's complaint to a governmental authority with a report of plaintiff's violation of a health or safety code or ordinance.

(c) That the alleged termination was intended primarily as retribution for a lawful act arising out of the tenancy, including membership in a tenant organization and a lawful activity of a tenant organization arising out of the tenancy.

(d) That the alleged termination was of a tenancy in housing operated by a city, village, township, or other unit of local government and was terminated without cause.

(e) That the plaintiff attempted to increase the defendant's obligations under the lease or contract as a penalty for the lawful acts as are described in subdivisions (a) to (c) and that the defendant's failure to perform the additional obligations was the primary reason for the alleged termination of tenancy.

(f) That the plaintiff committed a breach of the lease which excuses the payment of rent if possession is

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claimed for nonpayment of rent.

(g) That the rent allegedly due, in an action where possession is claimed for nonpayment of rent, was paid into an escrow account under section 130 of Act No. 167 of the Public Acts of 1917, being section 125.530 of the Michigan Compiled Laws; was paid pursuant to a court order under section 134(5) of Act No. 167 of the Public Acts of 1917, as amended, being section 125.534 of the Michigan Compiled Laws; or was paid to a receiver under section 135 of Act No. 167 of the Public Acts of 1917, being section 125.535 of the Michigan Compiled Laws.

(2) If a defendant who alleges a retaliatory termination of the tenancy shows that within 90 days before the commencement of summary proceedings the defendant attempted to secure or enforce rights against the plaintiff or to complain against the plaintiff, as provided in subsection (1)(a), (b), (c), or (e), by means of official action to or through a court or other governmental agency and the official action has not resulted in dismissal or denial of the attempt or complaint, a presumption in favor of the defense of retaliatory termination arises, unless the plaintiff establishes by a preponderance of the evidence that the termination of tenancy was not in retaliation for the acts. If the defendant's alleged attempt to secure or enforce rights or to complain against the plaintiff occurred more than 90 days before the commencement of proceedings or was terminated adversely to the defendant, a presumption adverse to the defense of retaliatory termination arises and the defendant has the burden to establish the defense by a preponderance of the evidence.

History: Add. 1972, Act 120, Eff. July 1, 1972;—Am. 1980, Act 75, Imd. Eff. Apr. 3, 1980.

600.5726 Recovery of possession following forfeiture of executory contract for purchase of premises; accelerated indebtedness.

Sec. 5726. A person entitled to any premises may recover possession thereof by a proceeding under this chapter after forfeiture of an executory contract for the purchase of the premises but only if the terms of the contract expressly provide for termination or forfeiture, or give the vendor the right to declare a forfeiture, in consequence of the nonpayment of any moneys required to be paid under the contract or any other material breach of the contract. For purposes of this chapter, moneys required to be paid under the contract shall not include any accelerated indebtedness by reason of breach of the contract.

History: Add. 1972, Act 120, Eff. July 1, 1972.

600.5728 Prerequisites to recovery of possession under MCL 600.5726; contents of notice of forfeiture.

Sec. 5728. (1) Possession may be recovered under section 5726 only after the vendee or person holding possession under him has been served with a written notice of forfeiture and has failed in the required time to pay moneys required to be paid under the contract or to cure any other material breach of the contract. Unless the parties have agreed in writing to a longer time, the person served with a notice of forfeiture shall have 15 days thereafter before he is required to pay moneys required to be paid under the contract and cure other material breaches of the contract or to deliver possession of the premises.

(2) The notice of forfeiture shall state the names of the parties to the contract and the date of its execution, give the address or legal description of the premises, specify the unpaid amount of moneys required to be paid under the contract and the dates on which payments thereof were due, specify any other material breaches of the contract and shall declare forfeiture of the contract effective in 15 days, or specified longer time, after service of the notice, unless the money required to be paid under the contract is paid and any other material breaches of the contract are cured within that time. The notice shall be dated and signed by the person entitled to possession, his attorney or agent.

History: Add. 1972, Act 120, Eff. July 1, 1972.

600.5730 Service of notice of forfeiture.

Sec. 5730. The notice of forfeiture provided for in section 5728 may be served by delivering it personally to the vendee or person holding possession under him or by delivering it on the premises to a member of his family or household or an employee, of suitable age and discretion, with a request that it be delivered to the vendee or person holding possession under him, or by sending it by first-class mail addressed to the last known address of the vendee or the person holding under him. If the notice is mailed, the date of service for purposes of this chapter is the next regular day for delivery of mail after the day when it was mailed. If notice cannot be served by 1 of these methods, it may be served by publication under the provisions of Act No. 235 of the Public Acts of 1929, being sections 554.301 and 554.302 of the Compiled Laws of 1948 and the date of the third publication is the date of service.

History: Add. 1972, Act 120, Eff. July 1, 1972.

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600.5732 Powers of court having jurisdiction over summary proceedings.

Sec. 5732. Pursuant to applicable court rules, a court having jurisdiction over summary proceedings may provide for pleadings and motions, issue process and subpoenas, compel the attendance and testimony of witnesses, enter and set aside defaults and default judgments, allow amendments to pleadings, process, motions and orders, order adjournments and continuances, make and enforce all other writs and orders and do all other things necessary to hear and determine summary proceedings.

History: Add. 1972, Act 120, Eff. July 1, 1972.

600.5735 Summons; hearing.

Sec. 5735. (1) The court in which a summary proceeding is commenced shall issue a summons, which may be served on the defendant by any officer or person authorized to serve process of the court. The summons shall command the defendant to appear for trial in accordance with the provisions of subsection (2) unless by local court rule the provisions of subsection (4) have been made applicable.

(2) A summons issued under this section shall command the defendant to appear for trial as follows:

(a) Within 30 days of the issuance date of the summons in proceedings under section 5726, in which event the summons shall be served not less than 10 days before the date set for trial.

(b) Within 10 days of the issuance date of the summons in all other proceedings, in which event the summons shall be served not less than 3 days before the date set for trial.

(3) If a summons issued under this section is not served within the time provided by subsection (2), additional summons shall be issued at the plaintiff's request in the same manner and with the same effect as the original summons.

(4) Instead of the provisions of subsection (2), a court by local rule may provide for the application of this subsection to summary proceedings commenced in the court, in which event the summons shall command the defendant to appear as follows:

(a) Within 10 days after service of the summons upon the defendant in proceedings under section 5726.

(b) Within 5 days after service of the summons upon the defendant in all other proceedings.

(5) A summons issued under subsection (4) remains in effect until served or quashed or until the action is dismissed, but additional summons as needed for service may be issued at any time at the plaintiff's request.

(6) Except as otherwise provided by court rule, a summary proceeding shall be heard within 7 days after the defendant's appearance or trial date and shall not be adjourned beyond that time other than by stipulation of the parties either in writing or on the record.

(7) An action to which section 5714(1)(b) applies shall be heard at the time of the defendant's appearance or trial date and shall not be adjourned beyond that time except for extraordinary reasons.

History: Add. 1972, Act 120, Eff. July 1, 1972;—Am. 2001, Act 162, Imd. Eff. Nov. 7, 2001;—Am. 2004, Act 105, Eff. Sept. 1, 2004.

600.5738 Jury trial.

Sec. 5738. Any party to summary proceedings may demand a trial by jury within the time and manner provided by court rule. Procedures for selecting, impaneling and otherwise governing jurors in such proceedings shall be the same as for a trial by jury in other civil actions in the same court.

History: Add. 1972, Act 120, Eff. July 1, 1972.

600.5739 Joinder of claims and counterclaims for money judgment; separate disposition of claim for possession; damages for labor expended by either landlord or tenant.

Sec. 5739. (1) Except as provided by court rules, a party to summary proceedings may join claims and counterclaims for money judgment for damages attributable to wrongful entry, detainer, or possession, for breach of the lease or contract under which the premises were held, or for waste or malicious destruction to the premises. The court may order separate summary disposition of the claim for possession, without prejudice to any other claims or counterclaims. A claim or counterclaim for money judgment shall not exceed the amount in controversy that otherwise limits the jurisdiction of the court.

(2) If the court awards damages for physical injury to the premises under subsection (1) by making an award for or based on the cost of repairs, the court shall award damages for labor expended by a landlord or property manager in repairing the premises in the same manner as it would if the repairs were performed by a third party. A landlord's or property manager's labor under this subsection shall be compensated at a rate the court determines to be reasonable based on usual and customary charges for the repairs.

(3) If the court determines that the landlord breached the lease or contract under which the premises were held by failing to repair the premises and awards damages under subsection (1) by making an award for or based on the cost of repairs, the court shall award damages for labor expended by the tenant in repairing the

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premises in the same manner as it would if the repairs were performed by a third party. A tenant's labor under this subsection shall be compensated at a rate the court determines to be reasonable based on usual and customary charges for the repairs.

History: Add. 1972, Act 120, Eff. July 1, 1972;—Am. 2006, Act 147, Eff. July 1, 2006.

Compiler's note: Enacting section 1 of Act 147 of 2006 provides:
"Enacting section 1. This amendatory act applies to an action filed after the effective date of this amendatory act."

600.5741 Entry and enforcement of judgment for possession; determination of amount due; award of costs.

Sec. 5741. If the jury or the judge finds that the plaintiff is entitled to possession of the premises, or any part thereof, judgment may be entered in accordance with the finding and may be enforced by a writ of restitution as provided in this chapter. If it is found that the plaintiff is entitled to possession of the premises, in consequence of the nonpayment of any money due under a tenancy, or the nonpayment of moneys required to be paid under an executory contract for purchase of the premises, the jury or judge making the finding shall determine the amount due or in arrears at the time of trial which amount shall be stated in the judgment for possession. In determining the amount due under a tenancy the jury or judge shall deduct any portion of the rent which the jury or judge finds to be excused by the plaintiff's breach of the lease or by his breach of 1 or more statutory covenants imposed by section 39 of chapter 66 of the Revised Statutes of 1846, as added, being section 554.139 of the Compiled Laws of 1948. The statement in the judgment for possession shall be only for the purpose of prescribing the amount which, together with taxed costs, shall be paid to preclude issuance of the writ of restitution. The judgment may include an award of costs, enforceable in the same manner as other civil judgments for money in the same court.

History: Add. 1972, Act 120, Eff. July 1, 1972.

600.5744 Issuance of writ of restitution; conditions; foreclosure of equitable right of redemption.

Sec. 5744. (1) Subject to the time restrictions of this section, the court entering a judgment for possession in a summary proceeding shall issue a writ commanding the sheriff, or any other officer authorized to serve the process, to restore the plaintiff to, and put the plaintiff in, full possession of the premises.

(2) On conditions determined by the court, a writ of restitution may be issued immediately after the entry of a judgment for possession when any of the following is pleaded and proved, with notice, to the satisfaction of the court:

(a) The premises are subject to inspection and certificate of compliance under the housing law of Michigan, 1917 PA 167, MCL 125.401 to 125.543, and the certificate or temporary certificate has not been issued and the premises have been ordered vacated.

(b) Forcible entry was made contrary to law.

(c) Entry was made peaceably but possession is unlawfully held by force.

(d) The defendant came into possession by trespass without color of title or other possessory interest.

(e) The tenant, willfully or negligently, is causing a serious and continuing health hazard to exist on the premises or is causing extensive and continuing injury to the premises and is neglecting or refusing either to deliver up possession after demand or to substantially restore or repair the premises.

(f) The action is an action to which section 5714(1)(b) applies.

(3) When a judgment for possession is based upon the forfeiture of an executory contract for the purchase of the premises, a writ of restitution shall not be issued until the expiration of 90 days after the entry of judgment for possession if less than 50% of the purchase price has been paid or until the expiration of 6 months after the entry of judgment for possession if 50% or more of the purchase price has been paid.

(4) In all cases not controlled by subsection (2) or (3), a writ of restitution shall not be issued until the expiration of 10 days after the entry of the judgment for possession.

(5) If an appeal is taken or a motion for new trial is filed before the expiration of the period during which a writ of restitution shall not be issued and if a bond to stay proceedings is filed, the period during which the writ shall not be issued shall be tolled until the disposition of the appeal or motion for new trial is final.

(6) When a judgment for possession is for nonpayment of money due under a tenancy or for nonpayment of money required to be paid under or any other material breach of an executory contract for purchase of the premises, the writ of restitution shall not issue if, within the time provided, the amount stated in the judgment, together with the taxed costs, is paid to the plaintiff and other material breaches of the executory contract for purchase of the premises are cured.

(7) Issuance of a writ of restitution following entry of a judgment for possession because of the forfeiture of an executory contract for the purchase of the premises forecloses any equitable right of redemption that the

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purchaser has or could claim in the premises.

History: Add. 1972, Act 120, Eff. July 1, 1972;—Am. 2004, Act 105, Eff. Sept. 1, 2004.

600.5747 Judgment for defendant for costs.

Sec. 5747. If the plaintiff fails to prosecute his complaint, or if upon trial or motion the plaintiff is found not entitled to possession of the premises, judgment shall be rendered for the defendant for his costs, which shall be taxed and collected in the same manner as other civil judgments for money in the same court.

History: Add. 1972, Act 120, Eff. July 1, 1972.

600.5750 Summary proceedings not exclusive of other remedies; merging or barring of claims; damages.

Sec. 5750. The remedy provided by summary proceedings is in addition to, and not exclusive of, other remedies, either legal, equitable or statutory. A judgment for possession under this chapter does not merge or bar any other claim for relief, except that a judgment for possession after forfeiture of an executory contract for the purchase of premises shall merge and bar any claim for money payments due or in arrears under the contract at the time of trial and that a judgment for possession after forfeiture of such an executory contract which results in the issuance of a writ of restitution shall also bar any claim for money payments which would have become due under the contract subsequent to the time of issuance of the writ. The plaintiff obtaining a judgment for possession of any premises under this chapter is entitled to a civil action against the defendant for damages from the time of forcible entry or detainer, or trespass, or of the notice of forfeiture, notice to quit or demand for possession, as the case may be.

History: Add. 1972, Act 120, Eff. July 1, 1972.

600.5753 Appeal.

Sec. 5753. Any party aggrieved by the determination or judgment of the court under this chapter may appeal to the circuit court of the same county. The appeal shall be made in the same manner as an appeal in other civil actions from the same court, with bond and procedure as provided by court rules.

History: Add. 1972, Act 120, Eff. July 1, 1972.

600.5756 Filing fees; disposition.

Sec. 5756. (1) If the complaint is for the recovery of possession of premises only, the fee for filing a proceeding under this chapter is $45.00.

(2) If a claim for a money judgment is joined with a claim for the recovery of possession of premises, the plaintiff shall pay a supplemental filing fee in the same amount as established by law for the filing of a claim for a money judgment in the same court.

(3) Of each filing fee collected under this section, at the end of each month, the clerk of the district court shall transmit $17.00 to the treasurer of the district funding unit in which the action was commenced, of which not less than $5.00 shall be used by the district funding unit to fund a drug treatment court if one is planned, established, or operated in that judicial district. If the entire amount attributable to the $5.00 portion is not needed for the operation of a drug treatment court, the balance that is not needed for that purpose shall be used for the operation of the district court. If a drug treatment court is not planned, established, or operated in that judicial district, all $17.00 shall be used for the operation of the district court. The clerk of the district court shall transmit the balance of the filing fee to the state treasurer for deposit in the civil filing fee fund created by section 171.

(4) At the end of each month, the clerk of the district court shall transmit each supplemental filing fee collected under this section in the same manner as a fee under section 8371 for the filing of a claim for money judgment for the same amount is transmitted.

History: Add. 1972, Act 120, Eff. July 1, 1972;—Am. 1982, Act 511, Eff. Jan. 1, 1983;—Am. 1984, Act 278, Eff. Jan. 1, 1985;—Am. 1988, Act 310, Eff. Jan. 1, 1989;—Am. 1992, Act 233, Eff. Mar. 31, 1993;—Am. 1992, Act 292, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 189, Eff. Oct. 8, 1993;—Am. 2003, Act 138, Eff. Oct. 1, 2003;—Am. 2003, Act 178, Eff. Oct. 1, 2003;—Am. 2005, Act 151, Imd. Eff. Sept. 30, 2005.

600.5757 Fee for certain writs and for judgment debtor discovery subpoena.

Sec. 5757. A fee of $15.00 shall be charged for each writ of restitution, garnishment, attachment, or execution and for each judgment debtor discovery subpoena issued.

History: Add. 1972, Act 120, Eff. July 1, 1972;—Am. 1984, Act 278, Eff. Jan. 1, 1985;—Am. 1993, Act 189, Eff. Oct. 8, 1993.

600.5759 Costs.

Sec. 5759. (1) In proceedings under this chapter, costs may be allowed in the same amounts as are

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provided by law in other civil actions in the same court, except that the costs provided by section 2441 shall not apply. The court may also allow as taxable costs an amount not exceeding the following:

(a) For a motion that results in dismissal or judgment, $75.00.

(b) For a judgment taken by default or consent, $75.00.

(c) For the trial of a claim for possession only, $150.00.

(d) For the trial of a claim for a money judgment only, $150.00.

(e) For a trial including both a claim for possession and a claim for a money judgment, $150.00.

(2) In determining taxable costs in tenancy cases, the judge shall take into consideration whether the jury or judge found that a portion of the rent allegedly due to the plaintiff was excused by reason of the plaintiff's breach of the lease or breach of his or her statutory covenants.

History: Add. 1972, Act 120, Eff. July 1, 1972;—Am. 2004, Act 31, Eff. July 1, 2004.

CHAPTER 57a

600.5771 Definitions.

Sec. 5771. As used in this chapter:

(a) "Mobile home" means a mobile home as defined in section 2 of the mobile home commission act, Act No. 96 of the Public Acts of 1987, being section 125.2302 of the Michigan Compiled Laws.

(b) "Mobile home park" means a mobile home park as defined in section 2 of Act No. 96 of the Public Acts of 1987, but does not include a seasonal mobile home park as defined in section 2 of Act No. 96 of the Public Acts of 1987.

History: Add. 1988, Act 336, Eff. May 1, 1989.

600.5773 Termination of tenancies in mobile home parks; jurisdiction; venue.

Sec. 5773. (1) The district court has jurisdiction under this chapter over proceedings for termination of tenancies in mobile home parks.

(2) Section 5706 shall govern the venue of proceedings under this chapter.

History: Add. 1988, Act 336, Eff. May 1, 1989.

600.5775 "Just cause" required for termination of tenancy; "just cause" defined; change of rental payments or terms or conditions of tenancy.

Sec. 5775. (1) The tenancy of a tenant in a mobile home park shall not be terminated unless there is just cause for the termination.

(2) For the purpose of this chapter, "just cause" means 1 or more of the following:

(a) Use of a mobile home site by the tenant for an unlawful purpose.

(b) Failure by the tenant to comply with a lease or agreement by which the tenant holds the premises or with a rule or regulation of the mobile home park, adopted pursuant to the lease or agreement, which rule or regulation is reasonably related to any of the following:

(*i*) The health, safety, or welfare of the mobile home park, its employees, or tenants.

(*ii*) The quiet enjoyment of the other tenants of the mobile home park.

(*iii*) Maintaining the physical condition or appearance of the mobile home park or the mobile homes located in the mobile home park to protect the value of the mobile home park or to maintain its aesthetic quality or appearance.

(c) A violation by the tenant of rules promulgated by the Michigan department of public health under section 6 of the mobile home commission act, Act No. 96 of the Public Acts of 1987, being section 125.2306 of the Michigan Compiled Laws.

(d) Intentional physical injury by the tenant to the personnel or other tenants of the mobile home park, or intentional physical damage by the tenant to the property of the mobile home park or of its other tenants.

(e) Failure of the tenant to comply with a local ordinance, state law, or governmental rule or regulation relating to mobile homes.

(f) Failure of the tenant to make timely payment of rent or other charges under the lease or rental agreement by which the tenant holds the premises on 3 or more occasions during any 12-month period, for which failure the owner or operator has served a written demand for possession for nonpayment of rent pursuant to section 5714(1)(a) and the tenant has failed or refused to pay the rent or other charges within the time period stated in the written demand for possession. The written demand for possession shall provide a notice to the tenant in substantially the following form: "Notice: Three or more late payments of rent during any 12-month period is just cause to evict you." Nothing in this subdivision shall prohibit a tenant from asserting, and the court from considering, any meritorious defenses to late payment of rent or other charges.

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(g) Conduct by the tenant upon the mobile home park premises which constitutes a substantial annoyance to other tenants or to the mobile home park, after notice and an opportunity to cure.

(h) Failure of the tenant to maintain the mobile home or mobile home site in a reasonable condition consistent with aesthetics appropriate to the park.

(i) Condemnation of the mobile home park.

(j) Changes in the use or substantive nature of the mobile home park.

(k) Public health and safety violations by the tenant.

(3) This section does not prohibit a change of the rental payments or the terms or conditions of tenancy in a mobile home park following the termination or expiration of a written lease agreement for the mobile home site.

History: Add. 1988, Act 336, Eff. May 1, 1989.

Administrative rules: R 325.3311 et seq. of the Michigan Administrative Code.

600.5777 In-person conference with owner or operator of mobile home park.

Sec. 5777. Within 10 days of service of a demand for possession of premises for just cause, a tenant in a mobile home park shall have the right to request, by certified or registered mail to the owner or operator of the mobile home park at the address set forth in the demand, an in-person conference with the owner or operator of the mobile home park or representative of the owner or operator. If timely requested, the conference shall be held at the mobile home park and at a time and date established by the owner or operator but not later than 20 days after the tenant's request. The tenant may be accompanied by counsel at the conference. Nothing in this section shall affect the owner's or operator's right to commence summary proceedings pursuant to the demand for possession.

History: Add. 1988, Act 336, Eff. May 1, 1989.

600.5779 Payment of rent and other charges during pendency of action.

Sec. 5779. In every action to terminate a tenancy in a mobile home park for just cause, the tenant shall continue to pay all rent and other charges to the owner or operator when due following the demand for possession of the premises and during the pendency of the action, and the owner or operator may accept all such payments of rent and other charges without prejudice to the action to evict the tenant for just cause. If such a payment is not timely paid, the owner or operator may proceed under section 5714(1)(a) without prejudice to the maintenance of the just cause termination action.

History: Add. 1988, Act 336, Eff. May 1, 1989.

600.5781 Sale of mobile home on site; conditions.

Sec. 5781. If a tenancy in a mobile home park is terminated for just cause, the tenant may sell his or her mobile home on-site, as provided in sections 28(1)(h) and 28a of the mobile home commission act, Act No. 96 of the Public Acts of 1987, being sections 125.2328 and 125.2328a of the Michigan Compiled Laws, subject to all of the following conditions:

(a) The tenant shall sell or move the mobile home within 90 days after the date of the judgment of possession, except that the time period shall be extended to 90 days after the mobile home park owner or operator denies tenancy to a person making a bona fide offer to purchase the mobile home within the 90-day period or any proper extension of the time period under this subdivision.

(b) The tenant shall timely pay all rent and other charges for the mobile home site during the 90-day period or any proper extension of the time period under subdivision (a). Failure to timely pay all rent or other charges shall entitle the owner or operator to seek an immediate writ of restitution. As used in this subdivision, “rent and other charges” does not include liquidated damages awarded under section 5785.

(c) Upon the expiration of 10 days after the date of the judgment of possession, the owner or operator may disconnect all mobile home park-supplied utility services.

(d) Within 10 days after the date of the judgment of possession, the tenant shall provide the owner or operator with proof that the mobile home has been properly winterized by a licensed mobile home installer and repairer. Failure to timely provide the proof of winterization shall entitle the owner or operator to seek an immediate writ of restitution.

(e) The tenant shall continue to maintain the mobile home and mobile home site in accordance with the rules and regulations of the mobile home park.

(f) The mobile home park shall provide the tenant with reasonable access to the mobile home and the mobile home site for the purpose of maintaining the mobile home and mobile home site and selling the mobile home.

History: Add. 1988, Act 336, Eff. May 1, 1989.

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600.5783 Judgment for possession; right of tenant to sell mobile home on site; conditions.

Sec. 5783. Every judgment for possession resulting from an action to terminate a tenancy in a mobile home park for just cause shall set forth the right of a tenant to sell a mobile home on site, the conditions of that right, and the consequences of a tenant's failure to meet those conditions, all as prescribed in section 5781.

History: Add. 1988, Act 336, Eff. May 1, 1989.

600.5785 Contested action to terminate tenancy; liquidated damages.

Sec. 5785. In every contested action to terminate a tenancy in a mobile home park for just cause, the court shall award liquidated damages to the prevailing party if a provision requiring liquidated damages is included in the lease or rental agreement governing the tenancy or rules or regulations adopted pursuant to the lease or rental agreement, as prescribed in section 28c of the mobile home commission act, Act No. 96 of the Public Acts of 1987, being section 125.2328c of the Michigan Compiled Laws. The liquidated damages shall not be construed to be a penalty.

History: Add. 1988, Act 336, Eff. May 1, 1989.

CHAPTER 58
LIMITATION OF ACTIONS

600.5801 Limitation on actions; time periods; defendant claiming title under deed, court-ordered sale, tax deed, or will; other cases.

Sec. 5801. No person may bring or maintain any action for the recovery or possession of any lands or make any entry upon any lands unless, after the claim or right to make the entry first accrued to himself or to someone through whom he claims, he commences the action or makes the entry within the periods of time prescribed by this section.

(1) When the defendant claims title to the land in question by or through some deed made upon the sale of the premises by an executor, administrator, guardian, or testamentary trustee; or by a sheriff or other proper ministerial officer under the order, judgment, process, or decree of a court or legal tribunal of competent jurisdiction within this state, or by a sheriff upon a mortgage foreclosure sale the period of limitation is 5 years.

(2) When the defendant claims title under some deed made by an officer of this state or of the United States who is authorized to make deeds upon the sale of lands for taxes assessed and levied within this state the period of limitation is 10 years.

(3) When the defendant claims title through a devise in any will, the period of limitation is 15 years after the probate of the will in this state.

(4) In all other cases under this section, the period of limitation is 15 years.

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

600.5803 Foreclosure of mortgages.

Sec. 5803. No person shall bring or maintain any action or proceeding to foreclose a mortgage on real estate unless he commences the action or proceeding within 15 years after the mortgage becomes due or within 15 years after the last payment was made on the mortgage. This section limits foreclosure by advertisement and any other entries under the mortgage as well as actions of foreclosure in the courts.

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

600.5805 Injuries to persons or property; limitations; “dating relationship” defined.

Sec. 5805. (1) A person shall not bring or maintain an action to recover damages for injuries to persons or property unless, after the claim first accrued to the plaintiff or to someone through whom the plaintiff claims, the action is commenced within the periods of time prescribed by this section.

(2) The period of limitations is 2 years for an action charging assault, battery, or false imprisonment.

(3) The period of limitations is 5 years for an action charging assault or battery brought by a person who has been assaulted or battered by his or her spouse or former spouse, an individual with whom he or she has had a child in common, or a person with whom he or she resides or formerly resided. This limitation applies to causes of action arising on or after February 17, 2000 and to causes of action in which the period of limitations described in subsection (2) has not already expired as of February 17, 2000.

(4) The period of limitations is 5 years for an action charging assault and battery brought by a person who has been assaulted or battered by an individual with whom he or she has or has had a dating relationship. This limitation applies to causes of action arising on or after January 1, 2003 and to causes of action in which the period of limitations described in subsection (2) has not already expired as of January 1, 2003.

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(5) The period of limitations is 2 years for an action charging malicious prosecution.

(6) Except as otherwise provided in this chapter, the period of limitations is 2 years for an action charging malpractice.

(7) The period of limitations is 2 years for an action against a sheriff charging misconduct or neglect of office by the sheriff or the sheriff's deputies.

(8) The period of limitations is 2 years after the expiration of the year for which a constable was elected for actions based on the constable's negligence or misconduct as constable.

(9) The period of limitations is 1 year for an action charging libel or slander.

(10) The period of limitations is 3 years after the time of the death or injury for all other actions to recover damages for the death of a person, or for injury to a person or property.

(11) The period of limitations is 5 years for an action to recover damages for injury to a person or property brought by a person who has been assaulted or battered by his or her spouse or former spouse, an individual with whom he or she has had a child in common, or a person with whom he or she resides or formerly resided. This limitation applies to causes of action arising on or after February 17, 2000 and to causes of action in which the period of limitations described in subsection (10) has not already expired as of February 17, 2000.

(12) The period of limitations is 5 years for an action to recover damages for injury to a person or property brought by a person who has been assaulted or battered by an individual with whom he or she has or has had a dating relationship. This limitation applies to causes of action arising on or after January 1, 2003 and to causes of action in which the period of limitations described in subsection (2) has not already expired as of January 1, 2003.

(13) The period of limitations is 3 years for a products liability action. However, in the case of a product that has been in use for not less than 10 years, the plaintiff, in proving a prima facie case, shall be required to do so without benefit of any presumption.

(14) The period of limitations for an action against a state licensed architect, professional engineer, land surveyor, or contractor based on an improvement to real property shall be as provided in section 5839.

(15) As used in this section, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. Dating relationship does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1978, Act 495, Eff. Dec. 13, 1978;—Am. 1986, Act 178, Eff. Oct. 1, 1986;—Am. 1988, Act 115, Imd. Eff. May 2, 1988;—Am. 2000, Act 2, Imd. Eff. Feb. 17, 2000;—Am. 2000, Act 3, Imd. Eff. Feb. 17, 2000;—Am. 2002, Act 715, Eff. Mar. 31, 2003.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.5807 Damages for breaches of contract; specific performance; fiduciary bonds; deeds; mortgages; surety bonds; appeal bonds; public obligations.

Sec. 5807. No person may bring or maintain any action to recover damages or sums due for breach of contract, or to enforce the specific performance of any contract unless, after the claim first accrued to himself or to someone through whom he claims, he commences the action within the periods of time prescribed by this section.

(1) The period of limitations on actions charging any surety on any bond of any executor, administrator, guardian is 4 years after the discharge of the executor, administrator, or guardian.

(2) The period of limitations is 10 years for actions founded upon bonds of public officers.

(3) The period of limitations on actions founded upon bonds executed under sections 41.80 and 41.81 of the Compiled Laws of 1948, is 2 years after the expiration of the year for which the constable was elected.

(4) The period of limitations is 10 years for actions founded upon covenants in deeds and mortgages of real estate.

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(5) The period of limitations is 2 years for actions charging any surety for costs.

(6) The period of limitations is 2 years for actions brought on bonds or recognizances given on appeal from any court in this state.

(7) The period of limitations is 10 years for actions on bonds, notes, or other like instruments which are the direct or indirect obligation of, or were issued by although not the obligation of, the state of Michigan or any county, city, village, township, school district, special assessment district, or other public or quasi-public corporation in the state of Michigan.

(8) The period of limitations is 6 years for all other actions to recover damages or sums due for breach of contract.

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

600.5809 Action to enforce noncontractual money obligations; limitations.

Sec. 5809. (1) A person shall not bring or maintain an action to enforce a noncontractual money obligation unless, after the claim first accrued to the person or to someone through whom he or she claims, the person commences the action within the applicable period of time prescribed by this section.

(2) The period of limitations is 2 years for an action for the recovery of a penalty or forfeiture based on a penal statute brought in the name of the people of this state.

(3) Except as provided in subsection (4), the period of limitations is 10 years for an action founded upon a judgment or decree rendered in a court of record of this state, or in a court of record of the United States or of another state of the United States, from the time of the rendition of the judgment or decree. The period of limitations is 6 years for an action founded upon a judgment or decree rendered in a court not of record of this state, or of another state, from the time of the rendition of the judgment or decree. A judgment entered in the district court of this state before May 25, 1973, is a judgment of a court not of record. A judgment entered in the district court of this state on or after May 25, 1973, except a judgment entered in the small claims division of the district court, is a judgment of a court of record. Within the applicable period of limitations prescribed by this subsection, an action may be brought upon the judgment or decree for a new judgment or decree. The new judgment or decree is subject to this subsection.

(4) For an action to enforce a support order that is enforceable under the support and parenting time enforcement act, Act No. 295 of the Public Acts of 1982, being sections 552.601 to 552.650 of the Michigan Compiled Laws, the period of limitations is 10 years from the date that the last support payment is due under the support order regardless of whether or not the last payment is made.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975;—Am. 1976, Act 444, Imd. Eff. Jan. 13, 1977;—Am. 1996, Act 275, Eff. Jan. 1, 1997.

600.5811 Common carriers; charges and overcharges; definitions.

Sec. 5811. (1) All actions by common carriers for the recovery of all or any part of their charges arising out of the intrastate transportation of persons or property within the state of Michigan, and all actions against carriers for the recovery of overcharges collected by common carriers for the intrastate transportation of persons or property within the state of Michigan shall be begun within 2 years of the time the claim accrues and not afterwards.

(2) The term “charges” as used in this section means the charges applicable for transportation services under the tariffs lawfully on file with the Michigan public service commission; and the term “overcharge” as used in this section means charges for transportation services in excess of the tariffs lawfully on file with the Michigan public service commission.

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

600.5813 Other personal actions.

Sec. 5813. All other personal actions shall be commenced within the period of 6 years after the claims accrue and not afterwards unless a different period is stated in the statutes.

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

600.5815 Scope of limitations; legal and equitable; laches.

Sec. 5815. The prescribed period of limitations shall apply equally to all actions whether equitable or legal relief is sought. The equitable doctrine of laches shall also apply in actions where equitable relief is sought.

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

600.5821 Recovery of land; recovery of public ground; personal actions; maintenance, care, and treatment of persons in state institutions.

Sec. 5821. (1) Actions for the recovery of any land where the state is a party are not subject to the periods

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of limitations, or laches. However, a person who could have asserted claim to title by adverse possession for more than 15 years is entitled to seek any other equitable relief in an action to determine title to the land.

(2) Actions brought by any municipal corporations for the recovery of the possession of any public highway, street, alley, or any other public ground are not subject to the periods of limitations.

(3) The periods of limitations prescribed for personal actions apply equally to personal actions brought in the name of the people of this state, or in the name of any officer, or otherwise for the benefit of this state, subject to the exceptions contained in subsection (4).

(4) Actions brought in the name of the state of Michigan, the people of the state of Michigan, or any political subdivision of the state of Michigan, or in the name of any officer or otherwise for the benefit of the state of Michigan or any political subdivision of the state of Michigan for the recovery of the cost of maintenance, care, and treatment of persons in hospitals, homes, schools, and other state institutions are not subject to the statute of limitations and may be brought at any time without limitation, the provisions of any statute notwithstanding.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1988, Act 35, Eff. Mar. 1, 1988.

600.5823 Counterclaims.

Sec. 5823. To the extent of the amount established as plaintiff's claim the periods of limitations prescribed in this chapter do not bar a claim made by way of counterclaim unless the counterclaim was barred at the time the plaintiff's claim accrued.

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

600.5825 Effect of limits running in favor of some joint obligors but not all.

Sec. 5825. (1) In actions commenced against 2 or more joint obligators, or joint executors or administrators of any contractor, if it is shown that the plaintiff's action is barred by the period of limitations as to 1 or more of the defendants but that the plaintiff is entitled to recover against any of the other defendants because of a new acknowledgment, or promise, or for any other reason, then judgment shall be given in favor of the plaintiff against those defendants from whom he is otherwise entitled to recover and against the plaintiff as to those defendants in whose favor the period of limitations has run.

(2) If there are 2 or more joint obligors or joint executors or joint administrators of any obligor, no one of them shall lose the benefit of the provisions of this chapter so as to be chargeable because of any acknowledgment or promise made or signed by any of the others.

(3) If there are 2 or more joint obligors, or joint executors or joint administrators of any obligor, no one of them shall lose the benefit of the provisions of this chapter so as to be chargeable merely because of any payment made by any of the others.

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

600.5827 Accrual of claim.

Sec. 5827. Except as otherwise expressly provided, the period of limitations runs from the time the claim accrues. The claim accrues at the time provided in sections 5829 to 5838, and in cases not covered by these sections the claim accrues at the time the wrong upon which the claim is based was done regardless of the time when damage results.

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

600.5829 Accrual of claim; right of entry or recovery of possession of land.

Sec. 5829. The right to make an entry on, and the claim to recover land accrue:

(1) Whenever any person is disseised, his right of entry on and claim to recover land accrue at the time of his disseisin;

(2) When he claims as heir or devisee of one who died seised, his claim accrues at the time of the death, unless there is another estate intervening after the death of the ancestor or devisor in which case his claim accrues when the intermediate estate expires or would have expired by its own limitation;

(3) When there is an intermediate estate, and in all other cases where the party claims by force of any remainder or reversion, his claim accrues when the intermediate or precedent estate would have expired by its own limitation, notwithstanding any forfeiture of the intermediate or precedent estate for which he might have entered at an earlier time.

(4) The provision of (3), does not prevent any person from entering when he is entitled to do so by any forfeiture or breach of condition, but if he claims under either of them his claim accrues when the forfeiture is incurred or the condition broken.

(5) In all cases not otherwise provided for, the claim accrues when the claimant or the person under whom

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he claims first becomes entitled to the possession of the premises under the title upon which the entry or action is founded.

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

600.5831 Accrual of claim; mutual and open account current.

Sec. 5831. In actions brought to recover the balance due upon a mutual and open account current, the claim accrues at the time of the last item proved in the account.

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

600.5833 Accrual of claim; breach of warranty of quality or fitness.

Sec. 5833. In actions for damages based on breach of a warranty of quality or fitness the claim accrues at the time the breach of the warranty is discovered or reasonably should be discovered.

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

600.5834 Accrual of claim; common carriers; charges; overcharges.

Sec. 5834. In actions brought by common carriers to recover for charges arising out of intrastate transportation and in actions brought against common carriers to recover for overcharges arising out of intrastate transportation the claim in respect to each shipment of property accrues upon the delivery or tender of the shipment of property and not afterwards.

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

600.5835 Accrual of claim; life insurance; presumption of death.

Sec. 5835. In actions on life insurance contracts where the claim is based on the 7-year presumption of death, the claim accrues at the end of the 7 years, for the purpose of computing the running of the period of limitations.

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

600.5836 Accrual of claim; installment contracts.

Sec. 5836. The claims on an installment contract accrue as each installment falls due.

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

600.5837 Accrual of claim; alimony.

Sec. 5837. The claims for alimony payments accrue as each payment falls due.

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

600.5838 Claim based on malpractice; accrual; commencement of action; burden of proof; limitations.

Sec. 5838. (1) Except as otherwise provided in section 5838a, a claim based on the malpractice of a person who is, or holds himself or herself out to be, a member of a state licensed profession accrues at the time that person discontinues serving the plaintiff in a professional or pseudoprofessional capacity as to the matters out of which the claim for malpractice arose, regardless of the time the plaintiff discovers or otherwise has knowledge of the claim.

(2) Except as otherwise provided in section 5838a, an action involving a claim based on malpractice may be commenced at any time within the applicable period prescribed in sections 5805 or 5851 to 5856, or within 6 months after the plaintiff discovers or should have discovered the existence of the claim, whichever is later. The burden of proving that the plaintiff neither discovered nor should have discovered the existence of the claim at least 6 months before the expiration of the period otherwise applicable to the claim shall be on the plaintiff. A malpractice action which is not commenced within the time prescribed by this subsection is barred.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1975, Act 142, Imd. Eff. July 9, 1975;—Am. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

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"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.5838a Claim based on medical malpractice; accrual; definitions; commencement of action; burden of proof; applicability of subsection (2); limitations.

Sec. 5838a. (1) For purposes of this act, a claim based on the medical malpractice of a person or entity who is or who holds himself or herself out to be a licensed health care professional, licensed health facility or agency, or an employee or agent of a licensed health facility or agency who is engaging in or otherwise assisting in medical care and treatment, whether or not the licensed health care professional, licensed health facility or agency, or their employee or agent is engaged in the practice of the health profession in a sole proprietorship, partnership, professional corporation, or other business entity, accrues at the time of the act or omission that is the basis for the claim of medical malpractice, regardless of the time the plaintiff discovers or otherwise has knowledge of the claim. As used in this subsection:

(a) "Licensed health facility or agency" means a health facility or agency licensed under article 17 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.20101 to 333.22260 of the Michigan Compiled Laws.

(b) "Licensed health care professional" means an individual licensed or registered under article 15 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.16101 to 333.18838 of the Michigan Compiled Laws, and engaged in the practice of his or her health profession in a sole proprietorship, partnership, professional corporation, or other business entity. However, licensed health care professional does not include a sanitarian or a veterinarian.

(2) Except as otherwise provided in this subsection, an action involving a claim based on medical malpractice may be commenced at any time within the applicable period prescribed in section 5805 or sections 5851 to 5856, or within 6 months after the plaintiff discovers or should have discovered the existence of the claim, whichever is later. However, except as otherwise provided in section 5851(7) or (8), the claim shall not be commenced later than 6 years after the date of the act or omission that is the basis for the claim. The burden of proving that the plaintiff, as a result of physical discomfort, appearance, condition, or otherwise, neither discovered nor should have discovered the existence of the claim at least 6 months before the expiration of the period otherwise applicable to the claim is on the plaintiff. A medical malpractice action that is not commenced within the time prescribed by this subsection is barred. This subsection does not apply, and the plaintiff is subject to the period of limitations set forth in subsection (3), under 1 of the following circumstances:

(a) If discovery of the existence of the claim was prevented by the fraudulent conduct of the health care professional against whom the claim is made or a named employee or agent of the health professional against whom the claim is made, or of the health facility against whom the claim is made or a named employee or agent of a health facility against whom the claim is made.

(b) There has been permanent loss of or damage to a reproductive organ resulting in the inability to procreate.

(3) An action involving a claim based on medical malpractice under circumstances described in subsection (2)(a) or (b) may be commenced at any time within the applicable period prescribed in section 5805 or sections 5851 to 5856, or within 6 months after the plaintiff discovers or should have discovered the existence of the claim, whichever is later. The burden of proving that the plaintiff, as a result of physical discomfort, appearance, condition or otherwise, neither discovered nor should have discovered the existence of the claim at least 6 months before the expiration of the period otherwise applicable to the claim is on the plaintiff. A medical malpractice action that is not commenced within the time prescribed by this subsection is barred.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986;—Am. 1993, Act 78, Eff. Apr. 1, 1994.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

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600.5839 Limitation of actions against licensed architect, professional engineer, contractor, or licensed land surveyor; definitions; applicability of subsection (1).

Sec. 5839. (1) No person may maintain any action to recover damages for any injury to property, real or personal, or for bodily injury or wrongful death, arising out of the defective and unsafe condition of an improvement to real property, nor any action for contribution or indemnity for damages sustained as a result of such injury, against any state licensed architect or professional engineer performing or furnishing the design or supervision of construction of the improvement, or against any contractor making the improvement, more than 6 years after the time of occupancy of the completed improvement, use, or acceptance of the improvement, or 1 year after the defect is discovered or should have been discovered, provided that the defect constitutes the proximate cause of the injury or damage for which the action is brought and is the result of gross negligence on the part of the contractor or licensed architect or professional engineer. However, no such action shall be maintained more than 10 years after the time of occupancy of the completed improvement, use, or acceptance of the improvement.

(2) No person may maintain any action to recover damages based on error or negligence of a state licensed land surveyor in the preparation of a survey or report more than 6 years after the delivery of the survey or report to the person for whom it was made or the person's agent.

(3) As used in this section, “state licensed architect or professional engineer” or “state licensed land surveyor” means any individual so licensed, or any corporation, partnership, or other business entity on behalf of whom the state licensed architect, professional engineer, or land surveyor is performing or directing the performance of the architectural, professional engineering, or land surveying service.

(4) As used in this section, “contractor” means an individual, corporation, partnership, or other business entity which makes an improvement to real property.

(5) The amendments to subsection (1) added by this amendatory act shall not apply to any state licensed architect or professional engineer performing or furnishing the design or supervision of construction of an improvement if, prior to the effective date of this amendatory act, 6 or more years have expired after the time of occupancy of the completed improvement, use, or acceptance of the improvement.

(6) The changes to subsection (1) made by this 1985 amendatory act shall apply only to a cause of action which accrues on or after the effective date of this 1985 amendatory act and shall not apply to a cause of action which accrues before the effective date of this 1985 amendatory act.

History: Add. 1967, Act 203, Eff. Nov. 2, 1967;—Am. 1985, Act 188, Eff. Mar. 31, 1986.

Constitutionality: In O'Brien v Hazelet & Erdal, 410 Mich 1; 299 NW2d 336 (1980), the Michigan supreme court held that this statute does not violate constitutional precepts of due process and equal protection.

600.5841 Accrual of claim; to person other than person bringing action.

Sec. 5841. If the claim first accrues to an ancestor, predecessor, or grantor of the person who brings the action or makes the entry, or to any other person from or under whom he claims, the periods of limitations shall be computed from the time when the claim first accrued to the ancestor, predecessor, grantor, or other person, except as otherwise provided by law.

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

600.5843 Accrual of claim; regaining possession of land; subsequent loss; effect.

Sec. 5843. If the person who has a right to make an entry on land or a claim for the possession of land regains possession of it before the period of limitations has run and then loses possession of the premises again, the subsequent loss shall be deemed to give rise to a new claim which has its own period of limitations.

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

600.5851 Disabilities of infancy or insanity; tacking of successive disabilities prohibited; year of grace; removing disability of infancy; claim alleging medical malpractice accruing to person 8 years old or less or 13 years old or less; disability of imprisonment; “release from imprisonment” defined.

Sec. 5851. (1) Except as otherwise provided in subsections (7) and (8), if the person first entitled to make an entry or bring an action under this act is under 18 years of age or insane at the time the claim accrues, the person or those claiming under the person shall have 1 year after the disability is removed through death or otherwise, to make the entry or bring the action although the period of limitations has run. This section does not lessen the time provided for in section 5852.

(2) The term insane as employed in this chapter means a condition of mental derangement such as to prevent the sufferer from comprehending rights he or she is otherwise bound to know and is not dependent on

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whether or not the person has been judicially declared to be insane.

(3) To be considered a disability, the infancy or insanity must exist at the time the claim accrues. If the disability comes into existence after the claim has accrued, a court shall not recognize the disability under this section for the purpose of modifying the period of limitations.

(4) A person shall not tack successive disabilities. A court shall recognize only those disabilities that exist at the time the claim first accrues and that disable the person to whom the claim first accrues for the purpose of modifying the period of limitations.

(5) A court shall recognize both of the disabilities of infancy or insanity that disable the person to whom the claim first accrues at the time the claim first accrues. A court shall count the year of grace provided in this section from the termination of the last disability to the person to whom the claim originally accrued that has continued from the time the claim accrued, whether this disability terminates because of the death of the person disabled or for some other reason.

(6) With respect to a claim accruing before the effective date of the age of majority act of 1971, Act No. 79 of the Public Acts of 1971, being sections 722.51 to 722.55 of the Michigan Compiled Laws, the disability of infancy is removed as of the effective date of Act No. 79 of the Public Acts of 1971, as to persons who were at least 18 years of age but less than 21 years of age on January 1, 1972, and is removed as of the eighteenth birthday of a person who was under 18 years of age on January 1, 1972.

(7) Except as otherwise provided in subsection (8), if, at the time a claim alleging medical malpractice accrues to a person under section 5838a the person has not reached his or her eighth birthday, a person shall not bring an action based on the claim unless the action is commenced on or before the person's tenth birthday or within the period of limitations set forth in section 5838a, whichever is later. If, at the time a claim alleging medical malpractice accrues to a person under section 5838a, the person has reached his or her eighth birthday, he or she is subject to the period of limitations set forth in section 5838a.

(8) If, at the time a claim alleging medical malpractice accrues to a person under section 5838a, the person has not reached his or her thirteenth birthday and if the claim involves an injury to the person's reproductive system, a person shall not bring an action based on the claim unless the action is commenced on or before the person's fifteenth birthday or within the period of limitations set forth in section 5838a, whichever is later. If, at the time a claim alleging medical malpractice accrues to a person under section 5838a, the person has reached his or her thirteenth birthday and the claim involves an injury to the person's reproductive system, he or she is subject to the period of limitations set forth in section 5838a.

(9) If a person was serving a term of imprisonment on the effective date of the 1993 amendatory act that added this subsection, and that person has a cause of action to which the disability of imprisonment would have been applicable under the former provisions of this section, an entry may be made or an action may be brought under this act for that cause of action within 1 year after the effective date of the 1993 amendatory act that added this subsection, or within any other applicable period of limitation provided by law.

(10) If a person died or was released from imprisonment at any time within the period of 1 year preceding the effective date of the 1993 amendatory act that added this subsection, and that person had a cause of action to which the disability of imprisonment would have been applicable under the former provisions of this section on the date of his or her death or release from imprisonment, an entry may be made or an action may be brought under this act for that cause of action within 1 year after the date of his or her death or release from imprisonment, or within any other applicable period of limitation provided by law.

(11) As used in this section, “release from imprisonment” means either of the following:

(a) A final release or discharge from imprisonment in a county jail.

(b) Release on parole or a final release or discharge from imprisonment in a state or federal correctional facility.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1972, Act 87, Imd. Eff. Mar. 20, 1972;—Am. 1986, Act 178, Eff. Oct. 1, 1986;—Am. 1993, Act 78, Eff. Apr. 1, 1994;—Am. 1993, Act 283, Eff. Apr. 1, 1994.

Compiler's note: Section 3 of Act 178 of 1986 provides:

“(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

“(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

“(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

“(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

“(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

“(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are

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comprised of 1 county on or after October 1, 1988."

600.5852 Death before period of limitations has run or within 30 days thereafter; commencement of action.

Sec. 5852. If a person dies before the period of limitations has run or within 30 days after the period of limitations has run, an action which survives by law may be commenced by the personal representative of the deceased person at any time within 2 years after letters of authority are issued although the period of limitations has run. But an action shall not be brought under this provision unless the personal representative commences it within 3 years after the period of limitations has run.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1988, Act 221, Eff. Jan. 1, 1989.

600.5853 Absence from state.

Sec. 5853. If any person is outside of this state at the time any claim accrues against him the period of limitation shall only begin to run when he enters this state unless a means of service of process sufficient to vest the jurisdiction of a Michigan court over him was available to the plaintiff. If after any claim accrues the person against whom the claim accrued is absent from this state, any and all periods of absence in excess of 2 months at a time shall not be counted as any part of the time limited for the commencement of the action unless while he was outside of this state a means for service of process sufficient to vest the jurisdiction of a Michigan court over him was available to the plaintiff.

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

600.5854 War; inability to prosecute; period of limitation.

Sec. 5854. If any person is unable to prosecute an action in the courts of this state because he is a citizen or subject of any country at war with the United States or because he is detained in any country at war with the United States or because he is detained by any neutral power or because for any other reason arising out of the war he is unable to use the courts of this state, the time of the continuance of the war shall not be counted as a part of the period limited for the commencement of any action.

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

600.5855 Fraudulent concealment of claim or identity of person liable; discovery.

Sec. 5855. If a person who is or may be liable for any claim fraudulently conceals the existence of the claim or the identity of any person who is liable for the claim from the knowledge of the person entitled to sue on the claim, the action may be commenced at any time within 2 years after the person who is entitled to bring the action discovers, or should have discovered, the existence of the claim or the identity of the person who is liable for the claim, although the action would otherwise be barred by the period of limitations.

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

600.5856 Tolling of statute of limitations or repose.

Sec. 5856. The statutes of limitations or repose are tolled in any of the following circumstances:

(a) At the time the complaint is filed, if a copy of the summons and complaint are served on the defendant within the time set forth in the supreme court rules.

(b) At the time jurisdiction over the defendant is otherwise acquired.

(c) At the time notice is given in compliance with the applicable notice period under section 2912b, if during that period a claim would be barred by the statute of limitations or repose; but in this case, the statute is tolled not longer than the number of days equal to the number of days remaining in the applicable notice period after the date notice is given.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1993, Act 78, Eff. Apr. 1, 1994;—Am. 2004, Act 87, Imd. Eff. Apr. 22, 2004.

Compiler's note: Enacting section 1 of Act 87 of 2004 provides:

"Enacting section 1. (1) Except as provided in subsection (2), this amendatory act applies to civil actions filed on or after the effective date of this amendatory act.

"(2) This amendatory act does not apply to a cause of action if the statute of limitations or repose for that cause of action has expired before the effective date of this amendatory act."

600.5861 Cause of action accruing without state; limitation on commencement of action.

Sec. 5861. An action based upon a cause of action accruing without this state shall not be commenced after the expiration of the statute of limitations of either this state or the place without this state where the cause of action accrued, except that where the cause of action accrued in favor of a resident of this state the statute of limitations of this state shall apply. This amendatory act shall be effective as to all actions hereinafter commenced and all actions heretofor commenced now pending in the trial or appellate courts.

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History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1978, Act 542, Imd. Eff. Dec. 22, 1978.

600.5865 Endorsement or memorandum of payment; evidence.

Sec. 5865. No endorsement or memorandum of any payment, written or placed upon any promissory note, bill of exchange, or other writing, by or on behalf of the party to whom the payment was made or was purported to have been made, shall be allowed as evidence of the payment for the purpose of barring the running of the period of limitations. This section merely limits the evidence which may be allowed to be given for the purpose of showing part payment which would bar the running of the period of limitations, and is not to be deemed to have any control over the effect of part payment which is proved by other evidence.

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

600.5866 Revival of barred claim; written acknowledgment of obligor.

Sec. 5866. Express or implied contracts which have been barred by the running of the period of limitation shall be revived by the acknowledgment or promise of the party to be charged. But no acknowledgment or promise shall be recognized as effective to bar the running of the period of limitations or revive the claim unless the acknowledgment is made by or the promise is contained in some writing signed by the party to be charged by the action.

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

600.5867 Presumption as to possession of land; exception.

Sec. 5867. In every action for the recovery or possession of real estate, the person establishing the legal title to the premises is presumed to have been in possession of the premises within the time limited by law for bringing such action, unless it appears that the same has been possessed adversely to such legal title by the defendant or by those from or under whom he claims, or that the grantee, or his assigns, in a contract of purchase have been in possession claiming title by virtue of said contract of purchase for a period of 20 years after the last payment was due on said contract or after the last payment was made on said contract of purchase.

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

600.5868 Entry and possession.

Sec. 5868. No person shall be deemed to have been in possession of any lands, within the meaning of this chapter merely by reason of having made an entry thereon, unless he continues in open and peaceable possession of the premises for at least 1 year next after such entry, or unless an action is commenced upon such entry and seisin, within 1 year after he is ousted or dispossessed of the premises.

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

600.5869 Rights governed by law under which right accrued.

Sec. 5869. All actions and rights shall be governed and determined according to the law under which the right accrued, in respect to the limitations of such actions or right of entry.

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

CHAPTER 60
ENFORCEMENT OF JUDGMENTS

600.6001 Persons to whom execution issued.

Sec. 6001. Whenever a judgment is rendered in any court, execution to collect the same may be issued to the sheriff, bailiff, or other proper officer of any county, district, court district or municipality of this state.

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

600.6002 Execution; indorsement; date; return; death or incapacity of officer serving execution; certificate; jurisdiction as to joint or joint and several obligors.

Sec. 6002. (1) Upon receipt of any execution the sheriff or other officer receiving the execution shall indorse thereon the year, month, day, and hour of receipt and that time shall be the date of the execution.

(2) Executions shall be made returnable not less than 20, nor more than 90, days from that date.

(3) When an officer has begun to serve an execution issued out of any court, on or before the return day of the execution, he may complete service and return after the return date.

(4) When an officer has begun to serve an execution and dies, or becomes incapable of completing service and return, any other officer who might by law have originally served the execution, may complete it. If the first officer fails to make a certificate, the second officer shall do so, including the doings of both officers

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therein. If the first officer makes a certificate, the second officer shall make a certificate as to his own doings in completing service.

(5) If there are joint or joint and several obligors and jurisdiction was not acquired over all of them, the names of those over whom jurisdiction was not acquired shall be indorsed on the execution.

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

600.6003 Execution on transcript of judgment by district, municipal, or common pleas court.

Sec. 6003. Whenever a transcript of a judgment rendered by a district, municipal, or common pleas court is filed and docketed by the clerk of the circuit court for the county, all executions thereon shall issue out of, and under the seal of, the circuit court in the same form, as near as may be, as other executions issued out of the circuit court.

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

600.6004 Execution against realty; contents.

Sec. 6004. Executions against realty shall command the officer to whom they are directed to make execution against the realty of the judgment debtor only after execution has been made against the personal property of the judgment debtor that is in the county, and such personal property is insufficient to meet the sum of money and costs for which judgment was rendered.

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

600.6005 Successive or alias executions; several executions.

Sec. 6005. Successive or alias executions may be issued one after another upon return of any execution unsatisfied in whole or in part, for the amount remaining unpaid thereon. Several executions may be issued at the same time to officers of different counties, district court districts, or municipalities and enforced by them therein.

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

600.6006 Execution; new.

Sec. 6006. If an execution is returned satisfied in whole or in part, by the sale of any property which afterwards appears not to belong to the judgment debtor, or not to be liable to execution, the court may on the application of such judgment creditor, order a new execution to be issued on such judgment, for the amount then remaining justly and equitably due thereon.

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

600.6007 Execution; precedence.

Sec. 6007. If there are 1 or more executions or attachments issued against the same judgment debtor or his property, the execution or attachment first delivered for execution shall have preference; except that if there has been a levy and sale of any goods or chattels before a levy under the first execution or attachment, then such goods or chattels shall not be levied on by virtue of such first execution or attachment.

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

600.6008 Execution; set-off; balance on appeal.

Sec. 6008. (1) Executions between the same parties may be set off one against another, if required by either party as follows:

(a) When 1 of the executions is delivered for service, the person who is the debtor therein may deliver his execution to the serving officer and it shall be applied, as far as it will extend, to the satisfaction of the first execution; and such application shall be indorsed on each execution. Only the balance due on the larger execution may then be collected and paid in the same manner as if there had been no set off.

(b) Such set off shall not be allowed unless all the parties are mutual debtors and creditors. Nor shall set off be allowed where the sum due on the first execution shall have been lawfully assigned to another person before the creditor in the second execution becomes entitled to the sum due thereon, or as to so much of the first execution as may be due to the attorney in that suit for his taxable fees and disbursements.

(2) If, upon an appeal, a recovery for a debt or damages be had by 1 party, and costs be awarded the other, execution shall issue only in favor of the party to whom there shall be a balance due, and for the amount of such balance.

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

600.6009 Execution; officer's security; recovery of expense.

Sec. 6009. Whenever there is any reasonable doubt as to the ownership by a judgment debtor of any

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personal property, or as to their liability to be taken upon an execution, the officer holding such execution may require of the judgment creditor sufficient security to indemnify him for taking such personal property thereon; and if such security be refused, such officer shall not be liable for omitting to take such personal property. Such judgment creditor upon demand of the officer holding such execution, upon depositing sufficient security to indemnify the officer taking such personal property, shall recover of the defendant, together with the costs of the execution levy, the reasonable cost of indemnity so deposited.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1964, Act 244, Eff. Aug. 28, 1964.

600.6010 Execution; return; misconduct of officer; civil liability.

Sec. 6010. The officer who makes any sale on execution shall, in his return on the execution, specify the articles sold, and the sum for which each article or parcel was sold; and if he is guilty of any fraud in the sale, or in the return, or unreasonably neglects to pay any money collected by him on such execution, when demanded by the creditor therein, he shall be liable in a civil action, brought by the party injured, for 5 times the amount of the actual damages sustained by reason of such fraud or neglect.

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

600.6011 Effect of order to stay proceedings on execution.

Sec. 6011. When an execution has been issued, an order to stay proceedings thereon shall not prevent a levy on property by virtue of the execution, but shall only suspend a sale thereon until the decision of the proper court upon the matter.

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

600.6012 Execution; property bound from time of levy.

Sec. 6012. Whenever an execution issues against the property of any person, his goods and chattels, lands and tenements, levied upon by such execution, shall be bound from the time of such levy.

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

600.6013 Interest on money judgment.

Sec. 6013. (1) Interest is allowed on a money judgment recovered in a civil action, as provided in this section. However, for complaints filed on or after October 1, 1986, interest is not allowed on future damages from the date of filing the complaint to the date of entry of the judgment. As used in this subsection, “future damages” means that term as defined in section 6301.

(2) For complaints filed before June 1, 1980, in an action involving other than a written instrument having a rate of interest exceeding 6% per year, the interest on the judgment is calculated from the date of filing the complaint to June 1, 1980, at the rate of 6% per year and on and after June 1, 1980, to the date of satisfaction of the judgment at the rate of 12% per year compounded annually.

(3) For a complaint filed before June 1, 1980, in an action involving a written instrument having a rate of interest exceeding 6% per year, the interest on the judgment is calculated from the date of filing the complaint to the date of satisfaction of the judgment at the rate specified in the instrument if the rate was legal at the time the instrument was executed. However, the rate after the date judgment is entered shall not exceed either of the following:

(a) Seven percent per year compounded annually for a period of time between the date judgment is entered and the date of satisfaction of the judgment that elapses before June 1, 1980.

(b) Thirteen percent per year compounded annually for a period of time between the date judgment is entered and the date of satisfaction of the judgment that elapses after May 31, 1980.

(4) For a complaint filed on or after June 1, 1980, but before January 1, 1987, interest is calculated from the date of filing the complaint to the date of satisfaction of the judgment at the rate of 12% per year compounded annually unless the judgment is rendered on a written instrument having a higher rate of interest. In that case interest is calculated at the rate specified in the instrument if the rate was legal at the time the instrument was executed. The rate shall not exceed 13% per year compounded annually after the date judgment is entered.

(5) Except as provided in subsection (6), for a complaint filed on or after January 1, 1987, but before July 1, 2002, if a judgment is rendered on a written instrument, interest is calculated from the date of filing the complaint to the date of satisfaction of the judgment at the rate of 12% per year compounded annually, unless the instrument has a higher rate of interest. In that case, interest shall be calculated at the rate specified in the instrument if the rate was legal at the time the instrument was executed. The rate shall not exceed 13% per year compounded annually after the date judgment is entered.

(6) For a complaint filed on or after January 1, 1987, but before July 1, 2002, if the civil action has not

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resulted in a final, nonappealable judgment as of July 1, 2002, and if a judgment is or has been rendered on a written instrument that does not evidence indebtedness with a specified interest rate, interest is calculated as provided in subsection (8).

(7) For a complaint filed on or after July 1, 2002, if a judgment is rendered on a written instrument evidencing indebtedness with a specified interest rate, interest is calculated from the date of filing the complaint to the date of satisfaction of the judgment at the rate specified in the instrument if the rate was legal at the time the instrument was executed. If the rate in the written instrument is a variable rate, interest shall be fixed at the rate in effect under the instrument at the time the complaint is filed. The rate under this subsection shall not exceed 13% per year compounded annually.

(8) Except as otherwise provided in subsections (5) and (7) and subject to subsection (13), for complaints filed on or after January 1, 1987, interest on a money judgment recovered in a civil action is calculated at 6-month intervals from the date of filing the complaint at a rate of interest equal to 1% plus the average interest rate paid at auctions of 5-year United States treasury notes during the 6 months immediately preceding July 1 and January 1, as certified by the state treasurer, and compounded annually, according to this section. Interest under this subsection is calculated on the entire amount of the money judgment, including attorney fees and other costs. The amount of interest attributable to that part of the money judgment from which attorney fees are paid is retained by the plaintiff, and not paid to the plaintiff's attorney.

(9) If a bona fide, reasonable written offer of settlement in a civil action based on tort is made by the party against whom the judgment is subsequently rendered and is rejected by the plaintiff, the court shall order that interest is not allowed beyond the date the bona fide, reasonable written offer of settlement is filed with the court.

(10) Except as otherwise provided in subsection (1) and subject to subsections (11) and (12), if a bona fide, reasonable written offer of settlement in a civil action based on tort is not made by the party against whom the judgment is subsequently rendered, or is made and is not filed with the court, the court shall order that interest be calculated from the date of filing the complaint to the date of satisfaction of the judgment.

(11) If a civil action is based on medical malpractice and the defendant in the medical malpractice action failed to allow access to medical records as required under section 2912b(5), the court shall order that interest be calculated from the date notice was given in compliance with section 2912b to the date of satisfaction of the judgment.

(12) If a civil action is based on medical malpractice and the plaintiff in the medical malpractice action failed to allow access to medical records as required under section 2912b(5), the court shall order that interest be calculated from 182 days after the date the complaint was filed to the date of satisfaction of the judgment.

(13) Except as otherwise provided in subsection (1), if a bona fide, reasonable written offer of settlement in a civil action based on tort is made by a plaintiff for whom the judgment is subsequently rendered and that offer is rejected and the offer is filed with the court, the court shall order that interest be calculated from the date of the rejection of the offer to the date of satisfaction of the judgment at a rate of interest equal to 2% plus the rate of interest calculated under subsection (8).

(14) A bona fide, reasonable written offer of settlement made according to this section that is not accepted within 21 days after the offer is made is rejected. A rejection under this subsection or otherwise does not preclude a later offer by either party.

(15) As used in this section:

(a) “Bona fide, reasonable written offer of settlement” means either of the following:

(*i*) With respect to an offer of settlement made by a defendant against whom judgment is subsequently rendered, a written offer of settlement that is not less than 90% of the amount actually received by the plaintiff in the action through judgment.

(*ii*) With respect to an offer of settlement made by a plaintiff, a written offer of settlement that is not more than 110% of the amount actually received by the plaintiff in the action through judgment.

(b) “Defendant” means a defendant, a counter-defendant, or a cross-defendant.

(c) “Party” means a plaintiff or a defendant.

(d) “Plaintiff” means a plaintiff, a counter-plaintiff, or a cross-plaintiff.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1965, Act 240, Imd. Eff. July 21, 1965;—Am. 1966, Act 276, Imd. Eff. July 12, 1966;—Am. 1972, Act 135, Eff. Mar. 30, 1973;—Am. 1980, Act 134, Eff. June 1, 1980;—Am. 1986, Act 178, Eff. Oct. 1, 1986;—Am. 1987, Act 50, Imd. Eff. June 22, 1987;—Am. 1993, Act 78, Eff. Apr. 1, 1994;—Am. 2001, Act 175, Eff. Mar. 22, 2002;—Am. 2002, Act 77, Imd. Eff. Mar. 21, 2002.

Compiler's note: Section 3 of Act 178 of 1986 provides:

“(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

“(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes

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of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.6017 Execution; personalty.

Sec. 6017. Except as otherwise provided by law, execution may be made against all personal property of the judgment debtor that is liable to execution at common law, including, but not limited to the following:

(1) All abstract books, maps, plats, charts, and other records owned or kept by any person, partnership or corporation for the purpose of furnishing abstracts or information concerning title to lands in this state.

(2) Bills and other evidences of debt, issued and circulated as money unless the creditor accepts them at par value as money collected and paid, in which case they shall not be sold.

(3) Goods or chattels pledged by way of mortgage or otherwise, for the payment of money, or the performance of any contract or agreement, but only as against the pledgor and subject to the lien, mortgage or pledge existing thereon.

(4) In the case of an execution against a corporation, all corporate property.

(5) In the case of an execution against a partnership association, or a member of a partnership association, in that capacity, the personal property of such association or member, but subject to the provisions of section 2 of Act No. 191 of the Public Acts of 1877.

(6) Current money of the United States except that such money shall be taken as money collected and paid, and not sold unless it has a value of more than face value.

(7) Any share or interest of any stockholder in any corporation, that is or may be incorporated under the authority of any law of this state, unless expressly exempted by law.

(8) In the case of an execution against a corporation authorized by law to receive tolls, the franchise and all its rights and privileges, and all the other property of such corporation not otherwise exempted.

(9) The property of joint, and joint and several judgment debtors.

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

600.6018 Execution; realty.

Sec. 6018. All the real estate of any judgment debtor, including, but not limited to, interests acquired by parties to contracts for the sale of land, whether in possession, reversion or remainder, lands conveyed in fraud of creditors, equities and rights of redemption, leasehold interests including mining licenses, for mining ore or minerals, but not including tenancies at will, and all undivided interests whatever, are subject to execution, levy and sale except as otherwise provided by law.

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

600.6021 Judgments; nonissuance of execution.

Sec. 6021. No execution may issue upon a judgment against:

(1) Any township, village, city, or against the trustees or common council, or officers thereof where the action is prosecuted by or against them in their name of office;

(2) Any corporate body or unincorporated board, having charge or control of any state institution;

(3) Any school district;

(4) Any county or the board of supervisors or any county officer in an action prosecuted by or against him in his name of office.

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

600.6022 Persons whose property is exempt.

Sec. 6022. Executions shall not issue:

(1) In the case of a debt due from a deceased person, against the body or property of his or her personal representative, heir, devisee, or legatee, except for property of the deceased in their hands.

(2) Against the sole property of a joint or joint and several judgment debtor over whom jurisdiction was not acquired.

(3) Against the homestead of a judgment debtor under the prisoner reimbursement to the county act, Act No. 118 of the Public Acts of 1984, being sections 801.81 to 801.93 of the Michigan Compiled Laws.

(4) Against the homestead up to a value of $50,000.00 of a judgment debtor under the state correctional

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facility reimbursement act, Act No. 253 of the Public Acts of 1935, being sections 800.401 to 800.406 of the Michigan Compiled Laws.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1984, Act 121, Imd. Eff. June 1, 1984;—Am. 1984, Act 405, Imd. Eff. Dec. 28, 1984.

600.6023 Property exempt from levy and sale under execution; lien excluded from exemption; homestead exemption; rents and profits.

Sec. 6023. (1) The following property of the debtor and the debtor's dependents shall be exempt from levy and sale under any execution:

(a) All family pictures, all arms and accouterments required by law to be kept by any person, all wearing apparel of every person or family, and provisions and fuel for comfortable subsistence of each householder and his or her family for 6 months.

(b) All household goods, furniture, utensils, books, and appliances, not exceeding in value $1,000.00.

(c) A seat, pew, or slip occupied by the judgment debtor or the judgment debtor's family in any house or place of public worship, and all cemeteries, tombs, and rights of burial while in use as repositories of the dead of the judgment debtor's family or kept for burial of the judgment debtor.

(d) To each householder, 10 sheep, 2 cows, 5 swine, 100 hens, 5 roosters, and a sufficient quantity of hay and grain, growing or otherwise, for properly keeping the animals and poultry for 6 months.

(e) The tools, implements, materials, stock, apparatus, team, vehicle, motor vehicle, horses, harness, or other things to enable a person to carry on the profession, trade, occupation, or business in which the person is principally engaged, not exceeding in value $1,000.00.

(f) Any money or other benefits paid, provided, or allowed to be paid, provided, or allowed, by any stock or mutual life or health or casualty insurance company, on account of the disability due to injury or sickness of any insured person, whether the debt or liability of such insured person or beneficiary was incurred before or after the accrual of benefits under the insurance policy or contract, except that the exemption does not apply to actions to recover for necessities contracted for after the accrual of the benefits.

(g) The shares held by any member, being a householder, of any association incorporated under the provisions of the savings and loan act of 1980, 1980 PA 307, MCL 491.102 to 491.1202, to the amount of $1,000.00 in such shares, at par value, except that this exemption does not apply to any person who has a homestead exempted under the general laws of this state.

(h) A homestead of not exceeding 40 acres of land and the dwelling house and appurtenances on that homestead, and not included in any recorded plat, city, or village, or, instead, and at the option of the owner, a quantity of land not exceeding in amount 1 lot, being within a recorded town plat, city, or village, and the dwelling house and appurtenances on that land, owned and occupied by any resident of this state, not exceeding in value $3,500.00. This exemption extends to any person owning and occupying any house on land not his or her own and which the person claims as a homestead. However, this exemption does not apply to any mortgage on the homestead, lawfully obtained, except that the mortgage is not valid without the signature of a married judgment debtor's spouse unless either of the following occurs:

(*i*) The mortgage is given to secure the payment of the purchase money or a portion of the purchase money.

(*ii*) The mortgage is recorded in the office of the register of deeds of the county in which the property is located, for a period of 25 years, and no notice of a claim of invalidity is filed in that office during the 25 years following the recording of the mortgage.

(i) An equity of redemption as described in section 6060.

(j) The homestead of a family, after the death of the owner of the homestead, from the payment of his or her debts in all cases during the minority of his or her children.

(k) An individual retirement account or individual retirement annuity as defined in section 408 or 408a of the internal revenue code of 1986 and the payments or distributions from such an account or annuity. This exemption applies to the operation of the federal bankruptcy code as permitted by section 522(b)(2) of title 11 of the United States Code, 11 U.S.C. 522. This exemption does not apply to any amounts contributed to an individual retirement account or individual retirement annuity if the contribution occurs within 120 days before the debtor files for bankruptcy. This exemption does not apply to an individual retirement account or individual retirement annuity to the extent that any of the following occur:

(*i*) The individual retirement account or individual retirement annuity is subject to an order of a court pursuant to a judgment of divorce or separate maintenance.

(*ii*) The individual retirement account or individual retirement annuity is subject to an order of a court concerning child support.

(*iii*) Contributions to the individual retirement account or premiums on the individual retirement annuity, including the earnings or benefits from those contributions or premiums, exceed, in the tax year made or paid,

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the deductible amount allowed under section 408 of the internal revenue code of 1986. This limitation on contributions does not apply to a rollover of a pension, profit-sharing, stock bonus plan or other plan that is qualified under section 401 of the internal revenue code of 1986, or an annuity contract under section 403(b) of the internal revenue code of 1986.

(*l*) The right or interest of a person in a pension, profit-sharing, stock bonus, or other plan that is qualified under section 401 of the internal revenue code of 1986, or an annuity contract under section 403(b) of the internal revenue code of 1986, which plan or annuity is subject to the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829. This exemption applies to the operation of the federal bankruptcy code, as permitted by section 522(b)(2) of title 11 of the United States Code, 11 U.S.C. 522. This exemption does not apply to any amount contributed to a pension, profit-sharing, stock bonus, or other qualified plan or a 403(b) annuity if the contribution occurs within 120 days before the debtor files for bankruptcy. This exemption does not apply to the right or interest of a person in a pension, profit-sharing, stock bonus, or other qualified plan or a 403(b) annuity to the extent that the right or interest in the plan or annuity is subject to any of the following:

(*i*) An order of a court pursuant to a judgment of divorce or separate maintenance.

(*ii*) An order of a court concerning child support.

(2) The exemptions provided in this section shall not extend to any lien thereon excluded from exemption by law.

(3) If the owner of a homestead dies, leaving a surviving spouse but no children, the homestead shall be exempt, and the rents and profits of the homestead shall accrue to the benefit of the surviving spouse before his or her remarriage, unless the surviving spouse is the owner of a homestead in his or her own right.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, 2nd Ex. Sess., Act 40, Imd. Eff. Dec. 27, 1963;—Am. 1964, Act 73, Imd. Eff. May 12, 1964;—Am. 1984, Act 83, Imd. Eff. Apr. 19, 1984;—Am. 1989, Act 5, Imd. Eff. Apr. 19, 1989;—Am. 1998, Act 61, Imd. Eff. Apr. 20, 1998.

600.6023a Property held jointly by husband and wife; exemption under judgment entered against 1 spouse.

Sec. 6023a. Property described in section 1 of 1927 PA 212, MCL 557.151, or real property, held jointly by a husband and wife as a tenancy by the entirety is exempt from execution under a judgment entered against only 1 spouse.

History: Add. 2004, Act 575, Imd. Eff. Jan. 3, 2005.

600.6024 Exemptions from sale on execution; taxation; exception; purchase money mortgage sale; effect of sale of property.

Sec. 6024. (1) Nothing in this chapter shall be considered as exempting real estate from taxation or sale for taxes.

(2) No specific piece of property either real or personal, is exempt from levy or sale under execution issued upon a judgment rendered for the purchase money for the same property, and any sale of such property after the commencement of an action to recover the purchase price thereof, and the filing of notice as herein required, shall be null and void as against such an execution. The plaintiff in any such suit shall file or cause to be filed with the register of deeds of the county in which the owner of such property resides, a notice in which he shall state the time when such action was commenced, the amount claimed, that the suit was brought to recover the purchase money for the property, a description of the property, and the name of the defendant. At the time of filing such notice, the party filing the same shall pay to the register of deeds the fee authorized by law, and said register shall indorse upon such notice the date of filing the same and make the same record as in the case of a chattel mortgage.

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

600.6025 Execution; exemptions; inventory; appraisal; expenses.

Sec. 6025. (1) When a levy is made upon property of any class or species, which is exempt by law from execution to a specified number, amount or value, the officer levying such execution shall make inventory of so much of such property belonging to the judgment debtor as is sufficient, in the judgment of such officer, to cover the amount of the exemptions and satisfy the execution, and cause such property to be appraised at its cash value, by 2 disinterested freeholders of the township or city where the property is located, on oath to be administered by him to such appraisers.

(2) Where a homestead is claimed and, in the judgment of the officer or the judgment creditor, exceeds in value $3,500.00, the officer shall have the homestead appraised by 6 such appraisers.

(3) The appraisers shall make and sign an appraisal of the value of the property and parts thereof if it can

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be divided and deliver such appraisal to the officer, who shall deliver a copy of the appraisal to the debtor.

(4) Appraisers are entitled to $2.00 per day each for their services, and 6 cents per mile for traveling, in going only, such amounts to be collected upon execution from the plaintiff in execution.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, 2nd Ex. Sess., Act 40, Imd. Eff. Dec. 27, 1963.

600.6026 Selection from inventory; selection of homestead; survey; sale of property levied upon; deed.

Sec. 6026. (1) Upon inventory and appraisal, the defendant in execution, or his authorized agent, may select from the inventory the number of items or animals, or the amount of property not exceeding, according to the inventory and appraisal, the number, amount, or value exempted by law from execution. If no selection is made within 10 days following completion of inventory and appraisal, the officer shall make it.

(2) Whenever a levy is made upon, or the clerk of any court advertises for sale under any judgment upon the foreclosure of any mortgage not valid as against the homestead and so stated in the judgment, the lands and tenements of a householder whose homestead has not been platted and set apart by metes and bounds, the householder shall notify the officer at the time of making the levy or at the time of the advertising for sale what he regards as his homestead, with a description thereof, within the limits above prescribed, and the remainder alone is subject to sale under the levy or judgment. If at the time of the levy or advertising for sale the householder fails to notify the officer making the levy or advertising the property for sale, what he regards as his homestead with a description thereof, the officer making the levy or advertising the property for sale, shall call upon the householder to make his selection of a homestead out of the land, describing it minutely. If after the notice the owner of the land fails to select his homestead, the officer may select the homestead out of the land for him and the remainder over and above that part selected by the officer or by the owner of the land alone is subject to sale under the levy or judgment. If the officer making the levy or advertising the property for sale makes the selection of the homestead out of the lands levied upon or advertised for sale, he shall select lands in compact form, which shall include the dwelling house and its appurtenances thereon.

(3) If the plaintiff in execution or in the judgment is dissatisfied with the quantity of land selected and set apart as aforesaid either by the owner of the land or by the officer making the levy or advertising the land for sale, he shall cause it to be surveyed beginning at a point to be designated by the owner or by the officer making the levy or advertising for sale, and set off land in compact form including the dwelling house and its appurtenances, to the amount specified in section 6023. The expense of the survey is chargeable on the execution or judgment and collectible thereupon.

(4) After the survey is made, the officer may sell the property levied upon or included in the judgment, and not included in the set off, in the same manner as provided in other like cases for the sale of real estate. In giving a deed of the property he may describe it according to the original levy or as described in the judgment, excepting therefrom by metes and bounds, according to the certificate of the survey, the quantity as set off as aforesaid.

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

600.6027 Homestead valued at more than $3,500; procedure.

Sec. 6027. If the homestead of any debtor is appraised at a value of more than $3,500.00, and cannot be divided, the debtor shall not for that reason lose the benefit of the exemption; but in such cases the officer shall deliver a notice, attached to a copy of the appraisal, to the debtor or to some of his family of suitable age to understand the nature thereof, that unless the debtor pay the officer the surplus over and above the $3,500.00, or the amount due on the execution within 60 days thereafter, the premises will be sold.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, 2nd Ex. Sess., Act 40, Eff. Dec. 27, 1963.

600.6031 Execution sale; notice.

Sec. 6031. No sale of any goods or chattels may be made by virtue of any execution, unless at least 10 days' previous notice of such sale is given, by fastening up written or printed notices thereof, in 3 public places in the city or township where such sale is to be had, and specifying the time and place where the sale is to be had.

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

600.6032 Execution sale; personalty.

Sec. 6032. No personal property may be exposed for sale on execution, unless the same is present and within the view of those attending such sale; and it shall be offered for sale in such lots and parcels as shall be calculated to bring the highest price.

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

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600.6033 Execution; property partially exempt; bond.

Sec. 6033. Whenever a levy is made upon any article, belonging to a class or species which is exempt from execution to a specified amount or value, and the value thereof as determined by the appraisal, is in excess of the amount of the exemption allowed therein to the defendant in execution, levy and sale thereof may be made under the execution in the ordinary way; and unless the amount of the exemption is claimed or set off in other property, or waived, the officer shall pay to the defendant in execution, the amount of such exemption, in money from the proceeds of the sale, and the balance of such proceeds shall be applied towards the satisfaction of the execution. If at the sale no bid is made for such property, in excess of the amount of the exemption allowed therein, such property shall not be sold, but shall be returned to the defendant. If the defendant in execution, before such sale, pays to the officer the difference between the appraised value of such property, and the amount of the exemption therein, not to exceed the amount due on such execution with costs of such levy, to be applied upon the execution, such property shall not be sold, but shall be returned to the defendant: Provided, That if after such officer has completed the levy upon such property, the defendant in execution gives to such officer a sufficient bond, to be approved by him, conditioned that said defendant will deliver said property to such officer or before the time of sale, pay to him the difference between the appraised value of such property, and the amount of his exemption, not to exceed the amount due on such execution with costs accrued, then such officer may permit such defendant to have possession of such property during the period intervening between the making of the levy and the time of sale.

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

600.6034 Execution; property subject to chattel mortgage.

Sec. 6034. The purchaser at a sale of goods or chattels pledged by way of mortgage or otherwise shall be entitled to pay, before foreclosure, to the person holding the mortgage or pledge the amount actually due thereon, or otherwise perform before foreclosure, the terms and conditions of the pledge, and on payment or performance, or on full tender thereof, shall acquire all the right, interest, and property which the defendant in execution would have had in such goods and chattels if no pledge or mortgage had been made.

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

600.6035 Levy on perishable property; sale; order of court; notice.

Sec. 6035. (1) Whenever the officer by virtue of any execution issued by a court, levies upon any perishable property, he shall proceed to sell it at such time, place, or manner as he may deem most beneficial for the interest of the defendant.

(2) A sale shall not be made except upon the written order of the court from which process has been issued, authorizing the sale at such time, place, and manner as the court shall judge most beneficial for the defendant. The court shall direct that notice be given to the defendant, or his agent, of the time and place of the sale, and the manner notice shall be given.

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

600.6036 Execution; growing grain or unharvested crops.

Sec. 6036. When a levy is made upon grain while growing, or on any unharvested crops by virtue of any execution, the officer making such levy shall file a notice of said levy in the office of the register of deeds of the county in which such grain or crops are at the time of making such levy; and such register of deeds shall file said notice in his office, in the same manner as he is required by law to file a chattel mortgage; and such notice shall be constructive evidence to all persons of the interest of the plaintiff in the execution, and shall be entitled to the same fees therefor, to be paid by the plaintiff in the execution, and shall be collected as costs in the case, and no sale of said crops or grain may be made until the same are ripe or fit to be harvested, and any levy thereon by virtue of an execution issued from a circuit court, shall be continued beyond the return day thereof, if necessary, and remain in life, and the execution thereof may be completed at any time within 30 days after such grain or other unharvested crops are ripe or fit to be harvested.

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

600.6037 Execution; corporate shares; seizure by officer; furnishing certificates of shares held by defendant; writ; record of transfer; restraint on transfer; dividends after levy.

Sec. 6037. (1) No attachment or levy upon shares of stock for which a certificate is outstanding, is valid until such certificate is actually seized by the officer making the attachment or levy, or is surrendered to the corporation which issued it, or its transfer is enjoined or restrained.

(2) The officer of any company who is appointed to keep a record or account of the shares or interest of the stockholders therein or in whose office there is required to be kept any list or statement showing the

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stockholders of such corporation and the number of shares held by each or their interest therein, is, upon exhibiting to him the attachment or execution, bound to give the officer a certificate of the number of shares or amount of the interest held by the defendant named in such attachment or the judgment debtor.

(3) Whenever any corporate shares of stock are attached or taken in execution, the officer shall leave a copy of the attachment or execution, certified by him, with the clerk, treasurer, cashier or agent of the corporation, if there is any such officer, and if not, then with any officer or person who has at the time the custody of the books and papers of the corporation within this state.

(4) A copy of the execution and the return thereon, certified by the officer executing the same, shall, within 14 days after the sale be left with the officer of the company whose duty it is to keep a record of the transfer of shares; and the purchaser shall thereupon be entitled to a certificate or certificates of the shares bought by him, upon paying the fees therefor, and for recording the transfer.

(5) Any court from which any attachment or execution is issued, shall have full power and authority upon motion, and without notice, to make an order restraining the transfer of any such shares of stock, and upon the service of a certified copy of such order, the same shall be fully effectual.

(6) If the shares or interest of the judgment debtor are attached in the suit in which the execution issued, the purchaser is entitled to all the dividends which have accrued after the levying of the attachment.

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

600.6038 Execution; franchise of corporation authorized to receive toll; notice; adjournment; person deemed highest bidder; rights of purchaser; transfer; injury to franchise; recovery of penalties; powers, duties, and liabilities; redemption.

Sec. 6038. (1) The officer having execution against any corporation authorized to receive tolls, shall, 30 days, at least, before the day of sale of the franchise, or other corporate personal property, give notice of the time and place of sale, by posting up a notice thereof in any township in which the clerk, treasurer, or any one of the directors of such corporation may dwell, and also by causing an advertisement of the sale, expressing the name of the creditor, the amount of the execution, and the time and place of sale, to be inserted 3 weeks successively in some newspaper published in any county in which either of the aforesaid officers may dwell, if any such there be, and if no newspaper is published in any such county, then in a paper published in an adjoining county.

(2) The officer who may levy any execution, as prescribed in (1), may adjourn the sale from time to time as may be necessary, until the sale is completed.

(3) In the sale of the franchise of any corporation, the person who shall satisfy the execution, with all legal fees and expenses thereon, and shall agree to take such franchise for the shortest period of time, and to receive during that time all such toll as the said corporation would by law be entitled to demand, shall be considered as the highest bidder.

(4) The officer's return on such execution shall transfer to the purchaser all the privileges and immunities which by law belong to such corporation, so far as relates to the right of demanding toll; and the officer shall, immediately after such sale, deliver to the purchaser possession of all the toll houses and gates belonging to such corporation, in whatever county the same may be situated; and the purchaser may thereupon demand and receive all the toll which may accrue during the time limited by the terms of his purchase, in the same manner, and under the same regulations, as such corporation was before authorized to demand and receive the same.

(5) Any person who purchases, under the provisions of this chapter, the franchise of any turnpike or other corporation, and the assignees of such purchaser, may recover any penalties imposed by law for an injury to the franchise, or for any other cause, which such corporation would have been entitled to recover during the time limited in the said purchase of the franchise; and during that time the corporation shall not be entitled to prosecute for such penalties.

(6) The corporation whose franchise shall have been sold as aforesaid shall, in all other respects retain the same powers, and be bound to the discharge of the same duties, and liable to the same penalties and forfeitures, as before such sale.

(7) Such corporation may, at any time, within 3 months after such sale, redeem the franchise, by paying or tendering to the purchaser thereof the sum that he shall have paid therefor, with interest thereon, but without any allowance for the toll which he may have received; and upon such payment or tender, the said franchise, and all the rights and privileges thereof, shall revert and belong to said corporation, as if no such sale had been made.

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

600.6041 Execution; fees and charges of sale.

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Sec. 6041. The lawful fees and charges of the sale upon any execution in the manner prescribed in this chapter, shall, in all cases, be added to the amount due on the execution, and be considered as a part thereof for all the purposes mentioned in this chapter.

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

600.6042 Postponement of sale; public declaration; notice.

Sec. 6042. If, at the time appointed for the sale of any real or personal property on execution, the officer shall deem it expedient and for the interest of all persons concerned, to postpone the sale for want of purchasers or other sufficient cause, he may postpone the sale from time to time until the sale is completed. He shall make public declaration thereof at the time and place previously appointed for the sale. Notice thereof shall be given in the same manner as provided in section 6052.

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

600.6043 Execution; where more than one levy.

Sec. 6043. In case of levies made on more than 1 of the executions provided for in section 6005, sale shall only be made on 1 execution at a time, and under the direction of the plaintiff's attorney. No more sales of the property may be made than is necessary to satisfy the judgment.

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

600.6044 Execution; surplus; disposition.

Sec. 6044. If, after any sale made as herein prescribed there remains in the hands of the officer any surplus money after satisfying the writ or writs of execution on which such property was sold, with the interest thereon, the officer shall pay over such surplus to the judgment debtor or his legal representatives on demand.

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

600.6045 Execution; refusal of highest bidder to take property; effect.

Sec. 6045. (1) If the highest bidder for any property at any sale on execution refuses to take and pay for it, he is liable for any loss on resale.

(2) In such case the officer shall sell the property again at the same time, or thereafter, giving notice of the second sale.

(3) The officer conducting the sale may sue to enforce the liability under subsection (1), and may recover in the action the expenses of the second sale, and may tax reasonable attorney fees as costs.

(4) The officer shall account for what he receives on the second sale and for any damages recovered under subsection (1) as for so much received on the execution.

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

600.6046 Execution; officer not to purchase or be interested.

Sec. 6046. The sheriff or other officer to whom execution is directed, and the deputies of such officers, shall not directly or indirectly, purchase or be interested in the purchase of any property at any sale by virtue of execution.

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

600.6047 Payment by debtor of judgment debtor.

Sec. 6047. After issuing execution to collect a judgment, any person indebted to the judgment debtor may pay to the officer having the execution the amount of his debt, or so much thereof as is necessary to satisfy the execution, and the receipt of the officer having such execution is a discharge of the indebtedness of such person to the judgment debtor to the extent of the amount so paid.

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

600.6051 Execution against real estate; effect; notice; invalid after 5 years.

Sec. 6051. No levy by execution on real estate is valid:

(1) Against bona fide conveyances made subsequent to such levy, until a notice thereof, containing the names of the parties to the execution, a description of the premises levied upon, and the date of such levy, is filed by the officer making the levy in the office of the register of deeds of the county where the premises are situated. Such levy is a lien thereon from the time when notice is deposited; and the lien thus obtained is, from the filing of such notice, valid against all prior grantees and mortgagees of whose claims the party interested has neither actual nor constructive notice. The register shall record the same in full upon the records of that office, and make an index to the record, in a manner convenient for public reference, of the names of the parties to the execution as stated in the notice. The officer shall receive for making and recording the notice,

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the sum of 50 cents, and the register of deeds shall receive the same fee as is allowed by law for recording deeds, which fee the serving officer shall add to the costs to be collected by the execution and in like manner, collect the same. When the execution is fully paid, satisfied or discharged, the clerk of the court who issued execution, shall give to the defendant a certificate, signed by the sheriff and under seal of the court, that the execution is satisfied or discharged; and the certificate may be recorded in the same manner as is notice.

(2) After the expiration of 5 years from making the levy, unless the real estate is sold thereon or within such period.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1965, Act 284, Imd. Eff. July 22, 1965;—Am. 1967, Act 278, Eff. Nov. 2, 1967.

600.6052 Notice of time and place of sale.

Sec. 6052. Prior to the sale of any real estate taken on execution, notice of the time and place of holding the sale, the notice to describe the real estate with common certainty by setting forth the name or number of the township in which it is located, and the number of the lot, or by other appropriate description of the premises shall be given as follows:

(1) A written or printed notice shall be displayed in 3 public places in the township or city where the real estate is to be sold at least 6 weeks prior to the sale, and if the sale is in a township or city other than that wherein the premises are located, notice shall also be displayed in 3 public places in the township or city in which the premises are located.

(2) A copy of the notice shall be published once each week for the 6 successive weeks prior to the sale in a newspaper printed in the county in which the premises are located, or, if there is no newspaper, in a newspaper printed in an adjoining county.

(3) If the sheriff or other officer adjourns the sale for more than 1 week, he shall give notice in the newspaper in which the original notice was published and shall continue to publish notices weekly throughout the adjournment. Notice of adjournment must also be displayed for a like period at the place where the sale is to be held.

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

600.6053 Execution; time, place, adjournment.

Sec. 6053. (1) The sale of real estate by virtue of any execution shall be by public sale, between the hour of 9 o'clock in the morning and 4 o'clock in the afternoon, at the court house or place of holding the circuit court in the county in which the real estate is situated.

(2) The sheriff or other officer making the sale has the power to adjourn the sale for reasonable cause and for a reasonable period.

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

600.6054 Execution; irregular sale; taking down or defacement of notice; liability; irregularities not to invalidate.

Sec. 6054. (1) Any officer who sells any real estate, without the previous notice herein directed, or otherwise than in the manner herein prescribed, shall be liable therefor to the party injured, in the sum of $500.00 damages, in addition to any actual damages which such party may prove on the trial of an action brought for the recovery of the same.

(2) If any person takes down or defaces any notice of a sale of real estate, put up by any officer, previous to the day of sale therein specified, unless upon satisfaction of the execution by virtue of which such notice shall have been given, or upon the consent of the party suing out such execution, and of the defendant therein, such person shall be liable therefor to the party in whose favor such execution was issued, in the sum of $50.00 damages.

(3) The omission of any officer to give the notice of sale required in this chapter, or the taking down or defacing any such notice when put up, does not affect the validity of any sale made to a purchaser in good faith, without notice of such omission, taking down or defacing.

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

600.6055 Execution; certificates, contents; filing; disposition; recording; use as evidence.

Sec. 6055. (1) Upon the sale of any real estate by virtue of an execution, the officer making the same shall make and subscribe as many certificates of such sale as may be necessary, containing:

(a) A particular description of the premises sold;

(b) The price bid for each distinct lot or parcel sold;

(c) The consideration money paid for each lot or parcel; and

(d) The time when such sale shall become absolute, and the purchaser will be entitled to a deed, as

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hereinafter provided, and shall indorse on each of said certificates the rate of interest borne by the judgment upon which said execution issued.

(2) One of the certificates shall be delivered to each purchaser at the sale and 1 of the certificates shall, within 10 days after the sale, be filed for record by the officer making the sale, in the office of the register of deeds of the county in which the sale is made; and the register of deeds shall cause the certificate to be recorded in a book kept for that purpose.

(3) The original certificate, or the record thereof, or a transcript of the record, duly certified by the register of deeds shall be prima facie evidence of the facts therein set forth, of the regularity of the sale, and of all proceedings in the cause anterior thereto.

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

600.6056 Separate exposure of lots, tracts, or parcels for sale; sale of undivided interest.

Sec. 6056. (1) When any real estate offered for sale by virtue of any execution consists of several known lots, tracts, or parcels, such lots, tracts, or parcels shall be separately exposed for sale, and the judgment debtor may direct which piece or parcel shall be first exposed for sale.

(2) No more of the tracts and parcels may be exposed for sale than appear necessary to satisfy the execution, with the costs and expenses of the sale.

(3) When any judgment debtor has an undivided interest with the same parties in several parcels of land, the officer may levy on, advertise, and sell, as a single parcel, the interest of the judgment debtor in any or all of the undivided and unpartitioned tracts or parcels in his bailiwick.

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

600.6057 Execution; leasehold interest; rights of purchaser; conveyance; deposit; recording; filing notice of levy; effect; payment of rent.

Sec. 6057. (1) When a leasehold interest is sold on execution, the purchaser is entitled to all the rights and privileges of the defendant in and to the leasehold premises, and may immediately obtain possession thereof from the defendant or person holding under him in the manner provided in the case of an unlawful detainer of lands.

(2) The officer making the sale shall, within 10 days thereafter, execute to the purchaser a conveyance of the leasehold interest, which conveyance, if the unexpired term of such lease then exceeds 3 years, shall be by deed duly executed and acknowledged, as in the case of a conveyance of real estate, which deed shall be deposited with said register of deeds, but shall not be recorded until the expiration of 1 year after the day of sale, and the officer making the sale shall indorse on such deed the date on which it will be entitled to record.

(3) The filing of notice of levy on a leasehold, shall be notice of all the rights acquired by the plaintiff and purchaser at the sale, and the plaintiff in execution or his attorney, shall be thereafter entitled to reasonable notice from the lessor in case the lessor intends to forfeit the lease for any default made by the lessee, or person claiming under him, to the end that the plaintiff shall have a reasonable opportunity to comply with the terms of the lease and save a forfeiture. In case the plaintiff or execution purchaser is compelled to pay any rent due at the date of sale on execution or previous thereto, no redemption may be allowed until the amount so paid is refunded to the plaintiff or execution purchaser, with interest, in addition to the amount for which such leasehold interests may be sold on execution.

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

600.6058 Repealed. 2004, Act 538, Eff. Mar. 30, 2005.

Compiler's note: The repealed section pertained to vendor interest in land contract and disposition of payments.

600.6059 Execution; homestead; sale in case surplus not paid.

Sec. 6059. In case the surplus, or the amount due on the execution or judgment is not paid according to the provisions of section 6027 of this chapter, it shall be lawful for the officer to advertise and sell the said premises, and out of the proceeds of said sale to pay such debtor the sum of $3,500.00, which shall be exempt from execution for 1 year thereafter, and apply the balance on said execution. No sale may be made in the case last mentioned, unless a greater sum than $3,500.00 is bid therefor, in which case the officer may return said execution for want of property, or report the facts to the court in which said judgment was rendered, as the case may require.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, 2nd Ex. Sess., Act 40, Imd. Eff. Dec. 27, 1963.

600.6060 Execution; not made on equity of redemption on certain judgment; endorsement on execution; direction to officer.

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Sec. 6060. (1) When judgment is recovered for a debt or any part of a debt secured by mortgage of real estate, there can be no sale of the equity of redemption in such estate, by virtue of any execution upon such judgment.

(2) Whenever any execution against the property of the defendant is issued on such a judgment, the plaintiff or his attorney shall indorse on such execution a brief description of the mortgaged premises with a direction not to levy upon said premises or any part thereof and if execution cannot be collected from the other property of the defendant, the officer shall return the same unsatisfied.

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

600.6061 Execution; rights of purchaser.

Sec. 6061. When any sale, by virtue of any execution, or attachment, becomes absolute, the purchaser at such sale acquires all the rights and interests that the debtor had in and to the realty sold at the time of the levy by virtue of the execution or attachment; including in either case the right to enforce specific performance of any contract upon performing the conditions thereof as stipulated therein by the debtor.

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

600.6062 Redemption of real estate; time; persons entitled to make; effect on sale and certificate; amount stated in recorded affidavit.

Sec. 6062. (1) Not later than 1 year from the date when sale on execution is made, the real estate sold or any distinct lot, tract, or portion that is separately sold or the interest in real estate so sold may be redeemed by payment to the purchaser, to the purchaser's personal representatives or assigns, or to the officer who makes the sale, or to the register of deeds in whose office such certificate is recorded, for the use of the purchaser, of the sum of money bid on the sale of the lot or tract, together with the interest on that sum from the date of sale, computed at the interest rate provided for by the judgment under which the sale was made. The register of deeds shall not determine the amount necessary for redemption. The purchaser shall attach an affidavit with the deed to be recorded under this section that states the exact amount required to redeem the property, including any daily per diem amounts, and the date by which the property must be redeemed shall be stated in the certificate of sale. The purchaser may include in the affidavit the name of a designee responsible on behalf of the purchaser to assist the person redeeming the property in computing the exact amount required to redeem the property. The designee may charge a fee as stated in the affidavit and may be authorized by the purchaser to receive redemption funds. The purchaser shall accept the amount computed by the designee.

(2) Redemption may be made by any of the following:

(a) The person against whom the execution is issued and whose right and title are sold in pursuance of the execution.

(b) If the person is dead, by his or her devisee of the premises sold, and if there is no devisee, by the executor or administrator with the approval of the judge of probate, or by the person's heirs.

(c) By any grantee of the person who acquires an absolute title by deed, sale under mortgage, or under an execution, or by any other means, to the premises sold or to any lot, tract, parcel, or portion which is separately sold.

(d) The purchaser of the title and right of redemption of the person against whom the execution issues.

(e) Any heir or devisee of the person, or any grantee of the heir or devisee, who acquires an absolute title to a portion of the estate sold, or to a portion of any lot, tract, or parcel that is separately sold, or the executor or administrator of the person, with the approval of the judge of probate. The person has the same remedy to enforce contribution from those who own the residue of the lot, tract, or parcel as if the sum required to be paid by him or her to effect redemption was collected by a sale of the portion belonging to the grantee.

(f) Each of several persons having undivided shares, as joint tenants or tenants in common, in the premises sold, or in any particular lot or tract sold, by paying to the purchaser or officer a sum that bears the same proportion to the whole sum bid for the premises or for the particular lot or tract as the share proposed to be redeemed bears to the whole number of shares of the premises, lot, or tract, together with the interest on the sum.

(g) A defendant lessee where the unexpired term of the lease exceeds 3 years at the date of sale on execution. On the redemption, the defendant is entitled to repossess, recover, and enjoy the premises from the execution purchaser or the purchaser's assigns.

(3) Upon payment being made by any person so entitled to redeem any real estate so sold, the sale of the premises so redeemed and the certificate of the sale and deed to the extent of the premises or shares so redeemed are void.

(4) The amount stated in any affidavits recorded under this section shall be the amount necessary to satisfy

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the requirements for redemption under this section.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 2004, Act 538, Eff. Mar. 30, 2005.

600.6063 Acquisition by creditor of interest vested in original purchaser by sale; terms.

Sec. 6063. (1) In case the persons entitled as hereinbefore provided omit to redeem the premises sold, or any part of them, within the year prescribed, then the interest vested in the purchaser by the sale may be acquired within 3 months after the expiration of the year, by the persons, and on the terms hereinafter prescribed.

(2) Any creditor of a person against whom the execution issues having in his own name, or as assignee, representative, trustee, or otherwise, a judgment under which execution has issued and levied upon the real estate sold, or a judgment which is a lien without execution and levy, or any purchaser at a subsequent sale under a junior levy whose title has not become absolute, at any time before the expiration of 15 months from the time of the sale, by paying the sum of money which was paid on the sale of the premises, together with the interest thereon, computed at the rate borne by the judgment under which the sale was made, from the time of the sale, shall acquire all the rights of the original purchaser, subject to be defeated in the manner hereinafter mentioned.

(3) If the execution issued and levied under the creditor's judgment, or the judgment is a lien upon any lot, tract, or parcel, that has been separately sold, the creditor having the same by paying as before provided the sum bid for the lot, tract, or parcel, with interest as above mentioned, shall acquire all the rights of the original purchaser to the lot, tract, or parcel, subject to be defeated as hereinafter provided.

(4) If the execution so levied, or the judgment, is a lien only on a specific portion of a lot, tract, or parcel sold, the creditor may acquire the title of the purchaser to the whole of the lot, tract, or parcel, in the same manner as if the lien extended to the whole.

(5) A creditor having the judgment or execution so levied or any purchaser at a subsequent sale under a junior levy whose title has not become absolute, which is a lien upon any undivided share or interest in any real estate sold under execution, may, within the same time, on the same terms, and in the same manner, acquire the title of the original purchaser to the share or interest by paying such part of the whole purchase money of the real estate as shall be in just proportion to the share or interest.

(6) Any creditor having a mortgage of any lands sold on execution, his representatives, or assigns, where the mortgage was executed subsequent to the levy in pursuance of which the mortgaged premises were sold, may acquire the interest vested in the purchaser at the sale, on the terms provided in subsection (2).

(7) Creditors may acquire the right of the original purchaser in the order of their liens.

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

600.6064 Acquisition by creditor of interest vested in original purchaser by sale; purchase by other creditors; acquisition by original purchaser, execution plaintiff, or mortgagee.

Sec. 6064. (1) Whenever any creditor, or purchaser, acquires the title of the original purchaser pursuant to the foregoing provisions, any other creditor who might have acquired the title according to such provisions may become a purchaser thereof from the first creditor who acquired the title, upon the following conditions:

(a) By reimbursing to the first creditor, his personal representatives, or assigns, the sum which may have been paid by him to acquire the title, together with interest thereon, computed as hereinbefore provided, from the time of the payment to the time of the reimbursement;

(b) If the levy under the execution or judgment, by virtue of which the first creditor acquired the title of the original purchaser, be prior to the levy or judgment of the second creditor, then the second creditor shall also pay to the first creditor the amount due on his judgment;

(c) But if the levy under the execution or the judgment of the first creditor, at the time of his acquiring the title of the original purchaser, shall have ceased to be a lien as against the second creditor, it shall not be necessary to pay the amount thereof.

(2) In the same manner any third or other creditor or purchaser at subsequent sale under a junior levy whose title has not become absolute, who might, according to the foregoing provisions, acquire the title of the original purchaser, may become a purchaser thereof, from the second, third, or any other creditor, who may have become such purchaser from any other creditor upon the same terms and conditions specified in (1).

(3) If the original purchaser of any premises sold, is also a creditor of the defendant against whom the execution issued, and as such might acquire the title of any purchaser, according to the preceding provisions, he may avail himself of his judgment in the same manner, and on the same terms herein prescribed, to acquire the title which any creditor may have obtained.

(4) The plaintiff under whose execution any real estate has been sold shall not acquire the title of the original purchaser, or of any creditor, to the premises sold, by virtue of the judgment on which the execution

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issued; but if he has any other judgment which would entitle him to acquire the title, according to the preceding provisions, he may avail himself of the other judgment, in the same manner, and on the same terms as any other creditor.

(5) Creditors may acquire the interest of the original purchaser acquired by a mortgagee under subsection (6) of section 6063. Unless an execution has been issued on the creditor's judgment and a levy made by virtue thereof on the mortgaged premises, previous to the execution of the mortgage, a creditor acquiring the right of the original purchaser from the mortgagee, his representatives or assigns, shall pay to the mortgagee, his representatives or assigns, the amount due on the mortgage, and be subrogated to the rights of the owner thereof. The creditor shall also reimburse, with interest, the amount paid by the mortgagee, his representatives, or assigns, to acquire the rights of the original purchaser.

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

600.6065 Acquisition of interest of original purchaser; evidence of right of creditor to purchase.

Sec. 6065. To entitle any creditor to acquire the title of the original purchaser, or to become a purchaser from any other creditor, he shall present to and leave with such purchaser or creditor, or the officer who made the sale, or with the register of deeds in whose office the certificate of sale is recorded, the following evidence of his right:

(1) A certified copy of the judgment under which he claims the right to purchase;

(2) A true copy of all the assignments of such judgment, which are necessary to establish his claim, verified by his affidavit, or the affidavit of some witness thereto;

(3) An affidavit by such creditor, his agent or attorney, of the true sum due on such judgment, at the time of claiming such right to purchase.

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

600.6066 Acquisition of interest of original purchaser; transfer of title; automation fund.

Sec. 6066. (1) The sums required to be paid under this act, to acquire the title of the original purchaser or to become a purchaser from any creditor, may be paid to the purchaser or creditor, to his or her representatives or assigns, or to the officer who made the sale for the use of the purchaser or creditor entitled to the sums paid.

(2) If the purchaser of any equity of redemption, or any creditor having acquired the rights of the purchaser, shall pay the debt due on the mortgage, or the amount of any sale of said premises sold on execution, or any part of the property, the amount paid on the mortgage or execution sale shall be paid, with interest, to the purchaser or creditor, in redeeming the premises, or purchasing the rights of the purchaser or creditor, as provided under this chapter.

(3) Upon payment being made, the title of the original purchaser shall be transferred to the creditor acquiring title under the foregoing provisions and from the creditor to any other creditor becoming a purchaser of the property.

(4) If an automation fund is created under section 2568, any fees or charges collected by the register of deeds under this section or section 3140, 3240, or 6062 shall be credited to the automation fund.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 2004, Act 538, Eff. Mar. 30, 2005.

600.6067 Right to deed; assignments.

Sec. 6067. When the premises mentioned in any officer's certificate of sale of real estate under execution is not redeemed, the legal holder of the certificate is entitled to a deed therefor at any time within 10 years from the expiration of the time of redemption. Before any assignee or his personal representative shall be entitled to a deed, every assignment under which he claims title shall be executed and acknowledged or proved in the same manner that deeds are required to be executed, acknowledged, or approved, to entitle the same to be recorded, and the assignee shall cause them to be recorded in the office of the register of deeds in the county where the real estate sold is situated. When the deed is not taken and recorded in the time limited by this chapter, the certificate of purchase shall become null and void.

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

600.6068 Vesting of title; action for injury to realty by grantee in deed; action for waste, injury, or removal of realty or fixtures for benefit of person acquiring rights.

Sec. 6068. (1) The right and title of the person against whom execution was issued, to any real estate sold thereon, shall not be divested by such sale until the expiration of 15 months from the time of such sale.

(2) If such real estate is not redeemed, and a deed is executed in pursuance of a sale, the grantee in such

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deed shall be deemed vested with the legal estate from the time of such sale for the purpose of maintaining an action for injury to such real estate.

(3) If, at any time after a sale of real estate on execution, and before a deed is executed in pursuance of the sale, the defendant in the execution or any other person, commits waste on the real estate or removes from it any buildings, fences, or other fixtures belonging to the land which would pass to the grantee by a deed of conveyance of the land, the purchaser at the sale or any person who has acquired his rights, may have and maintain, against the person doing the injury and against any other person who has the buildings, fences or fixtures in his possession after such removal, the same actions which the absolute owner of the premises would be entitled to.

(4) After the commencement of any such action as mentioned in subsection (3) of this section, if any other creditor shall acquire the rights of the purchaser at such sale in pursuance of the provisions of this chapter, such action shall not thereby be abated or in any way affected; but the same may be prosecuted in the name of the plaintiff therein to final judgment, for the benefit of the person acquiring such rights after the commencement of the action, if he shall choose to prosecute the same, and if not, such plaintiff may continue the same for his own benefit.

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

600.6069 Conveyance of premises; time; effect; executor, administrator, or person equitably entitled; real estate held in trust.

Sec. 6069. (1) After the expiration of 15 months from the time of the sale of any real estate, if any part of the premises sold shall remain unredeemed by the person against whom the execution issued, or by any person entitled to redeem the same within 1 year from the time of such sale, according to the provisions of this chapter, the officer making such sale, or his successor in office, shall complete the same, by executing, in due form of law, a conveyance of the premises so remaining unredeemed, either to the original purchaser or to the creditor who may have acquired the title of such original purchaser, or to the assigns of such purchaser, or to the creditor who may have purchased such title from any other creditor, as the case may be; which conveyance shall be valid and effectual to convey all the right, title and interest which was sold on such execution.

(2) In case the person who would be entitled to a conveyance of any real estate sold by virtue of an execution dies before the execution of the conveyance, the officer shall execute and deliver such conveyance to the executor or administrator of the person so deceased. In any case under this section, where the rights of the person or persons entitled to such real estate, or any interest therein, shall render it necessary, the circuit court of the county in which the officer who made the sale resided, on a hearing of the parties interested, properly brought before it by complaint, may direct the conveyance to be made to the person or persons equitably entitled thereto, in such manner as shall be just; and such conveyance shall have the same effect as provided in subsection (1) of this section.

(3) The real estate so conveyed to any such executor or administrator shall be held in trust for the use of the heirs of such deceased person, subject to the dower of his widow, if there be any; but the same may be sold for the payment of debts and legacies, in the same manner as lands whereof the deceased died seized.

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

600.6070 Redemption; discharge of levy, judgment, or mortgage; fee.

Sec. 6070. In all cases of redemption of lands sold on execution, or in all cases of the sale of lands on mortgage foreclosure, whether by advertisement or sale under court order, or in all cases of payment of judgments where the record shows a levy, or any other lien by mortgage levy, or lis pendens, it shall and may be lawful and it is hereby made the duty of the officer making such sale, or the person receiving such money, or his attorney, to discharge such levy, judgment, or mortgage from the record of the register of deeds, in the proper county in which such sale is made. The fee for recording shall be the same as provided by law for the recording of discharges of mortgages.

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

600.6071 Contribution among several judgment debtors; order of contribution; enforcement; lien of original judgment; affidavit; recording.

Sec. 6071. (1) When lands and tenements, in the hands of several persons, are liable to satisfy any judgment, and the whole of such judgment, or more than a due proportion thereof, is levied upon the lands of 1 or more of such persons, the persons so aggrieved, or their personal representatives, may compel a just and equal contribution by all the persons whose lands and tenements ought to contribute to the satisfaction of such judgment.

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(2) Such lands and tenements are liable to contribution in the following order:

(a) If they were conveyed by the defendant in the execution, they are liable in succession, commencing with the lands last conveyed;

(b) If they were sold under execution against the defendant, they are also liable in succession, commencing with the lands sold under the last and youngest judgment;

(c) If there be lands so liable, which were conveyed by the defendant in the execution and also lands which have been sold under execution against such defendant, they are respectively liable in succession, according to the order hereinbefore prescribed.

(3) If a complaint is filed to enforce such contribution, the person aggrieved shall be entitled to use the original judgment, and by virtue thereof, to pay the amount which ought to be contributed by the lands and tenements subject to such judgment; and for that purpose, such judgment shall remain a lien and charge upon such lands and tenements, for the term of 5 years after a certified copy thereof shall have been filed and entered in the office of the register of deeds in the county where the lands are situated, to the extent of the sum which ought to be so contributed, notwithstanding such sum or any part thereof, may have been paid by the party seeking such contribution.

(4) But such original judgment does not remain a lien upon any lands, nor are they subject to an execution as herein provided, unless the person aggrieved files for record an affidavit with the register of deeds in whose office a certified copy of such judgment has been recorded, stating the sum paid, and his claim to use such judgment for the reimbursement thereof, or of some portion of the same.

(5) The register of deeds shall record such affidavit and make an entry in the margin of the entry of the certified copy of such judgment, stating the sum so paid, and that such judgment is claimed to be a lien to that amount.

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

600.6072 Eviction of purchaser; recovery of purchase price; further execution for benefit of purchaser; validity of original judgment.

Sec. 6072. (1) If the purchaser of any real estate, sold by virtue of an execution, his heirs or assigns, shall be evicted from the possession of such real estate, or if in an action for the recovery thereof, judgment shall be rendered against him or them, in consequence:

(a) Of any irregularity in the proceedings concerning such sale; or

(b) Of the judgment upon which such execution issued being vacated or reversed; such purchaser, his heirs or assigns, may recover of the party for whose benefit such real estate was sold, the amount paid on the purchase thereof, with interest.

(2) The party for whose benefit such real estate was sold, and his personal representatives, upon such recovery being had against him in consequence of any irregularity in the proceedings concerning the sale, may have further execution upon the judgment by virtue of which such sale was made, to levy the amount paid on such sale, with interest.

(3) Such judgment shall be deemed valid and effectual for the purpose specified in subsection (2) of this section, against the defendant therein, his personal representatives, heirs, and devisees, but not against any purchaser in good faith, or any incumbrancer by mortgage, judgment or otherwise, whose title or incumbrance shall have accrued before the levy of such further execution.

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

600.6075 Civil arrest; grounds.

Sec. 6075. Except as otherwise provided by law, no person is liable to arrest or imprisonment on any civil process unless:

(1) In a proceeding for contempt of court; or

(2) On an action to recover a fine or penalty; or

(3) After a judgment against such person, the judgment creditor provides satisfactory evidence showing 1 or more of the following circumstances:

(a) The judgment debtor has property which he fraudulently conceals or which he unjustly refuses to apply to the judgment against him, and such judgment belongs to such judgment creditor; or

(b) The judgment debtor is about to remove his property out of the jurisdiction of the court in which suit was brought, with the intent to defraud his creditor; or

(c) The judgment debtor has, or is about to dispose of some or all of his property with intent to defraud his creditor.

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

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600.6076 Civil arrest; prerequisite.

Sec. 6076. Except in a contempt proceeding, no warrant for civil arrest shall issue unless:

(1) Execution has been made and returned against all the property of the judgment debtor in that county and such property is not sufficient to satisfy such judgment; and

(2) Such warrant issues within 30 days from the return of the execution.

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

600.6077 Warrant to arrest judgment debtor.

Sec. 6077. (1) Upon satisfactory proof of any of the grounds for civil arrest named in subsections (2) and (3) or section 6075, any judge of the court which rendered the judgment shall issue a warrant to arrest the judgment debtor.

(2) The warrant shall issue under the hand of the judge in behalf of the people of this state and shall be directed to the sheriff, bailiff, or other officer of the county, district court district, or municipality within which the issuing judge is serving. It shall state the nature of the judgment and command that the judgment debtor be arrested and brought before the judge issuing the warrant, without delay.

(3) The warrant shall be accompanied by a copy of each affidavit, if any, on which the warrant was issued. The copies shall be certified by the judge who issued the warrant, and delivered to the judgment debtor at the time of serving the warrant.

(4) The warrant shall be executed by the arrest of the judgment debtor and his delivery to the judge issuing the warrant, or, some other judge having jurisdiction of the case, and the holding of the judgment debtor until he is committed or discharged according to law.

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

600.6078 Hearing; detention of judgment debtor.

Sec. 6078. (1) Upon delivery of the judgment debtor to the judge, the judge shall hold a hearing and, after hearing the proofs, the allegations of the judgment creditor are substantiated and the proof of the grounds for civil arrest as described in subsections (2) and (3) of section 6075 has been given, he shall direct that the judgment debtor be committed to the jail of the county in which the hearing is held, to be there detained until he shall be discharged according to law. The judgment debtor shall be detained accordingly.

(2) A person arrested on civil process and brought before the proper judge for hearing, may controvert any of the facts and circumstances on which the warrant issued, and may, at his option, verify his allegations by his own affidavit. In such case the plaintiff may examine the defendant on oath touching any fact or circumstance material to the inquiry. The answers of the defendant on the examination shall be reduced to writing, and subscribed by him. The judge conducting the inquiry shall also receive such other proofs as the parties may offer, either at the time of the first appearance, or at such other time as the hearing shall be adjourned to. In case of an adjournment, the judge may take a recognizance with surety from the defendant for his appearance at the adjourned meeting, and conditioned that the defendant will not meanwhile secrete, destroy, dispose of, or in any manner make away with, or put out of his possession, any of his property not exempt from sale on execution. In case the defendant refuses to enter into the recognizance, he shall be committed to the county jail, there to remain until such time as the hearing is completed.

(3) The judge conducting the inquiry has the same authority to issue subpoenas for witnesses, to enforce obedience to the subpoenas, and to punish witnesses refusing to testify as is conferred by law upon such judges in cases of other proceedings before them. The defendant may demand a jury of 6 jurors to try the issue joined in the matters charged or alleged against him in the affidavit or affidavits exhibited to or before the judge conducting the inquiry. The jury shall be selected and summoned in the same manner, as near as may be, as in the trial of criminal cases. The judge has the same power in relation to the selection, summoning, and swearing the jury and conducting the jury trial, as near as may be, as in the trial of criminal cases.

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

600.6079 Civil arrest; discharge.

Sec. 6079. The judgment debtor may avoid commitment or be discharged from commitment by:

(1) Paying the amount due on the judgment with interest and costs; or

(2) Making a general assignment of all his property for the benefit of his creditors; or

(3) Obtaining a judgment in his favor on appeal of the judgment creditor's judgment; or

(4) Entering into a bond to the plaintiff in an amount of twice the sum of the judgment, interest and costs, giving such surety as shall be approved by the committing officer, and conditioned that within 30 days of the hearing the judgment debtor will file a petition for adjudication in bankruptcy, under the federal bankruptcy

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law, and diligently prosecute the same until he obtains a discharge, and that he will not, before obtaining such discharge in bankruptcy, in any way dispose of any money, property, or rights in action, or interest in any public or corporate stock, or evidence of debt, or anything valuable whatever, which he possessed at the time of such arrest, not exempt from execution; or

(5) Entering into a bond to the plaintiff in an amount of twice the sum of the judgment, interest and costs, giving such surety as shall be approved by the committing officer, and conditioned that within 6 months of the hearing, the judgment debtor shall pay the judgment, interest and costs; or

(6) Posting bail as prescribed in section 6080; or

(7) The failure of the judgment creditor to pay the judgment debtor's board in advance as required by section 6082; or

(8) The expiration of 90 days if the arrest was to recover a fine or penalty.

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

600.6080 Civil arrest; bail.

Sec. 6080. (1) Any person arrested on civil process is entitled to bail during the time within which he may appeal the proceeding on which the arrest was made, or until a final determination of his appeal has been made.

(2) In a contempt proceeding, the amount of bail shall be set by the judge or officer presiding over such proceeding.

(3) In all other cases, the amount of bail shall be twice the amount of the judgment, fine or penalty on which the arrest was made.

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

600.6081 Civil arrest; bail; bond; forfeiture; release.

Sec. 6081. (1) If, within the time prescribed in subsection (1) of section 6080, the judgment debtor is not discharged, and fails to surrender himself for commitment, his bail is forfeited and the judgment creditor shall have satisfaction out of such bail.

(2) If, within the time prescribed in subsection (5) of section 6079, the judgment debtor is not discharged and fails to pay the judgment, interest and costs, his bond is forfeited and the judgment creditor shall have satisfaction out of such bond.

(3) Bail is released by the release of the judgment or upon the surrender of the judgment debtor for commitment within the prescribed period.

(4) Bond is released by the release of a judgment or upon the payment of the judgment, interest and costs, within the prescribed period.

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

600.6082 Imprisonment; segregation from criminals; payment of board.

Sec. 6082. (1) Those persons committed on civil process shall be segregated from those committed on criminal process.

(2) The board of any person committed under civil process, except for contempt or for collection of fines and penalties, shall be paid in advance by the judgment creditor to the sheriff or keeper of the jail. On failure to pay such board, the judgment debtor shall be released and shall no longer be liable to civil arrest on the judgment under which he was committed.

(3) In the case of collection of fines or penalties, the board of the prisoner shall be added to the amount of such fines or penalties and collected as part of the original judgment.

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

600.6083 Imprisonment; sheriff's liability for escape.

Sec. 6083. (1) All prisoners committed on civil process shall be actually confined in jail until discharged according to law; and if any sheriff or keeper of jail permits any prisoner to leave confinement before such time, such sheriff or keeper is liable to the judgment creditor for the damages sustained and shall be guilty of a misdemeanor.

(2) But if the prisoner is returned to custody before commencement of an action based on the liability herein described, then such liability shall be null and void.

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

600.6084 Imprisonment; discharge; effect.

Sec. 6084. Discharge of the judgment debtor from imprisonment only bars further civil arrest of the judgment debtor on the same judgment, and does not preclude the judgment creditor from any other action on

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the same judgment.

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

600.6085 Removal or concealment of property to avoid execution; misdemeanor.

Sec. 6085. Any person who removes any of his property out of any county, with intent to prevent the same from being levied upon by an execution or who secretes, assigns, conveys, or otherwise disposes of any of his property, with intent to defraud any creditor, or to prevent such property from being made liable for the payment of his debts and any person who receives such property with such intent, shall, on conviction thereof, be deemed guilty of a misdemeanor.

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

600.6086 Transfer of property by judgment debtor after commitment; validity.

Sec. 6086. Transfers by the judgment debtor of any property, except property exempt from execution, made after the judgment debtor's commitment, or while he is free on bail, are void except as to bona fide purchasers from the transferee for value without notice.

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

600.6091 Sale of real estate pursuant to judgment; notice; procedure; fees.

Sec. 6091. Any person duly authorized by an order of the court to sell real estate in pursuance of any judgment, except as otherwise provided by order of the court or by a rule of court, shall give notice of, and conduct the sale as in the case of sale of real estate on execution. The person making the sale shall have the same power and authority and be subject to the same liability as in the case of sale of realty on execution. All lawful fees for advertising and conducting the sale shall be added to the amount due on the judgment and collected therewith.

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

600.6092 Judgment against absent, concealed, or nonresident defendant; sequestration of realty or personalty; delivery of possession of property; satisfaction out of estate and effects sequestered.

Sec. 6092. (1) In the case of a judgment against an absent, concealed, or nonresident defendant, process may issue to compel the performance of such judgment either by sequestration of the real and personal estate of the defendant, or such part thereof as is deemed sufficient; or where any specific estate or effects are demanded by the complaint by causing possession of the property so demanded to be delivered to the plaintiff.

(2) Such possession shall not be delivered until the plaintiff gives security, in such sum as the court directs, to abide the order of the court touching the restitution of the estate or effects delivered, in case the defendant appears and is admitted to defend the suit.

(3) Upon like security being given, the court, when a sequestration has issued, may order the judgment to be satisfied out of the estate and effects sequestered; but if such security has not been given, the estate and effects sequestered shall remain under the direction of the court, to abide its further orders.

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

600.6093 Recovery of judgment against township, village, city, or county.

Sec. 6093. (1) Whenever judgment is recovered against any township, village, or city, or against the trustees or common council, or officers thereof, in any action prosecuted by or against them in their name of office, the clerk of the court shall, on the application of the party in whose favor judgment is rendered, his attorney, executor, administrator, or assigns, make and deliver to the party so applying a certified transcript of the judgment, showing the amount and date thereof, with the rate of interest thereon, and of the costs as taxed under the seal of the court, if in a court having a seal. The party obtaining the certified transcript may file it with the supervisor of the township, if the judgment is against the township, or with the assessing officer or officers of the city or village, if the judgment is against a city or village. The supervisor or assessing officer receiving the certified transcript or transcripts of judgment shall proceed to assess the amount thereof with the costs and interests from the date of rendition of judgment to the time when the warrant for the collection thereof will expire upon the taxable property of the township, city, or village upon the then next tax roll of such township, city, or village, without any other or further certificate than the certified transcript as a part of the township, city, or village tax, adding the total amount of the judgment to the other township, city, or village taxes and assessing it in the same column with the general township, city, or village tax.

The supervisor or assessing officer shall set forth in the warrant attached to the tax roll each judgment

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separately, stating the amount thereof and to whom payable, and it shall be collected and returned in the same manner as other taxes. The supervisor or assessing officer, at the time when he delivers the tax roll to the treasurer or collecting officer of any township, city, or village, shall deliver to the township clerk or to the clerk or recording officer of the city or village, a statement in writing under his hand, setting forth in detail and separately the judgment stating the amount with costs and interest as herein provided, and to whom payable. The treasurer or collecting officer of the township, city, or village, shall collect and pay the judgment to the owner thereof or his attorney, on or before the date when the tax roll and warrant shall be returnable. In case any supervisor, treasurer, or other assessing or collecting officer neglects or refuses to comply with any of the provisions of this section he shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not more than $1,000.00 and costs of prosecution, or imprisonment in the county jail for a period not exceeding 3 months, or by both fine and imprisonment in the discretion of the court. Nothing herein contained shall be construed to exclude other remedies given by law for the enforcement of the judgment.

(2) In any case where a judgment is recovered against a village which, by reason of holding no municipal elections, or for any other reason has no available assessing officer within the jurisdiction of the court wherein the judgment is rendered, the owner of the judgment or any person knowing the facts, acting on behalf of the owner, may make an affidavit showing that the village against which a judgment is pending and unsatisfied, has no available assessing officer within the jurisdiction, and file it with the clerk of the court wherein the judgment is written. The officer who makes the certified transcript shall attach thereto a copy of the affidavit, the correctness of which copy shall also be certified to in the certificate. Any party receiving the certified transcript of judgment and affidavit may file it with the supervisor of the township in which the village, having no assessing officer is located. The supervisor shall assess the amount of the judgment with costs and interest, upon the taxable property of the village, which is without an assessing officer, and thereafter the same steps and proceedings shall be had in the premises as though it were a judgment against the township within which the village is located, except that it shall be assessed against the property within the corporate limits of the village only.

(3) When judgment is recovered against any county or the board of supervisors or any county officer in an action prosecuted by or against him in his name of office, the judgment unless reversed shall be levied and collected as other county charges, and when collected shall be paid by the county treasurer to the person to whom the judgment has been adjudged upon the delivery of a proper voucher therefor.

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

600.6094 Recovery of judgment against school district.

Sec. 6094. (1) Whenever any final judgment is obtained against the school district, if it is not removed to any other court, the treasurer of the district shall certify to the supervisor of the township and to the director of the district the date and amount of the judgment, with the name of the person in whose favor it was rendered, and if the judgment is removed to another court, the treasurer shall certify it as aforesaid immediately after the final determination thereof against the district.

(2) If the treasurer fails to certify the judgment, the party obtaining it, his executors, administrators, or assigns, may file with the supervisor the certificate of the clerk of the court rendering the judgment, showing the facts which should have been certified by the treasurer.

(3) If the district against which a judgment is rendered is situated in part in 2 or more townships, a certificate thereof shall be delivered as aforesaid to the supervisor of each township in which the district is in part situated.

(4) The supervisor or supervisors receiving either of the certificates of a judgment as aforesaid shall proceed to assess the amount thereof, with interest from the date of the judgment to the time when the warrant for the collection thereof will expire, upon the taxable property of the district, placing it on the next township assessment roll in the column for school taxes; and the same proceedings shall be had, and it shall be collected and returned in the same manner as other district taxes.

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

600.6095 Collection of judgment; against state institution.

Sec. 6095. When any judgment or decree is obtained against any corporate body, or unincorporated board, now or hereafter having charge or control of any state institution, the amount thereof shall be included and collected in the state tax and paid to the person entitled thereto.

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

600.6096 Repealed. 1984, Act 393, Imd. Eff. Dec. 28, 1984.

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Compiler's note: The repealed section pertained to township judgment bonds.

600.6097 Judgment against municipality; issuance of certificates of indebtedness or bonds to pay judgment; amount; interest; sale; duration; bonds not subject to MCL 117.5; "municipality" defined.

Sec. 6097. (1) If a judgment of a court or administrative agency is rendered against any municipality, the legislative body of that municipality, unless otherwise provided, may issue certificates of indebtedness or bonds of that municipality for the purpose of raising money to pay the judgment, in an amount not exceeding the sum of the judgment, the costs and interest on the judgment, and all cost in connection with issuing the certificates of indebtedness or bonds. The certificates of indebtedness or bonds shall be sold and issued in accordance with the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, except that they may be issued for a period of up to 15 years.

(2) The authorization, issuance, and selling of the bonds are not subject to section 5(g) of the home rule city act, 1909 PA 279, MCL 117.5.

(3) As used in this section, "municipality" means a county, township, city, village, school district, intermediate school district, community college district, metropolitan district, port district, drainage district established under the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630, or another governmental authority or agency in this state which has the power to levy ad valorem property taxes.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1984, Act 393, Imd. Eff. Dec. 28, 1984;—Am. 2002, Act 224, Imd. Eff. Apr. 29, 2002.

600.6098 Review of verdict in action alleging medical malpractice or personal injury action; duties of judge; reinstatement of original verdict; affirming orders and judgments granting additur or remittitur.

Sec. 6098. (1) A judge presiding over an action alleging medical malpractice shall review each verdict to determine if the limitation on noneconomic damages provided for in section 1483 applies. If the limitation applies, the court shall set aside any amount of noneconomic damages in excess of the amount specified in section 1483.

(2) A judge presiding over a personal injury action shall review each verdict returned by the jury and shall do 1 of the following:

(a) Concur with the award.

(b) Upon motion by any party, within 21 days of entry of the judgment of the court, grant a new trial to all or some of the parties, on all or some issues, whenever their substantial rights are materially affected, for any of the following reasons:

(*i*) Irregularity in the proceedings of the court, jury, or prevailing party.

(*ii*) An order of the court or abuse of discretion which denied the moving party a fair trial.

(*iii*) Misconduct of the jury or the prevailing party.

(*iv*) Excessive or inadequate damages appearing to have been influenced by passion or prejudice.

(*v*) A verdict clearly or grossly inadequate or excessive.

(*vi*) A verdict or decision against the great weight of the evidence or contrary to law.

(*vii*) Material evidence, newly discovered, which could not with reasonable diligence have been discovered and produced at trial.

(*viii*) Error of law occurring in the proceedings or mistake of fact by the court.

(*ix*) Other grounds as may be provided for by court rule.

(c) Within 21 days after entry of a judgment, the court on its own initiative may order a new trial for any of the reasons set forth in subdivision (b). The order shall specify the grounds on which the order is based.

(d) If the court finds that the only error in the trial is the inadequacy or excessiveness of the verdict, the court may grant a new trial unless, within 14 days, the nonmoving party consents in writing to the entry of judgment in an amount found by the court to be the lowest or highest amount the evidence will support.

(3) If the moving party appeals, the written consent entered under subsection (2)(d) in no way prejudices the nonmoving party's argument on appeal that the original verdict was correct. If the nonmoving party prevails on appeal, the original verdict may be reinstated by the appellate court.

(4) All orders and judgments of the circuit court granting additur or remittitur shall be affirmed on appeal unless the trial judge committed an abuse of discretion.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

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"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

CHAPTER 61
PROCEEDINGS SUPPLEMENTARY TO JUDGMENT

600.6101 Proceedings supplementary to judgment.

Sec. 6101. A proceeding under this chapter may be maintained until the judgment is satisfied, vacated, or barred by the statute of limitations.

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

600.6104 Powers of judge after rendition of judgment for money.

Sec. 6104. After judgment for money has been rendered in an action in any court of this state, the judge may, on motion in that action or in a subsequent proceeding:

(1) Compel a discovery of any property or things in action belonging to a judgment debtor, and of any property, money, or things in action due to him, or held in trust for him;

(2) Prevent the transfer of any property, money, or things in action, or the payment or delivery thereof to the judgment debtor;

(3) Order the satisfaction of the judgment out of property, money, or other things in action, liquidated or unliquidated, not exempt from execution;

(4) Appoint a receiver of any property the judgment debtor has or may thereafter acquire; and

(5) Make any order as within his discretion seems appropriate in regard to carrying out the full intent and purpose of these provisions to subject any nonexempt assets of any judgment debtor to the satisfaction of any judgment against the judgment debtor.

The court may permit the proceedings under this chapter to be taken although execution may not issue and other proceedings may not be taken for the enforcement of the judgment. It is not necessary that execution be returned unsatisfied before proceedings under this chapter are commenced.

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

600.6107 Installment payments from income; reasonable value of services to relative; earning ability; modification of order; moneys awarded in matrimonial action; statute of limitations.

Sec. 6107. (1) Whether or not the judgment creditor has resorted to any remedy available under the garnishment or execution statutes, the court may order the judgment debtor to pay to the judgment creditor or apply on the judgment, in installments, such portion of his income, however or whenever earned or acquired, as the court may deem proper, after due regard for the reasonable requirements of the judgment debtor and his family, if dependent upon him, as well as any payments required to be made by the judgment debtor under any legal process.

(2) Where the judgment debtor claims or is proved to be rendering services to or employed by a relative or other person or by a corporation owned or controlled by a relative or other person, without salary or compensation, or at a salary or compensation so inadequate as to satisfy the court that such salary or compensation is merely colorable and designed to defraud or impede the creditors of such debtor, the court may direct such debtor to make payments on account of the judgment, in installments, based upon a reasonable value of the services rendered by such judgment debtor under his said employment or upon said debtor's then earning ability.

(3) The court may, from time to time, modify an order made under this section upon application of either party upon notice to the other.

(4) An order under this section, where the income sought to be reached consists in whole or in part of moneys awarded in a matrimonial action for the support of the judgment debtor by a court of this state, may be made only by such court. To enable the judgment creditor to apply for such an order, a proceeding under this chapter instituted in another court may be transferred to such court on order of such other court, without

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prejudice to the proceedings theretofore taken therein.

(5) The statute of limitations shall not run against a judgment during the time it is payable in installments as provided in this section.

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

600.6110 Subpoena requiring appearance of judgment debtor or person having money or property of judgment debtor; affidavit; examination; adjournment; immunity.

Sec. 6110. (1) Upon an affidavit, showing to the satisfaction of the judge that any person has money or property of the judgment debtor, or is indebted to him, the judge may issue a subpoena requiring the judgment debtor or the person or both to appear at a specified time and place, and be examined on oath, and to produce for examination any books, papers, or records in his or its possession or control which have or may contain information concerning the property or income of the debtor.

(2) A corporation shall attend by and answer under the oath of an officer thereof, and the judge may, in his discretion, specify the officer. Either party may be examined as a witness in his own behalf, and may produce and examine other witnesses as upon the trial of an action. The judge may adjourn any proceedings under this chapter from time to time as he thinks proper.

(3) A party or witness examined under these provisions may not be excused from answering a question on the ground that his answer will tend to show him guilty of the commission of a fraud, or prove that he has been a party or privy to, or knowing of a conveyance, assignment, transfer, or other disposition of property for any purpose, or that he or another person claims to have title as against the judgment debtor or to hold property derived from or through the judgment debtor, or to be discharged from the payment of a debt which was due to the judgment debtor or to a person in his behalf. But an answer cannot be used as evidence against the person so answering in any criminal proceeding or action, except for perjury in making the answer.

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

600.6113 Special proceedings; hearings; attendance, mileage, and expenses of judgment debtor.

Sec. 6113. (1) Proceedings under this chapter are special proceedings, and shall be heard by the judge without a jury, except as provided in subsection (3) of section 6128. Hearings may be held in chambers.

(2) A judgment debtor may be required to attend outside the county where he resides but the court may make such order as to mileage and expenses as is just.

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

600.6116 Transfer of debtor's property; duration of restraint.

Sec. 6116. (1) An order for examination of a judgment debtor may contain a provision restraining the judgment debtor from making or suffering any transfer or other disposition of, or interference with any of his property then held or thereafter acquired by or becoming due to him not exempt by law from application to the satisfaction of the judgment, until further direction in the premises, and such other provisions as the court may deem proper.

(2) Unless previously vacated by order of the court or by stipulation of the parties in writing, a restraining provision as herein provided shall remain in full force and effect for a period of 2 years from the date thereof, at which time it shall be deemed vacated for all purposes unless extended by order of the court for good cause shown.

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

600.6119 Transfer of property by third party; prohibition; violation; contempt; liability; transfer of property apparently belonging to others; duration of restraint.

Sec. 6119. (1) When a third party having in his or its possession property or moneys belonging to the judgment debtor or who is indebted to the judgment debtor is subpoenaed or ordered to attend and be examined as authorized in this chapter, such third party is hereby forbidden to make or suffer any transfer or other disposition of, or to interfere with, any property belonging to the judgment debtor or to which he may be entitled or which may thereafter be acquired by or become due to said judgment debtor, or to pay over or otherwise dispose of any moneys due or to become due to such judgment debtor, not exempt by law from application to the satisfaction of the judgment, until the further order of the court except that such third party is not obliged to withhold the payment of any moneys beyond double the amount claimed in such subpoena by the judgment creditor. To effect such restraining provision, a copy of this section must be indorsed on or attached to the copy of the subpoena or order served on the third party.

(2) Any person served with said subpoena or order, who violates the provisions of such restraining

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provision, is subject to punishment by the court for contempt, and is liable to the judgment creditor for any damages sustained.

(3) The restraining effect of a subpoena served upon a third party shall not, however, apply to any property, money or indebtedness which appears from the books or records of the third party to belong to or to be due to a person or corporation other than the judgment debtor, unless the third party has knowledge or reason to believe that such property, money or indebtedness belongs to or is due to the judgment debtor; but the court may by order at any stage of the proceeding grant a restraining provision applicable to any such property, money or indebtedness, which is specified in the order, where it is shown to the court's satisfaction by affidavit or other written proof that there is reason to believe that such property, money or indebtedness belongs to or is due to the judgment debtor.

(4) Unless previously vacated by order of the court or unless released in writing filed in the cause by the judgment creditor, a restraining provision as herein provided shall remain in full force and effect for a period of 2 years from the date of the service of the subpoena, at which time it is deemed vacated for all purposes unless extended by order of the court for good cause shown.

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

600.6122 Transfer of property by third party; rights of judgment creditor; negotiable instruments.

Sec. 6122. (1) Every transfer by the judgment debtor by assignment or otherwise of any property held by, or debt due from a third party upon whom there has previously been served an order or subpoena containing an injunction as provided in section 6119, is subject to such rights and remedies as the judgment creditor would have had if such transfer had not been made, unless the transferee is a bona fide purchaser for value and without notice, in which case the judgment creditor shall have such rights and remedies in the property only if the value paid is returned to the bona fide purchaser.

(2) The foregoing provisions of (1) do not apply to:

(a) A transfer of a debt evidenced by a negotiable instrument which has been transferred to a transferee in good faith and for value, or

(b) Transfer of property which has been delivered, or for which a negotiable warehouse receipt, negotiable bill of lading or other negotiable document of title has been delivered, to a transferee in good faith and for value.

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

600.6125 Injunction; vacation; bond.

Sec. 6125. Any person restrained by any injunction under this chapter from transferring or disposing of any property or paying any moneys or indebtedness, may move to vacate the injunction. The court shall vacate the injunction if the person gives bond with sureties approved by the court, the bond containing conditions specified by the court including:

(1) An undertaking to pay the judgment and costs of the proceeding if the judgment creditor or receiver is successful; or

(2) An undertaking in the sum equal to the value of the property or moneys to be released from restraint, to be paid to the judgment creditor or receiver if they are successful.

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

600.6128 Trying title to debt or property; third party claimant; jury.

Sec. 6128. (1) Where it appears to the court that:

(a) The judgment debtor may have an interest in or title to any real property, and such interest or title is disclaimed by the judgment debtor or disputed by another person;

(b) The judgment debtor may own or have a right of possession to any personal property, and such ownership or right of possession is substantially disputed by another person; or

(c) A third party is indebted to the judgment debtor, and the obligation of the third party to pay the judgment debtor is disputed; the court may, if the person or persons claiming adversely is a party to the proceeding, adjudicate the respective interests of the parties in such debt or real or personal property, and may determine such property to be wholly or in part the property of the judgment debtor, or that the debt is owed the judgment debtor.

(2) If the person claiming adversely to the judgment debtor is not a party to the proceeding, the court shall by show cause order or otherwise cause such person to be brought in and made a party thereto, and shall set such proceeding for early hearing.

(3) Any person so made a party, or any party to the original proceeding, may have such issue determined

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by a jury upon demand therefor and payment of a jury fee as in other civil actions if such person would be entitled to a jury trial if the matter was adjudicated in a separate action.

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

600.6131 Prima facie case; burden of proof; proceedings before sale on execution; transfer of property within 1 year prior to commencement of action.

Sec. 6131. (1) The complainant shall make a prima facie case by introducing in evidence the judgment against the principal defendant and proof of the conveyance complained of. The burden of proof is then on the judgment debtor, the person claiming through him, or the person whom it is claimed holds the property in trust for him, to show that the transaction is in all respects bona fide or that the person is not holding as trustee of the judgment debtor.

(2) In case of a levy on the equitable interest of a judgment debtor, the judgment creditor, may, before the sale on execution, institute proceedings under this chapter to ascertain and determine the rights and equities of the judgment debtor in the property levied on. Where no such proceedings are instituted prior to the sale on execution, they must be instituted within 1 year thereafter.

(3) Where it appears that the judgment debtor at a time within 1 year prior to the date of the commencement of the action in which the judgment is entered has had title to or has paid the purchase price of any real or personal property to which at the time of the examination his wife, or a relative or a person on confidential terms with the judgment debtor may claim title or right of possession, the burden of proof shall be upon the judgment debtor, or person claiming title or right of possession, to establish that the transfer or gift from him was not made for the purpose of delaying, hindering, and defrauding creditors.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1973, Act 96, Imd. Eff. Aug. 8, 1973.

600.6134 Fraudulent transfers.

Sec. 6134. For the purposes of this chapter a person is deemed to be indebted to the judgment debtor, although any debt in question has been assigned, charged or encumbered by the judgment debtor, if the assignment, charge or encumbrance is fraudulent as against creditors or is otherwise voidable.

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

600.6137 Payment by debtor of judgment debtor.

Sec. 6137. Any person indebted to a judgment debtor may pay to the clerk of the court the amount of his debt, or so much thereof as is necessary to satisfy the judgment and costs. The receipt of the clerk is a discharge of the indebtedness of such person to the judgment debtor to the extent of the amount so paid. The clerk shall apply such amount to the satisfaction of the judgment and costs, and any surplus shall be paid to the judgment debtor.

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

600.6140 Orders affecting alienability of land; recording.

Sec. 6140. Any order under this chapter which affects or may limit the alienability of real property, or a certified copy thereof, may be filed for record in the office of the register of deeds of the county in which such real property is situated together with a description of the real property involved. The register of deeds shall record such notice as if filed under Chapter 27 and it shall have the same effect.

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

600.6143 Scope of chapter.

Sec. 6143. This chapter is in addition to and does not affect enforcement of judgments or proceedings supplementary thereto, by any other methods now or hereafter provided by law.

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

CHAPTER 62
INSTALLMENT JUDGMENTS

600.6201 Order permitting payment of judgment in installments; showing.

Sec. 6201. (1) The judge of any court having civil jurisdiction at the time of the rendition of a judgment, upon proper showing made by the defendant with both parties or their attorneys present in court, may make a written order permitting the defendant to pay the judgment in installments, at such times and in such amounts as in the opinion of the judge, the defendant is able to pay.

(2) Any judge may make a written order permitting the defendant to pay any judgment previously rendered in or transcribed to his court in installments, upon compliance by the defendant with the provisions of this

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chapter and the rules of court.

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

600.6205 Payment of judgment in installments; notice; petition; affidavit; garnishment.

Sec. 6205. (1) At any time after the rendition of a judgment or the filing of a transcript of a judgment the defendant may file a petition with the clerk of the court in which the judgment was rendered, or transcript filed, requesting the clerk to issue a notice, directed to the plaintiff personally, or if plaintiff's action was filed by an agent or attorney or acted upon by an agent or attorney either at the time of the rendition of the judgment, or after, as shown by the court files in the cause, the notice may be directed to the plaintiff with the name of the agent or attorney designated, and served on the agent or attorney of record and have the same force and effect as a notice served on the plaintiff personally.

(2) The notice shall notify the plaintiff that on a certain day and time to be therein specified, the defendant will move the court for an order permitting the payment of the judgment in installments.

(3) The petition of the defendant shall be supported by the affidavit of the moving party setting forth his inability to pay the judgment with funds other than those earned by him as wages, and setting forth the name and address of his employer, the amount of the wages and the date of payment thereof.

(4) A garnishment shall not issue on the judgment after the filing of the petition herein mentioned excepting upon the written order of the judge or justice.

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

600.6211 Judgment; payment by installments; service of notice; hearing; garnishment.

Sec. 6211. (1) Such notice shall be served at least 4 days before the date set for hearing the motion, by placing the same in the United States mail in an envelope properly stamped and addressed to the plaintiff, his agent or attorney.

(2) Unless the motion is heard and ruled upon within 14 days from the time of filing the petition, subsection (4) of section 6205 shall not apply unless otherwise ordered by the court.

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

600.6215 Cross-examination; order to pay; stay of garnishment.

Sec. 6215. (1) On the date set for the hearing, the plaintiff may cross-examine the moving party as to the facts set forth in the motion, and the judge may then enter an order requiring the defendant to pay to the clerk of the court or to the plaintiff direct, a certain sum of money weekly, biweekly, or monthly, to apply on the judgment.

(2) The order shall stay the issuance of any writ of garnishment for work and labor during the period that the defendant complies with the order. The order shall not stay garnishment if the defendant fails to comply with its terms.

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

600.6221 Altering amounts and times of installment payments.

Sec. 6221. The judge may, on motion of either party, following due notice to the other, alter the amounts and times of payment of the installments from time to time when he may deem it advisable and fair.

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

600.6225 Force and effect of agreement for payment of judgment in installments.

Sec. 6225. A written agreement for the payment of a judgment in installments, signed by the parties, their attorneys, or authorized agents of record in the judgment file in their behalf, and filed with the clerk of the court, shall have the same force and effect as an order made by the judge.

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

600.6231 Garnishment without order prohibited and void; notice of order.

Sec. 6231. The garnishment of any money due or to become due for the personal work and labor of the defendant upon a judgment made payable in installments either by the court order or agreement of parties is prohibited, excepting upon the written order of the judge. Any writ of garnishment issued without the order is void. The order may be made following due notice to the defendant if installments are due.

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

600.6235 Judgment; payment by installments; statute of limitations.

Sec. 6235. The statute of limitations shall not run against a judgment during the time it is payable in

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installments as provided in this chapter.

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

600.6241 Execution of powers and duties.

Sec. 6241. In any court having more than 1 judge, all powers granted and duties imposed by this chapter may be executed in accordance with the rules of said court.

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

600.6245 Judgment; payment by installments; collection of judgment; other methods.

Sec. 6245. Nothing contained in this chapter shall be construed to prohibit and shall not prohibit a plaintiff from taking any legal means for the collection of a judgment excepting the garnishment of money due or to become due the defendant for the personal work and labor of the said defendant.

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

600.6251 Judgment; payment by installments; record; affidavit for transcript; contents.

Sec. 6251. Every proceeding instituted by a judgment debtor pursuant to this chapter shall appear upon and as part of the record of the judgment. No transcript of such judgment shall issue out of the court pending the hearing upon any motion instituted under this chapter. Every affidavit for a transcript of any judgment rendered by the court shall contain an averment by the affiant either that a stay order has issued and is in effect, or, that no proceeding under this chapter has been instituted upon the judgment, or, if a proceeding has been instituted, that a stay order was finally denied after a hearing pursuant to the provisions of this chapter, or, if a stay order has issued, that the order was vacated under the provisions of this chapter.

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

CHAPTER 63

600.6301 Definitions.

Sec. 6301. As used in this chapter:

(a) "Future damages" means damages arising from personal injury which the trier of fact finds will accrue after the damage findings are made and includes damages for medical treatment, care and custody, loss of earnings, loss of earning capacity, loss of bodily function, and pain and suffering.

(b) "Personal injury" means bodily harm, sickness, disease, death, or emotional harm resulting from bodily harm.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.6303 Payment of plaintiff's expense or loss by collateral source; notice to contractual lien holder; failure to exercise right of subrogation; contracts to which subsection (3) applicable; "collateral source" defined; benefits from collateral source as payable or receivable.

Sec. 6303. (1) In a personal injury action in which the plaintiff seeks to recover for the expense of medical care, rehabilitation services, loss of earnings, loss of earning capacity, or other economic loss, evidence to establish that the expense or loss was paid or is payable, in whole or in part, by a collateral source shall be admissible to the court in which the action was brought after a verdict for the plaintiff and before a judgment is entered on the verdict. Subject to subsection (5), if the court determines that all or part of the plaintiff's expense or loss has been paid or is payable by a collateral source, the court shall reduce that portion of the judgment which represents damages paid or payable by a collateral source by an amount equal to the sum determined pursuant to subsection (2). This reduction shall not exceed the amount of the judgment for

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economic loss or that portion of the verdict which represents damages paid or payable by a collateral source.

(2) The court shall determine the amount of the plaintiff's expense or loss which has been paid or is payable by a collateral source. Except for premiums on insurance which is required by law, that amount shall then be reduced by a sum equal to the premiums, or that portion of the premiums paid for the particular benefit by the plaintiff or the plaintiff's family or incurred by the plaintiff's employer on behalf of the plaintiff in securing the benefits received or receivable from the collateral source.

(3) Within 10 days after a verdict for the plaintiff, plaintiff's attorney shall send notice of the verdict by registered mail to all persons entitled by contract to a lien against the proceeds of plaintiff's recovery. If a contractual lien holder does not exercise the lien holder's right of subrogation within 20 days after receipt of the notice of the verdict, the lien holder shall lose the right of subrogation. This subsection shall only apply to contracts executed or renewed on or after the effective date of this section.

(4) As used in this section, “collateral source” means benefits received or receivable from an insurance policy; benefits payable pursuant to a contract with a health care corporation, dental care corporation, or health maintenance organization; employee benefits; social security benefits; worker's compensation benefits; or medicare benefits. Collateral source does not include life insurance benefits or benefits paid by a person, partnership, association, corporation, or other legal entity entitled by law to a lien against the proceeds of a recovery by a plaintiff in a civil action for damages. Collateral source does not include benefits paid or payable by a person, partnership, association, corporation, or other legal entity entitled by contract to a lien against the proceeds of a recovery by a plaintiff in a civil action for damages, if the contractual lien has been exercised pursuant to subsection (3).

(5) For purposes of this section, benefits from a collateral source shall not be considered payable or receivable unless the court makes a determination that there is a previously existing contractual or statutory obligation on the part of the collateral source to pay the benefits.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

“(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

“(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

“(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

“(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

“(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

“(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988.”

600.6304 Personal injury action involving fault of more than 1 party to action; instructing jury to answer special interrogatories; findings of court; determining percentages of fault; determining award of damages; release from liability; amount of damages; reducing award of damages; reallocation of uncollectible amount; liability of governmental agency; “fault” defined.

Sec. 6304. (1) In an action based on tort or another legal theory seeking damages for personal injury, property damage, or wrongful death involving fault of more than 1 person, including third-party defendants and nonparties, the court, unless otherwise agreed by all parties to the action, shall instruct the jury to answer special interrogatories or, if there is no jury, shall make findings indicating both of the following:

(a) The total amount of each plaintiff's damages.

(b) The percentage of the total fault of all persons that contributed to the death or injury, including each plaintiff and each person released from liability under section 2925d, regardless of whether the person was or could have been named as a party to the action.

(2) In determining the percentages of fault under subsection (1)(b), the trier of fact shall consider both the nature of the conduct of each person at fault and the extent of the causal relation between the conduct and the damages claimed.

(3) The court shall determine the award of damages to each plaintiff in accordance with the findings under subsection (1), subject to any reduction under subsection (5) or section 2955a or 6303, and shall enter judgment against each party, including a third-party defendant, except that judgment shall not be entered against a person who has been released from liability as provided in section 2925d.

(4) Liability in an action to which this section applies is several only and not joint. Except as otherwise

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provided in subsection (6), a person shall not be required to pay damages in an amount greater than his or her percentage of fault as found under subsection (1). This subsection and section 2956 do not apply to a defendant that is jointly and severally liable under section 6312.

(5) In an action alleging medical malpractice, the court shall reduce an award of damages in excess of 1 of the limitations set forth in section 1483 to the amount of the appropriate limitation set forth in section 1483. The jury shall not be advised by the court or by counsel for either party of the limitations set forth in section 1483 or any other provision of section 1483.

(6) If an action includes a medical malpractice claim against a person or entity described in section 5838a(1), 1 of the following applies:

(a) If the plaintiff is determined to be without fault under subsections (1) and (2), the liability of each defendant is joint and several, whether or not the defendant is a person or entity described in section 5838a(1).

(b) If the plaintiff is determined to have fault under subsections (1) and (2), upon motion made not later than 6 months after a final judgment is entered, the court shall determine whether all or part of a party's share of the obligation is uncollectible from that party, and shall reallocate any uncollectible amount among the other parties, whether or not another party is a person or entity described in section 5838a(1), according to their respective percentages of fault as determined under subsection (1). A party is not required to pay a percentage of any uncollectible amount that exceeds that party's percentage of fault as determined under subsection (1). The party whose liability is reallocated continues to be subject to contribution and to any continuing liability to the plaintiff on the judgment.

(7) Notwithstanding subsection (6), a governmental agency, other than a governmental hospital or medical care facility, is not required to pay a percentage of any uncollectible amount that exceeds the governmental agency's percentage of fault as determined under subsection (1).

(8) As used in this section, “fault” includes an act, an omission, conduct, including intentional conduct, a breach of warranty, or a breach of a legal duty, or any conduct that could give rise to the imposition of strict liability, that is a proximate cause of damage sustained by a party.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986;—Am. 1993, Act 78, Eff. Apr. 1, 1994;—Am. 1995, Act 161, Eff. Mar. 28, 1996;—Am. 1995, Act 249, Eff. Mar. 28, 1996.

Compiler's note: Section 3 of Act 178 of 1986 provides:

“(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

“(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

“(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

“(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

“(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

“(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988.”

600.6305 Verdict or judgment; specific findings; basis of calculation of future damages.

Sec. 6305. (1) Any verdict or judgment rendered by a trier of fact in a personal injury action subject to this chapter shall include specific findings of the following:

(a) Any past economic and noneconomic damages.

(b) Any future damages and the periods over which they will accrue, on an annual basis, for each of the following types of future damages:

(*i*) Medical and other costs of health care.

(*ii*) Lost wages or earnings or lost earning capacity and other economic loss.

(*iii*) Noneconomic loss.

(2) The calculation of future damages for types of future damages described in subsection (1)(b) shall be based on the costs and losses during the period of time the plaintiff will sustain those costs and losses. In the event of death, the calculation of future damages shall be based on the losses during the period of time the plaintiff would have lived but for the injury upon which the claim is based.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

“(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

“(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

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"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.6306 Entering order of judgment; order; judgment amounts; definition; reduction of judgment amount.

Sec. 6306. (1) After a verdict rendered by a trier of fact in favor of a plaintiff, an order of judgment shall be entered by the court. Subject to section 2959, the order of judgment shall be entered against each defendant, including a third-party defendant, in the following order and in the following judgment amounts:

(a) All past economic damages, less collateral source payments as provided for in section 6303.

(b) All past noneconomic damages.

(c) All future economic damages, less medical and other health care costs, and less collateral source payments determined to be collectible under section 6303(5) reduced to gross present cash value.

(d) All future medical and other health care costs reduced to gross present cash value.

(e) All future noneconomic damages reduced to gross present cash value.

(f) All taxable and allowable costs, including interest as permitted by section 6013 or 6455 on the judgment amounts.

(2) As used in this section, "gross present cash value" means the total amount of future damages reduced to present value at a rate of 5% per year for each year in which those damages accrue, as found by the trier of fact as provided in section 6305(1)(b).

(3) If the plaintiff was assigned a percentage of fault under section 6304, the total judgment amount shall be reduced, subject to section 2959, by an amount equal to the percentage of plaintiff's fault. When reducing the judgment amount as provided in this subsection, the court shall determine the ratio of total past damages to total future damages and shall allocate the amounts to be deducted proportionally between the past and future damages.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986;—Am. 1995, Act 161, Eff. Mar. 28, 1996.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.6307 Purchase of annuity contract.

Sec. 6307. In an action alleging personal injury, if the amount of future damages, as described in section 6306(1)(c) and (e), in the judgment exceeds $250,000.00 gross present cash value, as determined under section 6306(2), the court shall enter an order that the defendant or the defendant's liability insurance carrier shall satisfy that amount of the judgment, less all costs and attorney fees the plaintiff is obligated to pay, by the purchase of an annuity contract, if all of the following requirements are met:

(a) The purchase price of the annuity contract shall be equal to 100% of the future damages subject to this section, less an amount determined by multiplying the amount of those damages by a percentage equal to the rate of prejudgment interest as calculated under section 6013(5) or section 6455(2) on the date the trial was commenced.

(b) The annuity contract is purchased from a life insurer authorized to issue annuity contracts under the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being sections 500.100 to 500.8302 of the Michigan Compiled Laws.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

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"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.6309 Plan for structured payment of future damages; determination as to future collectibility of annuity contract or qualified assignment; owner of annuity contract; making qualified assignment; effect of qualified assignment; recipients of structured payments guaranteed by annuity contract.

Sec. 6309. (1) Subject to section 6307, if the plaintiff and the defendant agree to a plan for the structured payment of future damages within 35 days of the judgment, the court shall order that structured payments shall be made pursuant to that plan.

(2) If the plaintiff and defendant do not agree to a plan for structured payments as prescribed by subsection (1), the court shall order the structured payment of future damages pursuant to a plan submitted to the court by the plaintiff or defendant.

(3) Upon motion by the plaintiff, the court shall make a determination as to the future collectibility of the annuity contract or a qualified assignment made pursuant to subsection (4).

(4) The defendant or the defendant's liability insurance carrier who satisfies a portion of the judgment by the purchase of an annuity contract as provided by this section or section 6307 shall be the owner of that annuity contract, except that the defendant or the defendant's insurance carrier may make a qualified assignment, within the meaning of section 130(c) of the internal revenue code of 1954, as amended, of the obligation to the plaintiff.

(5) If a qualified assignment is made pursuant to subsection (4), the defendant's liability insurance carrier shall be relieved of all obligation to the plaintiff.

(6) Structured payments guaranteed by an annuity contract shall be made to the plaintiff or the plaintiff's estate, or in a wrongful death action, to the person or persons entitled to the damages or that person's or persons' estate, as applicable.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.6311 Certain provisions inapplicable to plaintiff 60 years of age or older.

Sec. 6311. Sections 6306(1)(c), (d), and (e), 6307, and 6309 do not apply to a plaintiff who is 60 years of age or older at the time of judgment.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases

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filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

600.6312 Joint and several liability.

Sec. 6312. A defendant that is found liable for an act or omission that causes personal injury, property damage, or wrongful death is jointly and severally liable if the defendant's act or omission is any of the following:

(a) A crime, an element of which is gross negligence, for which the defendant is convicted.

(b) A crime involving the use of alcohol or a controlled substance for which the defendant is convicted and that is a violation of 1 or more of the following:

(*i*) Section 14 of the explosives act of 1970, Act No. 202 of the Public Acts of 1970, being section 29.54 of the Michigan Compiled Laws.

(*ii*) Section 111 of the Michigan code of military justice of 1980, Act No. 523 of the Public Acts of 1980, being section 32.1111 of the Michigan Compiled Laws.

(*iii*) Section 625 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.625 of the Michigan Compiled Laws.

(*iv*) Section 185 of the Aeronautics code of the state of Michigan, Act No. 327 of the Public Acts of 1945, being section 259.185 of the Michigan Compiled Laws.

(*v*) Section 80176 of part 801 (marine safety), 81134 of part 811 (off-road recreation vehicles), or 82127 of part 821 (snowmobiles) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.80176, 324.81134, and 324.82127 of the Michigan Compiled Laws.

(*vi*) Section 353 of the railroad code of 1993, Act No. 354 of the Public Acts of 1993, being section 462.353 of the Michigan Compiled Laws.

(*vii*) Section 237 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.237 of the Michigan Compiled Laws.

History: Add. 1995, Act 249, Eff. Mar. 28, 1996.

CHAPTER 64
COURT OF CLAIMS

600.6401 Court of claims; short title.

Sec. 6401. This chapter shall be known and may be cited as "the court of claims act".

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

600.6404 Court of claims; creation; jurisdiction; disability, absence, or death of judge.

Sec. 6404. The court of claims is created as a function of the circuit court for the thirtieth judicial circuit. A circuit judge of the thirtieth judicial circuit and any judge assigned into the thirtieth judicial circuit by the state court administrator may exercise the jurisdiction of the court of claims as provided by law.

(2) In case of the disability or absence from the place of holding court of a circuit judge before whom while sitting as the judge of the court of claims a case has been tried or motion heard, another circuit judge designated to sit as the judge of the court of claims to may continue, hear, determine, and sign all matters that his or her predecessor could have continued, heard, determined, and signed.

(3) In case a circuit judge designated to sit as the judge of the court of claims dies before signing a judgment and after filing a finding of fact or rendering an opinion upon proof submitted and argument of counsel disposing of all or part of the issues in the case involved, a successor as judge of the court of claims may proceed with that action in a manner consistent with the finding or opinion and the judge is given the same powers as if the finding of fact had been made or the opinion had been rendered by the successor judge.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 145, Imd. Eff. June 7, 1974;—Am. 1978, Act 164, Eff. Jan. 1, 1979.

Compiler's note: In subsection (2) "judge of the court of claims to may continue," evidently should read "judge of the court of claims may continue,".

Sections 2 to 7 of Act 145 of 1974 provide:

"Effective date of changes.

"Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

"Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating petitions; incumbent judges.

"Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume

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office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

"Nominating petitions.

"Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

"Nomination, election, and terms of candidates for new circuit judgeships.

"Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10 years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

"Terms of additional circuit judges.

"Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

"Terms of additional district judges in certain districts.

"Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years."

Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the

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twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

600.6407 Sessions; number; location; notice; court officer; space and equipment.

Sec. 6407. The court shall hold at least 4 sessions in each year. Sessions of the court of claims may be held in the various circuits in the state as the supreme court administrator may determine. If the hearing in a particular case is to be held at a place other than the city of Lansing, due notice shall be given to all interested persons. The sheriff of the county within which a case is heard, or 1 of his deputies, shall serve as court officer without additional compensation therefor. The department of management and budget shall furnish the court with suitable space and equipment in the city of Lansing.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 145, Imd. Eff. June 7, 1974.

Compiler's note: Sections 2 to 7 of Act 145 of 1974 provide:

"Effective date of changes.

"Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

"Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating petitions; incumbent judges.

"Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

"Nominating petitions.

"Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

"Nomination, election, and terms of candidates for new circuit judgeships.

"Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10 years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

"Terms of additional circuit judges.

"Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

"Terms of additional district judges in certain districts.

"Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years."

600.6410 Court of claims; appointment or removal of clerk; copies of records, proceedings, and testimony; fees of clerk, reporter, or recorder; no charge to state; service of process.

Sec. 6410. (1) The circuit judges of the thirtieth judicial circuit shall appoint or remove the clerk of the court of claims.

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(2) For making copies of records, proceedings, and testimony and furnishing the same at the request of the claimant, or any other person, the clerk of the court of claims, or any reporter or recorder serving in the court of claims shall be entitled in addition to salary, to the same fees as are by law provided for court reporters or recorders in the circuit court. No charge shall be made against the state for services rendered for furnishing copies of records, proceedings, or testimony or other papers to the attorney general.

(3) Process issued by the court may be served by any member of the Michigan state police as well as any other officer or person authorized to serve process issued out of the circuit court.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1978, Act 164, Eff. Jan. 1, 1979;—Am. 1986, Act 308, Eff. Jan. 1, 1987.

Compiler's note: Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and

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circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

600.6413 Costs of implementing jurisdictional duties in circuit court; reimbursement of Ingham county; quarterly submission of itemized costs; reasonableness of costs; payment; transfer of employees of court of claims to circuit court for thirtieth judicial circuit; preservation of rights and benefits; retirement benefits.

Sec. 6413. (1) The state shall reimburse the county of Ingham for the reasonable and actual costs incurred by that county for implementing jurisdictional duties in the circuit court imposed on that county by this chapter.

(2) The county of Ingham shall submit quarterly its itemized costs as described in this section to the state court administrative office. After determination by the state court administrator of the reasonableness of the amount to be paid, payment shall be made pursuant to the accounting laws of this state. Determination of reasonableness by the state court administrator shall be conclusive.

(3) Full-time employees of the court of claims are transferred to the circuit court for the thirtieth judicial circuit. Seniority rights, annual leave, sick leave, longevity pay and retirement benefits to which employees of the court of claims are now entitled shall be preserved and the employees shall be continued in their positions in the court of claims in the thirtieth judicial circuit in a manner not inferior to their prior status. The obligation of the state for retirement benefits to employees of the court of claims for their accrued service in the court of claims shall not be transferred. The retirement system available to public employees in Ingham county shall provide retirement benefits to employees of the court of claims not inferior to those provided therefor under their prior status.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1978, Act 164, Eff. Jan. 1, 1979.

Compiler's note: Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6,

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1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

600.6416 Court of claims; representation of state by attorney general or assistants.

Sec. 6416. The attorney general, or his assistants, shall appear for and represent the interests of the state in all matters before the court.

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

600.6419 Court of claims; exclusive jurisdiction; exceptions; claims less than $1,000.00; claims and demands ex contractu and ex delicto; counterclaims; res adjudicata; setoff, recoupment, or cross declaration; writs of execution or garnishment; no jurisdiction of claim for compensation under MCL 418.101 et seq. and MCL 419.101 et seq.; jurisdiction of circuit court over certain actions and proceedings.

Sec. 6419. (1) Except as provided in sections 6419a and 6440, the jurisdiction of the court of claims, as conferred upon it by this chapter, shall be exclusive. The state administrative board is hereby vested with discretionary authority upon the advice of the attorney general, to hear, consider, determine, and allow any claim against the state in an amount less than $1,000.00. Any claim so allowed by the state administrative board shall be paid in the same manner as judgments are paid under section 6458 upon certification of the allowed claim by the secretary of the state administrative board to the clerk of the court of claims. The court has power and jurisdiction:

(a) To hear and determine all claims and demands, liquidated and unliquidated, ex contractu and ex delicto, against the state and any of its departments, commissions, boards, institutions, arms, or agencies.

(b) To hear and determine any claims or demands, liquidated or unliquidated, ex contractu or ex delicto, which may be pleaded by way of counterclaim on the part of the state or any department, commission, board, institution, arm, or agency of the state against any claimant who may bring an action in the court of claims. Any claim of the state or of any department, commission, board, institution, arm, or agency of the state may be pleaded by way of counterclaim in any action brought against the state, or any other department, commission, board, institution, arm, or agency of the state.

(2) The judgment entered by the court of claims upon any such claim, either against or in favor of the state or any department, commission, board, institution, arm, or agency of the state, upon becoming final shall be res adjudicata of that claim. Upon the trial of any cause in which any demand is made by the state or any department, commission, board, institution, arm, or agency of the state against the claimant either by way of setoff, recoupment, or cross declaration, the court shall hear and determine each claim or demand, and if the court finds a balance due from the claimant to the state, the court shall render judgment in favor of the state for the balance. Writs of execution or garnishment may issue upon the judgment the same as from the circuit court of this state. The judgment entered by the court of claims upon any claim, either for or against the claimant, shall be final unless appealed from as provided in this chapter.

(3) The court of claims shall not have jurisdiction of any claim for compensation under the provisions of either of the following:

(a) The worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being sections 418.101 to 418.941 of the Michigan Compiled Laws.

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(b) Act No. 329 of the Public Acts of 1937, as amended, being sections 419.101 to 419.104.

(4) This chapter shall not deprive the circuit court of this state of jurisdiction over actions brought by the taxpayer under the general sales tax act, Act No. 167 of the Public Acts of 1933, being sections 205.51 to 205.78 of the Michigan Compiled Laws, or proceedings for declaratory or equitable relief, or any other actions against state agencies based upon the statutes of this state in such case made and provided, which expressly confer jurisdiction thereof upon the circuit court, or proceedings to review findings as provided in the Michigan employment security act, Act No. 1 of the Public Acts of the Extra Session of 1936, being sections 421.1 to 421.72 of the Michigan Compiled Laws, or any other similar proceedings expressly authorized by the statutes of this state in such case made and provided.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1984, Act 212, Imd. Eff. July 9, 1984.

600.6419a Court of claims; concurrent jurisdiction of demand for equitable relief and declaratory judgment.

Sec. 6419a. In addition to the powers and jurisdiction conferred upon the court of claims by section 6419, the court of claims has concurrent jurisdiction of any demand for equitable relief and any demand for a declaratory judgment when ancillary to a claim filed pursuant to section 6419. The jurisdiction conferred by this section is not intended to be exclusive of the jurisdiction of the circuit court over demands for declaratory and equitable relief conferred by section 605.

History: Add. 1984, Act 212, Imd. Eff. July 9, 1984.

600.6420 Delegation of authority for claim by state employee of $500.00 or less; certification of loss or damage.

Sec. 6420. The state administrative board may delegate the authority vested in it by section 6419(1) for any claim of $500.00 or less for damage or loss of personal property by a claimant who is an employee of the state, to the head of the department in which the claimant was employed. Payment of the claim shall be made upon the written certificate of the department head that the loss or damage occurred in the course of the claimant's employment, without fault on the part of the claimant and that the claimant has not otherwise been reimbursed for the loss.

History: Add. 1971, Act 163, Imd. Eff. Nov. 24, 1971;—Am. 1984, Act 212, Imd. Eff. July 9, 1984.

600.6421 Joinder of cases.

Sec. 6421. Cases in the court of claims may be joined for trial with cases arising out of the same transaction or series of transactions which are pending in any of the various trial courts of the state. A case in the court of claims shall be tried and determined by the judge even though the trial court action with which it may be joined is tried to a jury under the supervision of the same trial judge.

History: Add. 1974, Act 145, Imd. Eff. June 7, 1974;—Am. 1984, Act 212, Imd. Eff. July 9, 1984.

Compiler's note: Sections 2 to 7 of Act 145 of 1974 provide:

"Effective date of changes.

"Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

"Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating petitions; incumbent judges.

"Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

"Nominating petitions.

"Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

"Nomination, election, and terms of candidates for new circuit judgeships.

"Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10 years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

"Terms of additional circuit judges.

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"Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

"Terms of additional district judges in certain districts.

"Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years."

600.6422 Court of claims; practice and procedure.

Sec. 6422. Practice and procedure in the court of claims shall be in accordance with the statutes and court rules prescribing the practice in the circuit courts of this state, except as herein otherwise provided. The supreme court shall have power to make special rules for said court.

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

600.6425 Court of claims; depositions.

Sec. 6425. The statutes and rules governing the taking of depositions in suits in the circuit courts of this state shall govern in the court of claims, except that it is not sufficient that the witness resides more than 50 miles from the place of holding court to enable the deposition to be used for any purpose.

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

600.6428 Court of claims; witnesses; power to compel attendance.

Sec. 6428. The court of claims is hereby given the same power to subpoena witnesses and require the production of books, papers, records, documents and any other evidence and to punish for contempt as the circuit courts of this state now have or may hereafter have. The judge and clerk of said court may administer oaths and affirmations, and take acknowledgments of instruments in writing.

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

600.6431 Court of claims; notice of intention to file claim; contents; time; verification; copies.

Sec. 6431. (1) No claim may be maintained against the state unless the claimant, within 1 year after such claim has accrued, files in the office of the clerk of the court of claims either a written claim or a written notice of intention to file a claim against the state or any of its departments, commissions, boards, institutions, arms or agencies, stating the time when and the place where such claim arose and in detail the nature of the same and of the items of damage alleged or claimed to have been sustained, which claim or notice shall be signed and verified by the claimant before an officer authorized to administer oaths.

(2) Such claim or notice shall designate any department, commission, board, institution, arm or agency of the state involved in connection with such claim, and a copy of such claim or notice shall be furnished to the clerk at the time of the filing of the original for transmittal to the attorney general and to each of the departments, commissions, boards, institutions, arms or agencies designated.

(3) In all actions for property damage or personal injuries, claimant shall file with the clerk of the court of claims a notice of intention to file a claim or the claim itself within 6 months following the happening of the event giving rise to the cause of action.

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

600.6434 Pleadings; verification and service of complaint; copies.

Sec. 6434. (1) Except as provided in this section, the pleadings shall conform to the rules for pleadings in the circuit courts.

(2) The complaint shall be verified. The pleadings of the state need not be verified.

(3) The complaint shall be served upon any department, commission, board, institution, arm, or agency of the state involved in the litigation, in the same manner as a complaint filed in the circuit court.

(4) With each paper, including the original complaint filed by the claimant, 1 copy of each shall be furnished to the clerk who shall immediately transmit the copy to the attorney general.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1984, Act 212, Imd. Eff. July 9, 1984.

600.6437 Court of claims; judgment on stipulated facts.

Sec. 6437. The court may order entry of judgment against the state or any of its departments, commissions, boards, institutions, arms or agencies based upon facts as stipulated by counsel after taking such proofs in support thereof as may be necessary to satisfy the court as to the accuracy of such facts and upon being satisfied that such judgment is in accordance with applicable law.

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

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600.6440 Court of claims; remedy in federal court as bar to jurisdiction.

Sec. 6440. No claimant may be permitted to file claim in said court against the state nor any department, commission, board, institution, arm or agency thereof who has an adequate remedy upon his claim in the federal courts, but it is not necessary in the complaint filed to allege that claimant has no such adequate remedy, but that fact may be put in issue by the answer or motion filed by the state or the department, commission, board, institution, arm or agency thereof.

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

600.6443 Court of claims; trial by court without jury; new trial.

Sec. 6443. The case shall be heard by the judge without a jury. The court may grant a new trial upon the same terms and under the same conditions and for the same reasons as prevail in the case of the circuit courts of this state, in a case at law without a jury.

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

600.6446 Appeals to court of appeals; procedure; notice of entry of final order or judgment; time for appeal as of right.

Sec. 6446. (1) Appeals shall lie from the court of claims to the court of appeals in all respects as if the court of claims was a circuit court.

(2) The procedure for the taking of appeals to the court of appeals from the court of claims shall be governed by the statutes and court rules governing the taking of appeals from a circuit court to the court of appeals in a case at law, without a jury.

(3) The clerk of the court of claims shall immediately furnish the parties to every action with a notice of entry of any final order or judgment, and the time within which an appeal as of right may be taken shall be governed by the Michigan court rules.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1984, Act 212, Imd. Eff. July 9, 1984.

600.6449 Costs; security for costs on appeal.

Sec. 6449. (1) If the state shall put in issue the right of claimant to recover, the court may allow costs to the prevailing party from the time of the joining of the issue. The costs, however, shall include only witness fees and officers' fees for service of subpoenas actually paid, and attorney fees in the same amount as is provided for trial of cases in circuit court.

(2) Costs upon an appeal to the court of appeals shall be allowed in like amounts and for the same items as in a case appealed to the court of appeals from the circuit court.

(3) In the case of costs allowed against a claimant, judgment shall be entered thereon and writs of execution or garnishment may issue as from the circuit court.

(4) In the event of an appeal to the court of appeals by a claimant the judge may, upon motion by the attorney general, require security for costs from the claimant in connection with such an appeal.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1984, Act 212, Imd. Eff. July 9, 1984.

600.6452 Court of claims; filing of claim; time; limitation of actions; right of attorney general to petition for administration of estate or appoint guardian of minor or disabled.

Sec. 6452. (1) Every claim against the state, cognizable by the court of claims, shall be forever barred unless the claim is filed with the clerk of the court or suit instituted thereon in federal court as authorized in section 6440, within 3 years after the claim first accrues.

(2) Except as modified by this section, the provisions of RJA chapter 58, relative to the limitation of actions, shall also be applicable to the limitation prescribed in this section.

(3) The attorney general shall have the same right as a creditor under the provisions of the statutes of the state of Michigan in such case made and provided, to petition for the granting of letters of administration of the estate of any deceased person.

(4) The attorney general shall have the same right as a superintendent of the poor under the provisions of the statutes of the state of Michigan in such case made and provided, to petition for the appointment of a guardian of the estate of a minor or any other person under disability.

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

600.6455 Interest rate on judgments; effect of settlement offer; rejection of offer.

Sec. 6455. (1) Interest shall not be allowed upon any claim up to the date of the rendition of judgment by the court, unless upon a contract expressly stipulating for the payment of interest. All judgments from the date of the rendition of the judgment shall carry interest at the rate of 12% per annum compounded annually,

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except that judgment upon a contract expressly providing for interest shall carry interest at the rate provided by the contract in which case provision to that effect shall be incorporated in the judgment entered. This subsection shall apply to any civil action based on tort filed on or after July 9, 1984 but before January 1, 1987 and any action pending before the court of claims on July 9, 1984. This subsection shall apply to any action, other than a civil action based on tort, filed on or after July 1, 1984 and any action pending before the court of claims on July 9, 1984.

(2) Except as otherwise provided in this subsection, for complaints filed on or after January 1, 1987, interest on a money judgment recovered in a civil action shall be calculated from the date of filing the complaint at a rate of interest which is equal to 1% plus the average interest rate paid at auctions of 5-year United States treasury notes during the 6 months immediately preceding July 1 and January 1, as certified by the state treasurer, and compounded annually, pursuant to this section.

(3) For complaints filed on or after October 1, 1986, interest shall not be allowed on future damages from the date of filing the complaint to the date of entry of the judgment.

(4) If a bona fide, reasonable written offer of settlement in a civil action based on tort is made by the party against whom the judgment is subsequently rendered, the court shall order that interest shall not be allowed beyond the date the written offer of settlement which is made and rejected by the plaintiff, and is filed with the court.

(5) Except as otherwise provided in subsection (3), if a bona fide, reasonable written offer of settlement in a civil action based on tort is not made by the party against whom the judgment is subsequently rendered, or is made and that offer is not filed with the court, the court shall order that interest be calculated from the date of filing the complaint to the date of satisfaction of the judgment.

(6) Except as otherwise provided in subsection (3), if a bona fide, reasonable written offer of settlement in a civil action based on tort is made by a plaintiff for whom the judgment is subsequently rendered and that offer is rejected and the offer is filed with the court, the court shall order that interest be calculated from the date of the rejection of the offer to the date of satisfaction of the judgment at a rate of interest equal to 2% plus the rate of interest computed under subsection (2).

(7) An offer made pursuant to this section which is not accepted within 21 days after the offer is made shall be considered rejected. A rejection, under this subsection or otherwise, does not preclude a later offer by either party.

(8) As used in this section:

(a) “Bona fide, reasonable written offer of settlement” means:

(*i*) With respect to an offer of settlement made by a defendant against whom judgment is subsequently rendered, an offer of settlement that is not less than 90% of the amount actually received by the plaintiff in the action through judgment.

(*ii*) With respect to an offer of settlement made by a plaintiff, an offer of settlement that is not more than 110% of the amount actually received by the plaintiff in the action through judgment.

(b) “Defendant” means a defendant, a counter-defendant, or a cross-defendant.

(c) “Party” means a plaintiff or a defendant.

(d) “Plaintiff” means a plaintiff, a counter-plaintiff, or a cross-plaintiff.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1984, Act 212, Imd. Eff. July 9, 1984;—Am. 1986, Act 178, Eff. Oct. 1, 1986.

600.6458 Court of claims; judgment against state; payment.

Sec. 6458. (1) In rendering any judgment against the state, or any department, commission, board, institution, arm, or agency, the court shall determine and specify in that judgment the department, commission, board, institution, arm, or agency from whose appropriation that judgment shall be paid.

(2) Upon any judgment against the state or any department, commission, board, institution, arm, or agency becoming final, or upon allowance of any claim by the state administrative board and upon certification by the secretary of the state administrative board to the clerk of the court of claims, the clerk of the court shall certify to the state treasurer the fact that that judgment was entered or that the claim was allowed and the claim shall thereupon be paid from the unencumbered appropriation of the department, commission, board, institution, arm, or agency if the state treasurer determines the unencumbered appropriation is sufficient for the payment. In the event that funds are not available to pay the judgment or allowed claim, the state treasurer shall instruct the clerk of the court of claims to issue a voucher against an appropriation made by the legislature for the payment of judgment claims and allowed claims. In the event that funds are not available to pay the judgment or allowed claim, that fact, together with the name of the claimant, date of judgment, date of allowance of claim by the state administrative board and amount shall be reported to the legislature at its next session, and the judgment or allowed claim shall be paid as soon as money is available for that purpose. The clerk shall not certify any judgment to the state treasurer until the period for appeal from that judgment shall

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have expired, unless written stipulation between the attorney general and the claimant or his or her attorney, waiving any right of appeal or new trial, is filed with the clerk of the court.

(3) The clerk shall approve vouchers under the direction of the court for the payment of the several judgments rendered by the court. All warrants issued in satisfaction of those judgments shall be transmitted to the clerk for distribution; and all warrants issued in satisfaction of claims allowed by the state administrative board shall be transmitted to the secretary of the state administrative board for distribution.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 2002, Act 429, Imd. Eff. June 5, 2002.

600.6461 Court of claims; clerk's report to legislature; state treasurer and budget director.

Sec. 6461. (1) At the commencement of each session of the legislature and at such other times during the session as he or she may consider proper, the clerk of the court shall report to the legislature the claims upon which the court has finally acted, with a statement of the judgment rendered in each case.

(2) The clerk shall submit a detailed statement of the amount of each claim allowed by the court to the state treasurer and the budget director.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 2002, Act 429, Imd. Eff. June 5, 2002.

600.6464 Court of claims; judgment; discharge.

Sec. 6464. The payment of any amount due as found by the judgment of the court of claims, including interest and costs, shall operate as a discharge of such judgment.

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

600.6467 Court of claims; state agencies to furnish information upon request.

Sec. 6467. The court shall have power to call upon any officer, department, institution, board, arm or agency of the state government for any examination, information or papers pertinent to the issues involved in any case then pending before the court. No state employee shall receive any additional fees or compensation for rendering such services or appearing as a witness before the court upon behalf of the state.

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

600.6470 Court of claims; fraud in connection with claim; forfeiture.

Sec. 6470. Any person who corruptly practices, or attempts to practice, any fraud against the state of Michigan, in the proof, statement, establishment, or allowance of any claim or of any part of a claim, against the state, shall thereby forfeit the same to the state and it shall be the duty of the court of claims in such case to find specifically that such fraud was practiced, or attempted to be practiced, and thereupon to give judgment that such claim is forfeited to the state and that the claimant be forever barred from prosecuting the same.

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

600.6475 Court of claims; actions involving negligent operation of motor vehicles or aircraft; defense of governmental function.

Sec. 6475. In all actions brought in the court of claims against the state to recover damages resulting from the negligent operation by an officer, agent or employee of the state of a motor vehicle or an aircraft, other than a military aircraft, of which the state is owner, the fact that the state, in the ownership or operation of such motor vehicle or aircraft, was engaged in a governmental function shall not be a defense to such action. This act shall not be construed to impose upon the state a liability other or greater than the liability imposed by law upon other owners of motor vehicles or aircraft.

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

CHAPTER 65
COURTS OF LIMITED JURISDICTION

600.6501 Chapter applicable to district court, municipal court, and common pleas court of Detroit; exception.

Sec. 6501. The provisions of this chapter apply to the district court, to municipal courts and to the common pleas court of Detroit, except as otherwise provided in statutes and supreme court rules specifically applicable to these courts.

History: Add. 1974, Act 297, Eff. Apr. 1, 1975.

600.6502 Matters governed by statutes and supreme court rules; exception; references to justice courts or justices of the peace.

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Sec. 6502. All matters relating to the organization and financing of courts of limited jurisdiction or to the selection, terms, compensation, and duties of their judges and other officers and personnel and to limitations on jurisdiction shall be governed by the statutes respectively applicable to the courts. In all other matters of civil jurisdiction, including pleadings and motions, forms of action, joinder of claims and parties, issuance, service and enforcement of writs, subpoenas and other process, contempts, taxation of costs, and entry and enforcement of judgments, the municipal and common pleas courts shall also be governed by statutes and supreme court rules applicable to the district court, except where the provisions conflict with the provisions of statutes or supreme court rules specifically applicable to the municipal or common pleas courts. In the statutes specifically applicable to municipal or common pleas courts, all references to the powers or proceedings of justice courts or justices of the peace in matters of civil jurisdiction shall be construed to refer to the powers or proceedings of the district court or district court judges.

History: Add. 1974, Act 297, Eff. Apr. 1, 1975.

600.6511 Jurisdiction in civil actions at law against school districts.

Sec. 6511. Courts of limited jurisdiction shall have jurisdiction in all civil actions at law against school districts, when the amount claimed or matter in controversy is within their respective jurisdictional limits.

History: Add. 1974, Act 297, Eff. Apr. 1, 1975.

600.6521 Jurisdiction over actions at law; one form of action.

Sec. 6521. Except as otherwise provided or limited in statutes specifically applicable to courts of limited jurisdiction, the courts have jurisdiction over actions at law, including statutory actions and remedies which are not equitable in nature, when the amount claimed or the matter in controversy does not exceed the jurisdictional limits applicable in the courts. Forms of action are abolished and there is 1 form of action known as a civil action.

History: Add. 1974, Act 297, Eff. Apr. 1, 1975.

600.6525 Municipal court; verdict in civil action.

Sec. 6525. In every municipal court retained after the establishment of the district court pursuant to sections 9928 and 9930, a verdict in a civil action tried by a jury of 6 shall be received when 5 jurors agree.

History: Add. 1974, Act 297, Eff. Apr. 1, 1975.

600.6536 Appeal; payment of costs.

Sec. 6536. In every appeal from a district, municipal, or common pleas court, the appellant shall pay to the clerk of the trial court the taxable costs of the prevailing party, together with $25.00.

History: Add. 1974, Act 297, Eff. Apr. 1, 1975;—Am. 1993, Act 189, Eff. Oct. 8, 1993.

600.6537 Original jurisdiction over civil infraction actions.

Sec. 6537. A municipal court shall have original jurisdiction over civil infraction actions involving civil infractions occurring within its jurisdiction.

History: Add. 1978, Act 511, Eff. Aug. 1, 1979.

CHAPTER 66
JURISDICTION, POWERS AND DUTIES OF JUSTICES OF THE PEACE

600.6601-600.6661 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

CHAPTER 67
COMMENCEMENT OF ACTIONS AND SERVICE OF PROCESS IN JUSTICE COURT

600.6701-600.6755 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

CHAPTER 68
ADJOURNMENTS AND THE TRANSFER OF CAUSES IN JUSTICE COURT

600.6801-600.6841 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

CHAPTER 69
PLEADINGS IN JUSTICE COURT

600.6901-600.6953 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

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CHAPTER 70
TRIALS IN JUSTICE COURT

600.7001-600.7061 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

CHAPTER 71
JUDGMENTS IN JUSTICE COURT

600.7101-600.7137 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

CHAPTER 72
EXECUTIONS IN JUSTICE COURT

600.7201-600.7271 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

CHAPTER 73
REPLEVIN IN JUSTICE COURT

600.7301-600.7379 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

CHAPTER 74
ATTACHMENT IN JUSTICE COURT

600.7401-600.7447 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

CHAPTER 75
GARNISHMENT IN JUSTICE COURT

600.7501-600.7585 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

CHAPTER 76
FEES OF JUSTICES, JURORS, CONSTABLES AND WITNESSES

600.7601-600.7651 Repealed. 1970, Act 37, Imd. Eff. June 24, 1970;—1974, Act 297, Eff. Apr. 1, 1975.

CHAPTER 77
APPEALS FROM JUSTICE COURT

600.7701 Appeal to circuit court.

Sec. 7701. Any party to a judgment rendered by a justice of the peace, conceiving himself aggrieved thereby, may appeal therefrom to the circuit court for the county where the same was rendered, in the following cases:

(1) Where final judgment was rendered on an issue of law joined between the parties;

(2) Where final judgment was rendered on an issue of fact joined between the parties;

(3) Where the defendant did not appear and plead, and final judgment was rendered for the plaintiff on the merits of his claim;

(4) Where a judgment of nonsuit has been rendered.

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

600.7703-600.7741 Repealed. 1991, Act 144, Imd. Eff. Nov. 25, 1991.

Compiler's note: The repealed sections pertained to appeals from justice court.

CHAPTER 78
CONTEMPTS IN JUSTICE COURT

600.7801-600.7831 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

CHAPTER 79
GENERAL PROVISIONS AS TO JUSTICE COURTS

600.7901-600.7975 Repealed. 1974, Act 297, Eff. Apr. 1, 1975.

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CHAPTER 80.
THE CYBER COURT

600.8001 Cyber court; creation; court of record; purpose; location; electronic communications; internet broadcast; staff and support services; funding.

Sec. 8001. (1) The cyber court is created and is a court of record.

(2) The purpose of the cyber court is to do all of the following:

(a) Establish judicial structures that will help to strengthen and revitalize the economy of this state.

(b) Allow business or commercial disputes to be resolved with the expertise, technology, and efficiency required by the information age economy.

(c) Assist the judiciary in responding to the rapid expansion of information technology in this state.

(d) Establish a technology-rich system to serve the needs of a judicial system operating in a global economy.

(e) Maintain the integrity of the judicial system while applying new technologies to judicial proceedings.

(f) Supplement other state programs designed to make the state attractive to technology-driven companies.

(g) Permit alternative dispute resolution mechanisms to benefit from the technology changes.

(h) Establish virtual courtroom facilities, and allow the conducting of court proceedings electronically and the electronic filing of documents.

(3) The cyber court shall be located in 1 or more counties as determined by the supreme court. The cyber court shall sit in facilities designed to allow all hearings and proceedings to be conducted by means of electronic communications, including, but not limited to, video and audio conferencing and internet conferencing.

(4) The cyber court shall hold session and shall schedule hearings or other proceedings to accommodate parties or witnesses who are located outside of this state. A cyber court facility is open to the public to the same extent as a circuit court facility. When technologically feasible, and at the discretion of the judge, pursuant to the court rules, all proceedings of the cyber court shall be broadcast on the internet.

(5) The cyber court shall maintain its staff and support services at the seat of government.

(6) The cyber court shall be funded from annual appropriations to the supreme court.

History: Add. 2001, Act 262, Eff. Oct. 1, 2002;—Am. 2002, Act 663, Imd. Eff. Dec. 26, 2002.

Popular name: Cybercourt

600.8003 Assignment of judges; clerk.

Sec. 8003. (1) The supreme court shall assign to the cyber court persons who have been elected to and served as judges in this state and who have requested to be considered for that assignment. In making assignments to the cyber court, the supreme court shall consider a person's experience in presiding over commercial litigation and his or her experience and interest in the application of technology to the administration of justice. The supreme court shall endeavor to reflect the ethnic and racial diversity of the state population and the statewide judicial bench when making the assignments under this subsection.

(2) The total number of judges assigned to the cyber court shall reasonably reflect the caseload of the cyber court.

(3) The duration of a judge's assignment to the cyber court shall be at least 3 years.

(4) The county clerk of the county in which the cyber court sits shall be the clerk for the cyber court. The cyber court clerk shall deputize staff designated by the supreme court to receive all pleadings filed in the cyber court.

(5) The Michigan judicial institute shall provide appropriate training for judges who are assigned as judges of the cyber court.

History: Add. 2001, Act 262, Eff. Oct. 1, 2002;—Am. 2002, Act 663, Imd. Eff. Dec. 26, 2002.

Popular name: Cybercourt

600.8005 Jurisdiction; business or commercial disputes; definitions; actions; exclusions.

Sec. 8005. (1) The cyber court has concurrent jurisdiction over business or commercial disputes in which the amount in controversy exceeds $25,000.00.

(2) An action that involves a business or commercial dispute may be maintained in the cyber court although it also involves claims that are not business or commercial disputes.

(3) For purposes of this section:

(a) “Business enterprise” means a sole proprietorship, partnership, limited partnership, joint venture, limited liability company, limited liability partnership, for-profit or not-for-profit corporation or professional

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corporation, business trust, real estate investment trust, or any other entity in which a business may lawfully be conducted in the jurisdiction in which the business is being conducted. Business enterprise does not include an ecclesiastical or religious organization.

(b) "Business or commercial dispute" means any of the following actions:

(*i*) An action in which all of the parties are business enterprises.

(*ii*) An action in which 1 or more of the parties is a business enterprise and the other parties are its or their present or former owners, managers, shareholders, members, directors, officers, agents, employees, suppliers, customers, or competitors, and the claims arise out of those relationships.

(*iii*) An action in which 1 of the parties is a nonprofit organization, and the claims arise out of that party's organizational structure, governance, or finances.

(*iv*) An action involving the sale, merger, purchase, combination, dissolution, liquidation, organizational structure, governance, or finances of a business enterprise.

(4) Business or commercial disputes include, but are not limited to, the following types of actions:

(a) Those involving information technology, software, or website development, maintenance, or hosting.

(b) Those involving the internal organization of business entities and the rights or obligations of shareholders, partners, members, owners, officers, directors, or managers.

(c) Those arising out of contractual agreements or other business dealings, including licensing, trade secret, noncompete, nonsolicitation, and confidentiality agreements.

(d) Those arising out of commercial transactions, including commercial bank transactions.

(e) Those arising out of business or commercial insurance policies.

(f) Those involving commercial real property.

(5) Notwithstanding subsections (3) and (4), business or commercial disputes expressly exclude the following types of actions:

(a) Personal injury actions involving only physical injuries to 1 or more individuals, including wrongful death and malpractice actions against any health care provider.

(b) Product liability actions in which any of the claimants are individuals.

(c) Matters within the jurisdiction of the family division of circuit court.

(d) Proceedings under the probate code of 1939, 1939 PA 288, MCL 710.21 to 712A.32.

(e) Proceedings under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102.

(f) Criminal matters.

(g) Condemnation matters.

(h) Appeals from lower courts or any administrative agency.

(i) Proceedings to enforce judgments of any kind.

(j) Landlord-tenant matters involving only residential property.

History: Add. 2001, Act 262, Eff. Oct. 1, 2002;—Am. 2002, Act 663, Imd. Eff. Dec. 26, 2002.

Popular name: Cybercourt

600.8007 Complaint; filing with clerk; practice and procedure, proceedings, and service of process in accordance with special rules.

Sec. 8007. (1) An action may be filed in the cyber court by filing a complaint with the clerk of the cyber court.

(2) Practice and procedure in the cyber court, the form and manner of pleadings, and the manner of service of process shall be in accordance with special rules for the cyber court adopted by the supreme court.

History: Add. 2001, Act 262, Eff. Oct. 1, 2002.

Popular name: Cybercourt

600.8009 Filing fee; disposition.

Sec. 8009. Before a civil action is filed in the cyber court, the party bringing the action shall pay a filing fee in the amount of $200.00. Each month the clerk of the cyber court shall deposit with the state treasurer all fees collected, securing and filing a receipt for all the fees deposited.

History: Add. 2001, Act 262, Eff. Oct. 1, 2002.

Popular name: Cybercourt

600.8011 Transfer to circuit court.

Sec. 8011. (1) A defendant in an action commenced in the cyber court, a plaintiff against whom a counterclaim is filed in that action, or any party added by motion of the original parties as a plaintiff, defendant, or third-party defendant, may cause the entire case to be transferred to the circuit court in a county

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in which venue is proper by filing a notice of transfer with the clerk of the cyber court within 28 days after the date on which the party was served with the pleading that gives it the right to transfer.

(2) Within 14 days after the filing of an answer to a complaint or a motion by a defendant for summary disposition, whichever is earlier, the judge to whom the case has been assigned shall make a determination, based solely upon the complaint and answer or the motion, whether the case is primarily a business or commercial dispute. If the judge determines that it is not, the court shall notify the plaintiff of that decision, and the plaintiff has 14 days after service of the court's notification to transfer the case to the circuit court in a county in which venue is proper. If the plaintiff does not transfer the case to the circuit court, the judge of the cyber court shall do so. Subject to subsection (3), if the judge determines that it is primarily a business or commercial dispute, the case shall proceed in cyber court.

(3) If, at the time of or after the filing of the defendant's answer or motion for summary disposition, parties or claims are added or deleted, the judge to whom the case is assigned, not later than 14 days after the answer or motion is filed, shall again make a determination, based solely upon the pleadings as they then exist, whether the case is then primarily a business or commercial dispute. If the judge determines that it is not, the court shall notify the plaintiff of that decision, and the plaintiff has 14 days after service of the court's notification to transfer the case to the circuit court in a county in which venue is proper. If the plaintiff does not transfer the case to the circuit court, the judge of the cyber court shall do so. If the judge determines that it is primarily a business or commercial dispute, the case shall proceed in cyber court. However, if parties or claims are later added or deleted, the procedures in this subsection apply again.

(4) Any determination by a judge of the cyber court made under subsections (2) and (3) is final and may not be reviewed or altered by the circuit court to which a case is transferred.

(5) If a defendant in an action commenced in cyber court, a plaintiff against whom a counterclaim is filed in such an action, or any party added by motion of the original parties as a plaintiff, defendant, or third-party defendant transfers the action to the circuit court as provided in subsection (1), or the judge determines under subsection (2) or (3) that the case is not primarily a business or commercial dispute and the case is transferred to the circuit court, the clerk of the cyber court shall forward to the circuit court, as a filing fee, a portion of the filing fee paid at the commencement of the action in the cyber court that is equal to the filing fee otherwise required in the circuit court.

History: Add. 2001, Act 262, Eff. Oct. 1, 2002;—Am. 2002, Act 663, Imd. Eff. Dec. 26, 2002.

Popular name: Cybercourt

600.8013 Jury trial; waiver.

Sec. 8013. Unless a party removes an action filed in the cyber court to the circuit court pursuant to section 8011, all parties to an action in the cyber court shall be considered to have waived the right to trial by jury.

History: Add. 2001, Act 262, Eff. Oct. 1, 2002.

Popular name: Cybercourt

600.8015 Electronic communications.

Sec. 8015. All matters heard in the cyber court shall be heard by means of electronic communications, including, but not limited to, video and audio conferencing and internet conferencing among the judge and court personnel, parties, witnesses, and other persons necessary to the proceeding.

History: Add. 2001, Act 262, Eff. Oct. 1, 2002.

Popular name: Cybercourt

600.8017 Subpoena of witnesses; production of records; oaths and affirmations.

Sec. 8017. The cyber court has the same power to subpoena witnesses and require the production of books, papers, records, documents, electronic documents, and any other evidence and to punish for contempt as the circuit court has. The judge and clerk of the cyber court may administer oaths and affirmations and take acknowledgments of instruments by electronic means. An oath or affirmation taken from a person located outside of this state and pursuant to the laws of the jurisdiction in which the person is located shall be considered to be an oath or affirmation authorized by the laws of this state.

History: Add. 2001, Act 262, Eff. Oct. 1, 2002.

Popular name: Cybercourt

600.8019 New trial.

Sec. 8019. An action in the cyber court shall be heard by the judge without a jury. The court may grant a new trial upon the same terms and under the same conditions and for the same reasons as prevail in the case of the circuit court of this state, in a case heard by a judge without a jury.

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History: Add. 2001, Act 262, Eff. Oct. 1, 2002.

Popular name: Cybercourt

600.8021 Appeal to court of appeals; entry of final order or judgment; electronic notice.

Sec. 8021. (1) An appeal from the cyber court shall be to the court of appeals, as prescribed by supreme court rules.

(2) The clerk of the cyber court shall immediately furnish the parties to every action with an electronic notice of entry of any final order or judgment. The time within which an appeal as of right may be taken shall be governed by supreme court rules.

History: Add. 2001, Act 262, Eff. Oct. 1, 2002.

Popular name: Cybercourt

600.8023 Alternative dispute resolution.

Sec. 8023. The supreme court shall provide by rule for an alternative dispute resolution for matters before the cyber court.

History: Add. 2001, Act 262, Eff. Oct. 1, 2002.

Popular name: Cybercourt

600.8025 Report to legislature.

Sec. 8025. Not later than October 1, 2004, the state court administrator shall submit a written report to the legislature on the operation of the cyber court. The report shall include the state court administrator's recommendations, if any, for expanding the jurisdiction of the cyber court over other matters.

History: Add. 2001, Act 262, Eff. Oct. 1, 2002.

Popular name: Cybercourt

600.8027 Implementation of chapter; rules.

Sec. 8027. The supreme court shall adopt rules to implement this chapter.

History: Add. 2001, Act 262, Imd. Eff. Jan. 9, 2002.

Popular name: Cybercourt

600.8029 Repealed. 2006, Act 232, Imd. Eff. June 26, 2006.

Compiler's note: The repealed section pertained to creation of legislative oversight committee on oversight.

Popular name: Cybercourt

CHAPTER 81
DISTRICT COURT: ESTABLISHMENT; DISTRICTS

600.8101 District court; establishment; court of record; judicial districts; city located in more than one district.

Sec. 8101. (1) A district court is established in the state. The district court is a court of record. The state is divided into judicial districts of the district court each of which is an administrative unit subject to the superintending control of the supreme court.

(2) When a city is located in more than 1 district, the provisions of section 8251 as to where the district court is required to sit shall apply only to that part of such city lying within the particular county or district. A city having a population in excess of 20,000 which is located in more than 1 district is a part of the district containing the greater portion of the population of the city.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1969, Act 265, Eff. Sept. 1, 1969;—Am. 1973, Act 22, Imd. Eff. May 25, 1973.

Constitutionality: Act 236 of 1961, MCL 600.8101 to 600.9928 do not violate Const 1963, art IV, § 24. People v Milton, 393 Mich 234; 224 NW2d 266 (1974).

600.8102 Election divisions; effect.

Sec. 8102. The provisions for election divisions of a judicial district have no effect on the administration of a judicial district.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8103 Districts, classes; definition.

Sec. 8103. (1) A district of the first class is a district consisting of 1 or more counties and in which each county comprising the district is responsible for maintaining, financing and operating the district court within

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its respective county except as otherwise provided in this act.

(2) A district of the second class is a district consisting of a group of political subdivisions within a county and in which the county where such political subdivisions are situated is responsible for maintaining, financing and operating the district court except as otherwise provided in this act.

(3) A district of the third class is a district consisting of 1 or more political subdivisions within a county and in which each political subdivision comprising the district is responsible for maintaining, financing and operating the district court within its respective political subdivision except as otherwise provided in this act.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8104 "District funding unit" or "district control unit" defined; responsibilities; agreement to share expenses; supplying law books and legal reference resources.

Sec. 8104. (1) The term "district funding unit" or "district control unit" means:

(a) The county in districts of the first and second class.

(b) The city or the township in districts of the third class except as provided in subdivision (c).

(c) The city or the incorporated village in districts of the third class in which portions of 2 townships comprise an incorporated village.

(2) Except as otherwise provided in this act, a district funding unit shall be responsible for maintaining, financing, and operating the court only within its political subdivision. In districts of the third class a political subdivision shall not be responsible for the expenses of maintaining, financing, or operating the district court, traffic bureau, or small claims division incurred in any other political subdivision except as provided by section 8621 and other provisions of this act.

(3) One or more district funding units within any district may agree among themselves to share any or all of the expenses of maintaining, financing, or operating the district court. To become effective such agreements must be approved by resolution adopted by the governing body of the respective political subdivisions entering into the agreement, and upon approval such agreements shall become effective and binding in accordance with, to the extent of, and for such period stated in that agreement.

(4) The district funding unit shall supply such law books and legal reference resources as it deems necessary. No subsidy from state funds shall be required to stock any district court created by this act with law books or other legal reference works.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1970, Act 235, Eff. Jan. 1, 1971;—Am. 1980, Act 127, Imd. Eff. May 22, 1980;—Am. 1996, Act 374, Imd. Eff. July 17, 1996.

600.8105 District court in thirty-sixth district; functioning.

Sec. 8105. The district court in the thirty-sixth district shall not function for judicial purposes until September 1, 1981.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1980, Act 438, Eff. Apr. 30, 1981.

Compiler's note: Section 2 of Act 438 of 1980 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 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.

600.8111 First district; Monroe county.

Sec. 8111. The first district consists of the county of Monroe, is a district of the first class and has 3 judges.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8112 Second district; Lenawee and Hillsdale counties; creation of second-a district and second-b district.

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Sec. 8112. (1) Except as provided in subsection (2), the second district consists of the counties of Lenawee and Hillsdale, is a district of the first class, and is divided into the following election divisions:

(a) The first division consists of the county of Lenawee and has 2 judges.

(b) The second division consists of the county of Hillsdale and has 1 judge.

(2) Effective January 1, 1999, if the county of Lenawee approves the creation of the second-a district pursuant to law, and if the county of Hillsdale approves the creation of the second-b district pursuant to law, both of the following apply:

(a) The second-a district consists of the county of Lenawee, is a district of the first class, and has 2 judges.

(b) The second-b district consists of the county of Hillsdale, is a district of the first class, and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1998, Act 13, Imd. Eff. Mar. 5, 1998.

Compiler's note: Enacting sections 1 and 2 of Act 13 of 1998 provide:

"Enacting section 1. The creation of the second-a district and the second-b district, as allowed by this 1998 amendatory act, shall not take place unless resolutions of approval by the county boards of commissioners of the counties of Lenawee and Hillsdale, as required by section 8176 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8176, are filed with the state court administrator not later than April 1, 1998.

"Enacting section 2. If new judicial districts of the district court are created under this amendatory act pursuant to section 8176 of the revised judicature act of 1961, 1961 PA 236, MCL 800.8176 *[sic]*, the change in the composition of the affected judicial districts shall take effect for election purposes on April 1, 1998 and shall take effect for judicial purposes on January 1, 1999. If the second-a district and second-b district are created pursuant to this amendatory act, both of the following apply to the judges of the second district serving on the effective date of this amendatory act:

"(a) The incumbent judge who resides in Hillsdale county and whose term expires on January 1, 2003 shall become a judge of the second-b district on January 1, 1999 for the balance of the term for which he or she was elected, except that he or she must continue to meet other requirements for eligibility to serve as district judge, including residency requirements.

"(b) If the incumbent judge who resides in Lenawee county and whose term expires January 1, 1999 seeks election in the second-a district for a term beginning January 1, 1999 and meets other requirements for eligibility to serve as district judge, including residency requirements, that judge is entitled to the designation of his or her office on the ballot in the 1998 August primary election and in the 1998 November general election. The incumbent judge may qualify for nomination by filing an affidavit of candidacy as an incumbent judge of the second-a district as provided in section 467c of the Michigan election law, 1954 PA 116, MCL 168.467c.

"(c) The incumbent judge who resides in Lenawee county and whose term expires January 1, 2003 shall become a judge of the second-a district on January 1, 1999 for the balance of the term for which he or she was elected or appointed, except that he or she must continue to meet other requirements for eligibility to serve as district judge, including residency requirements."

600.8113 Third, third-a, and third-b districts.

Sec. 8113. (1) Except as provided in subsections (2) and (3), the third district consists of the counties of St. Joseph and Branch, is a district of the first class and is divided into the following election divisions:

(a) The first division consists of the county of Branch and has 1 judge.

(b) The second division consists of the county of St. Joseph and has 1 judge.

(2) If the county of Branch approves the creation of the third-a district pursuant to law and the county of St. Joseph approves the creation of the third-b district pursuant to section 8176, the third-a district consists of the county of Branch, is a district of the first class, and has 1 judge.

(3) If the county of Branch approves the creation of the third-a district pursuant to law and the county of St. Joseph approves the creation of the third-b district pursuant to section 8176, the third-b district consists of the county of St. Joseph, is a district of the first class, and has 1 judge. Subject to section 8175, this district may have 1 additional judge effective January 1, 1991. If a new office of judge is added to this district to be filled by election in 1990, the term of office of the judge for that election only shall be 4 years.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1990, Act 54, Imd. Eff. Apr. 11, 1990.

Compiler's note: Section 2 of Act 54 of 1990 provides:

"If a new judicial circuit of the circuit court is created under this amendatory act pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1991. If the fifty-sixth judicial circuit is created pursuant to this amendatory act, the incumbent judge of the fifth judicial circuit who resides in Eaton county shall become the judge of the fifty-sixth judicial circuit on January 1, 1991, and shall serve until the term for which he or she was elected in the fifth judicial circuit expires."

600.8114 Fourth district; Cass county.

Sec. 8114. The fourth district consists of the county of Cass, is a district of the first class and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8115 Fifth district.

Sec. 8115. The fifth district consists of the county of Berrien, is a district of the first class and has 5 judges.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1969, Act 272, Eff. Sept. 1, 1969;—Am. 1974, Act 145, Imd. Eff. June 7, 1974.

Compiler's note: Sections 2 to 7 of Act 145 of 1974 provide:

"Effective date of changes.

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"Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

"Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating petitions; incumbent judges.

"Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

"Nominating petitions.

"Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

"Nomination, election, and terms of candidates for new circuit judgeships.

"Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10 years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

"Terms of additional circuit judges.

"Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

"Terms of additional district judges in certain districts.

"Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years."

600.8116 Seventh district; Van Buren county.

Sec. 8116. The seventh district consists of the county of Van Buren, is a district of the first class and has 2 judges.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8117 Eighth district.

Sec. 8117. The eighth district consists of the county of Kalamazoo, is a district of the first class, and has 7 judges.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1970, Act 30, Imd. Eff. June 11, 1970;—Am. 1974, Act 145, Imd. Eff. June 7, 1974;—Am. 1997, Act 161, Imd. Eff. Dec. 29, 1997;—Am. 2005, Act 237, Eff. Jan. 2, 2007.

Compiler's note: Sections 2 to 7 of Act 145 of 1974 provide:

"Effective date of changes.

"Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

"Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating petitions; incumbent judges.

"Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

"Nominating petitions.

"Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

"Nomination, election, and terms of candidates for new circuit judgeships.

"Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10 years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

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"Terms of additional circuit judges.

"Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

"Terms of additional district judges in certain districts.

"Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years."

Enacting section 2 of Act 237 of 2005 provides:

"Enacting section 2. Upon the effective date of this amendatory act, all incumbent district judges elected or appointed to the first, second, and third election divisions of the eighth district and serving at 11:59 p.m. on January 1, 2007 shall serve as judges of the reconstituted eighth district until the expiration of the terms for which they were elected or appointed."

Enacting section 3 of Act 237 of 2005 provides:

"Enacting section 3. To stagger the terms of 7 district judges in the eighth district court district so that approximately 1/3 of those terms expire every 2 years, the candidate for district judge receiving the highest number of votes in the 2010 general election only shall receive a term of 8 years if both of the following conditions apply:

"(a) That candidate is among the persons listed together on the ballot seeking election to 1 or more existing judgeships for which the incumbent judge is seeking election.

"(b) That candidate is not seeking election to fill the unexpired portion of a term."

600.8118 Tenth district; Calhoun county and city of Battle Creek.

Sec. 8118. The tenth district consists of the county of Calhoun and the city of Battle Creek, is a district of the first class and has 4 judges.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1974, Act 164, Eff. Jan. 2, 1975.

600.8119 Twelfth district; Jackson county.

Sec. 8119. (1) The twelfth district consists of the county of Jackson except the city of Jackson, is a district of the second class and has 2 judges. However, due to section 8180, effective January 1, 1986, the twelfth district consists of the county of Jackson, is a district of the first class, and has 4 judges.

(2) The thirteenth district consists of the city of Jackson, is a district of the third class, and has 2 judges. However, due to section 8180, effective January 1, 1986, the thirteenth district will no longer exist.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1985, Act 192, Imd. Eff. Dec. 20, 1985.

600.8120 Fourteenth, fourteenth-a, fourteenth-b, and fifteenth districts.

Sec. 8120. (1) The fourteenth district consists of the county of Washtenaw except the city of Ann Arbor, is a district of the second class, and has 4 judges. If the township of Ypsilanti approves the formation of the fourteenth-b district and district judgeship subject to section 8176, effective on January 1, 1985 and through December 31, 1986, the fourteenth-a district consists of the county of Washtenaw, except the city of Ann Arbor and the township of Ypsilanti, is a district of the second class, and has 4 judges. Effective on January 1, 1987, the fourteenth-a district consists of the county of Washtenaw, except the city of Ann Arbor and the township of Ypsilanti, is a district of the second class, and has 3 judges.

(2) If the township of Ypsilanti approves the formation of the fourteenth-b district and district judgeship subject to section 8176, effective on January 1, 1985, the fourteenth-b district consists of the township of Ypsilanti, is a district of the third class, and has 1 judge.

(3) The fifteenth district consists of the city of Ann Arbor, is a district of the third class, and has 3 judges. Subject to section 8175, this district may have 1 additional judge effective January 1, 1993.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1974, Act 145, Imd. Eff. June 7, 1974;—Am. 1984, Act 95, Imd. Eff. Apr. 23, 1984;—Am. 1988, Act 135, Imd. Eff. May 27, 1988;—Am. 1990, Act 54, Imd. Eff. Apr. 11, 1990.

Compiler's note: Sections 2 to 7 of Act 145 of 1974 provide:

"Effective date of changes.

"Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

"Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating petitions; incumbent judges.

"Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

"Nominating petitions.

"Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall

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contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

"Nomination, election, and terms of candidates for new circuit judgeships.

"Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10 years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

"Terms of additional circuit judges.

"Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

"Terms of additional district judges in certain districts.

"Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years."

Section 2 of Act 135 of 1988 provides:

"Any additional district judgeship to be added by election in 1988 shall not be authorized to be filled by election unless each district control unit of the district, by resolution adopted by the governing body of the district control unit, approves the creation of that judgeship and unless the clerk of each district control unit adopting such a resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the tenth Tuesday preceding the August primary for the election to fill the additional district judgeship."

Section 2 of Act 54 of 1990 provides:

"If a new judicial circuit of the circuit court is created under this amendatory act pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1991. If the fifty-sixth judicial circuit is created pursuant to this amendatory act, the incumbent judge of the fifth judicial circuit who resides in Eaton county shall become the judge of the fifty-sixth judicial circuit on January 1, 1991, and shall serve until the term for which he or she was elected in the fifth judicial circuit expires."

600.8121 Sixteenth district to thirty-fifth district.

Sec. 8121. (1) The sixteenth district consists of the city of Livonia, is a district of the third class, and has 2 judges.

(2) The seventeenth district consists of the township of Redford in the county of Wayne, is a district of the third class, and has 2 judges.

(3) The eighteenth district consists of the city of Westland, is a district of the third class, and has 2 judges.

(4) The nineteenth district consists of the city of Dearborn, is a district of the third class, and has 3 judges.

(5) The twentieth district consists of the city of Dearborn Heights, is a district of the third class, and has 2 judges.

(6) The twenty-first district consists of the city of Garden City, is a district of the third class, and has 1 judge.

(7) The twenty-second district consists of the city of Inkster, is a district of the third class, and has 1 judge.

(8) The twenty-third district consists of the city of Taylor, is a district of the third class, and has 2 judges.

(9) The twenty-fourth district consists of the cities of Allen Park and Melvindale, is a district of the third class, and has 2 judges.

(10) The twenty-fifth district consists of the city of Lincoln Park, is a district of the third class, and has 2 judges.

(11) The twenty-sixth district consists of the cities of River Rouge and Ecorse, is a district of the third class, and is divided into the following election divisions:

(a) The first division consists of the city of River Rouge and has 1 judge.

(b) The second division consists of the city of Ecorse and has 1 judge.

(12) The twenty-seventh district consists of the following, as applicable:

(a) Until January 1, 2003 or until a vacancy occurs in a judgeship in the twenty-seventh district, whichever occurs first, the twenty-seventh district consists of the cities of Wyandotte and Riverview, is a district of the third class, and is divided into the following election divisions:

(*i*) The first division consists of the city of Wyandotte and has 1 judge.

(*ii*) The second division consists of the city of Riverview and has 1 judge.

(b) Beginning January 1, 2003 or the date on which a vacancy occurs in a judgeship in the twenty-seventh district, whichever occurs first, the twenty-seventh district consists of the cities of Wyandotte and Riverview, is a district of the third class, and has 1 judge. The remaining incumbent judge of the twenty-seventh district shall serve as the judge of the entire twenty-seventh district for the balance of the term to which he or she was elected or appointed.

(13) The twenty-eighth district consists of the city of Southgate, is a district of the third class, and has 1 judge.

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(14) The twenty-ninth district consists of the city of Wayne, is a district of the third class, and has 1 judge.

(15) The thirtieth district consists of the city of Highland Park, is a district of the third class, and has the following number of judges:

(a) Until subdivision (b) takes effect, this district has 2 judges.

(b) This district has 1 judge beginning on the earlier of the following dates:

(*i*) The date on which a vacancy occurs in the office of district judge in this district.

(*ii*) 12 noon, January 1, 2003.

(16) The thirty-first district consists of the city of Hamtramck, is a district of the third class, and has 1 judge.

(17) The thirty-second-a district consists of the city of Harper Woods, is a district of the third class, and has 1 judge.

(18) The thirty-second-b district consists of the cities of Grosse Pointe Woods, Grosse Pointe Park, Grosse Pointe, and Grosse Pointe Farms, and the village of Grosse Pointe Shores, is a district of the third class, and has 1 judge.

(19) The thirty-third district consists of the cities of Trenton, Gibraltar, Woodhaven, Rockwood, and Flat Rock and the townships of Brownstown and Grosse Ile in the county of Wayne, is a district of the third class, and has 3 judges.

(20) The thirty-fourth district consists of the townships of Sumpter, Van Buren, and Huron in the county of Wayne and the cities of Romulus and Belleville, is a district of the third class, and has 3 judges.

(21) The thirty-fifth district consists of the cities of Northville and Plymouth and the townships of Northville, Plymouth, and Canton in the county of Wayne, is a district of the third class, and has 2 judges. Subject to section 8175, this district may have 1 additional judge effective January 1, 2003. If a new office of judge is added to this district to be filled by election in 2002, the term of office of the judge for that election only shall be 8 years.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1970, Act 25, Imd. Eff. June 2, 1970;—Am. 1972, Act 169, Imd. Eff. June 15, 1972;—Am. 1974, Act 145, Imd. Eff. June 7, 1974;—Am. 1977, Act 129, Imd. Eff. Oct. 21, 1977;—Am. 1978, Act 164, Imd. Eff. May 25, 1978;—Am. 1980, Act 127, Imd. Eff. May 22, 1980;—Am. 1982, Act 40, Imd. Eff. Mar. 16, 1982;—Am. 1990, Act 54, Imd. Eff. Apr. 11, 1990;—Am. 1994, Act 138, Imd. Eff. May 26, 1994;—Am. 2000, Act 449, Imd. Eff. Jan. 9, 2001;—Am. 2001, Act 255, Eff. Mar. 22, 2002;—Am. 2001, Act 258, Eff. Mar. 22, 2002.

Compiler's note: Sections 2 to 7 of Act 145 of 1974 provide:

"Effective date of changes.

"Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

"Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating petitions; incumbent judges.

"Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

"Nominating petitions.

"Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

"Nomination, election, and terms of candidates for new circuit judgeships.

"Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10 years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

"Terms of additional circuit judges.

"Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

"Terms of additional district judges in certain districts.

"Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years."

Sections 2 to 7 of Act 164 of 1978 provide:

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"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 2 of Act 54 of 1990 provides:

"If a new judicial circuit of the circuit court is created under this amendatory act pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1991. If the fifty-sixth judicial circuit is created pursuant to this amendatory act, the incumbent judge of the fifth judicial circuit who resides in Eaton county shall become the judge of the fifty-sixth judicial circuit on January 1, 1991, and shall serve until the term for which he or she was elected in the fifth judicial circuit expires."

600.8121a Thirty-sixth district; city of Detroit.

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Sec. 8121a. (1) The thirty-sixth district consists of the city of Detroit and is a district of the third class.

(2) Commencing September 1, 1981, the thirty-sixth district shall have 13 judges.

(3) Commencing January 1, 1982, the thirty-sixth district shall have 20 judges.

(4) Commencing January 1, 1983, the thirty-sixth district shall have 27 judges.

(5) Commencing January 1, 1985, the thirty-sixth district shall have 29 judges.

(6) Commencing January 1, 1989, subject to section 8175, the thirty-sixth district may have 2 additional judges. If new offices of judge are added to this district pursuant to this subsection, for the first general election only, the term of the candidate receiving the greatest number of votes shall be 6 years and the term of the next candidate receiving the greatest number of votes shall be 4 years.

History: Add. 1972, Act 169, Imd. Eff. June 15, 1972;—Am. 1980, Act 438, Eff. May 1, 1981;—Am. 1981, Act 15, Eff. May 1, 1981;—Am. 1981, Act 146, Imd. Eff. Nov. 10, 1981;—Am. 1988, Act 135, Imd. Eff. May 27, 1988.

Compiler's note: Sections 2 and 3 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."

Sections 2, 3, and 4 of Act 146 of 1981 provide:

"Repeal of MCL 600.8286, 600.8287, and 600.8288; effective date of repeal; exception.

"Section 2. Except as provided in enacting section 4, sections 8286, 8287, and 8288 of Act No. 236 of the Public Acts of 1961, being sections 600.8286, 600.8287, and 600.8288 of the Compiled Laws of 1970, are repealed effective January 1, 1983.

"Effective date of MCL 600.8286, 600.8287, 600.8288, and 600.8501; exception.

"Section 3. Except as provided in enacting section 4, sections 8286, 8287, 8288, and 8501 shall take effect December 1, 1981.

"Conditional effective date of MCL 600.8286, 600.8287, 600.8288, and 600.8501, and of enacting Section 2; adoption and filing of resolution by city of Detroit; effect of assuming responsibility for expenses.

"Section 4. (1) Sections 8286, 8287, 8288, and 8501 and enacting section 2 shall not take effect unless the city of Detroit, by resolution adopted not later than November 30, 1981, by the governing body of the city, agrees to assume responsibility for any expenses required of the city by this amendatory act and an authenticated copy is filed with the secretary of state not later than 4 p.m. November 30, 1981.

"(2) If the city of Detroit, acting through its governing body, agrees to assume responsibility for any expenses required of the city by this amendatory act, that action constitutes an exercise of the city's option to provide a new activity or service or to increase the level of activity or service offered in the city of Detroit 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 of all expenses and capital improvements which may result from establishment of the office of district court referee in the thirty-sixth district of the district court."

The resolution referred to in Section 4 was adopted by the city council of the city of Detroit on November 25, 1981, and an authenticated copy was filed with the secretary of state at 3:30 p.m. on November 30, 1981.

Section 2 of Act 135 of 1988 provides:

"Any additional district judgeship to be added by election in 1988 shall not be authorized to be filled by election unless each district control unit of the district, by resolution adopted by the governing body of the district control unit, approves the creation of that judgeship and unless the clerk of each district control unit adopting such a resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the tenth Tuesday preceding the August primary for the election to fill the additional district judgeship."

600.8122 Thirty-seventh district to forty-second district.

Sec. 8122. (1) The thirty-seventh district consists of the cities of Warren and Center Line, is a district of the third class, and has 4 judges.

(2) The thirty-eighth district consists of the city of Eastpointe, is a district of the third class, and has 1 judge.

(3) The thirty-ninth district consists of the cities of Roseville and Fraser, is a district of the third class, and has 3 judges.

(4) The fortieth district consists of the city of Saint Clair Shores, is a district of the third class, and has 2

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judges.

(5) The forty-first-a district consists of the cities of Utica and Sterling Heights and the townships of Shelby and Macomb in the county of Macomb, is a district of the third class, and has 4 judges.

(6) The forty-first-b district consists of the city of Mt. Clemens and the townships of Clinton and Harrison in the county of Macomb, is a district of the third class, and has 3 judges.

(7) The forty-second district consists of the cities of Memphis, Richmond, and New Baltimore and the townships of Bruce, Washington, Armada, Ray, Richmond, Lenox, and Chesterfield in the county of Macomb, is a district of the second class, and is divided into the following election divisions:

(a) The first division consists of the cities of Memphis and Richmond and the townships of Bruce, Washington, Armada, Ray, and Richmond and has 1 judge.

(b) The second division consists of the city of New Baltimore and the townships of Lenox and Chesterfield and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1970, Act 30, Imd. Eff. June 11, 1970;—Am. 1972, Act 169, Imd. Eff. June 15, 1972;—Am. 1974, Act 145, Imd. Eff. June 7, 1974;—Am. 1976, Act 125, Imd. Eff. May 21, 1976;—Am. 1978, Act 164, Imd. Eff. May 25, 1978;—Am. 1988, Act 135, Imd. Eff. May 27, 1988;—Am. 2002, Act 681, Imd. Eff. Dec. 30, 2002.

Compiler's note: Sections 2 to 7 of Act 145 of 1974 provide:

"Effective date of changes.

"Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

"Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating petitions; incumbent judges.

"Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

"Nominating petitions.

"Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

"Nomination, election, and terms of candidates for new circuit judgeships.

"Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10 years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

"Terms of additional circuit judges.

"Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

"Terms of additional district judges in certain districts.

"Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years."

Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the

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number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 2 of Act 135 of 1988 provides:

"Any additional district judgeship to be added by election in 1988 shall not be authorized to be filled by election unless each district control unit of the district, by resolution adopted by the governing body of the district control unit, approves the creation of that judgeship and unless the clerk of each district control unit adopting such a resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the tenth Tuesday preceding the August primary for the election to fill the additional district judgeship."

600.8123 Forty-third district to fifty-second district.

Sec. 8123. (1) The forty-third district consists of the cities of Madison Heights, Ferndale, and Hazel Park, is a district of the third class, and has 3 judges.

(2) The forty-fourth district consists of the city of Royal Oak, is a district of the third class, and has 2 judges.

(3) The forty-fifth-a district consists of the city of Berkley, is a district of the third class, and has 1 judge.

(4) The forty-fifth-b district consists of the cities of Huntington Woods, Oak Park, and Pleasant Ridge and the township of Royal Oak in the county of Oakland, is a district of the third class, and has 2 judges.

(5) The forty-sixth district consists of the cities of Southfield and Lathrup Village and the township of Southfield in the county of Oakland, is a district of the third class, and has 3 judges.

(6) The forty-seventh district consists of the cities of Farmington and Farmington Hills, is a district of the third class, and has 2 judges. Subject to section 8175, this district may have 1 additional judge subject to review and recommendation by the state court administrator to the legislature and subsequent legislation, if and when a district court judgeship is eliminated within the state of Michigan.

(7) The forty-eighth district consists of the cities of Birmingham, Bloomfield Hills, Sylvan Lake, Keego Harbor, and Orchard Lake Village and the townships of Bloomfield and West Bloomfield in the county of

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Oakland, is a district of the third class, and has 3 judges.

(8) The fiftieth district consists of the city of Pontiac, is a district of the third class, and has 4 judges.

(9) The fifty-first district consists of the township of Waterford in the county of Oakland, is a district of the third class, and has 2 judges.

(10) The fifty-second district consists of the county of Oakland except the cities of Madison Heights, Ferndale, Hazel Park, Royal Oak, Berkley, Huntington Woods, Oak Park, Pleasant Ridge, Southfield, Lathrup Village, Farmington, Farmington Hills, Northville, Sylvan Lake, Keego Harbor, Orchard Lake Village, Birmingham, Bloomfield Hills, and Pontiac and the townships of Royal Oak, Southfield, West Bloomfield, Bloomfield, and Waterford, is a district of the second class, and is divided into the following election divisions:

(a) The first division consists of the cities of Novi, South Lyon, Wixom, and Walled Lake and the townships of Milford, Highland, Commerce, Lyon, and Novi. Until January 1, 2003, the first division also includes the townships of Rose and White Lake. The first division has 3 judges. Subject to section 8175, this division may have 1 additional judge effective January 1, 2003. If the Oakland county board of commissioners approves that additional judgeship, the judgeship in the first division that is filled by the district judge of the first division whose term expires January 1, 2005 is transferred to the second division, effective January 1, 2003.

(b) The second division consists of the city of the village of Clarkston and the townships of Springfield, Independence, Holly, Groveland, and Brandon. Beginning January 1, 2003, the second division also includes the townships of Rose and White Lake. The second division has 1 judge; however, effective January 1, 2003, this division shall have 2 judges if a judgeship is transferred to this division from the first division pursuant to subdivision (a).

(c) The third division consists of the cities of Rochester, Auburn Hills, Rochester Hills, and Lake Angelus and the townships of Oxford, Addison, Orion, and Oakland and has 3 judges.

(d) The fourth division consists of the cities of Troy and Clawson and has 3 judges.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1970, Act 30, Imd. Eff. June 11, 1970;—Am. 1970, Act 238, Eff. Jan. 1, 1971;—Am. 1972, Act 169, Imd. Eff. June 15, 1972;—Am. 1974, Act 145, Imd, Eff. June 7, 1974;—Am. 1977, Act 129, Imd. Eff. Oct. 21, 1977;—Am. 1978, Act 164, Imd. Eff. May 25, 1978;—Am. 1984, Act 142, Imd. Eff. June 21, 1984;—Am. 1988, Act 135, Imd. Eff. May 27, 1988;—Am. 1990, Act 54, Imd. Eff. Apr. 11, 1990;—Am. 2000, Act 447, Eff. Mar. 28, 2001;—Am. 2000, Act 448, Imd. Eff. Jan. 9, 2001.

Compiler's note: Sections 2 to 7 of Act 145 of 1974 provide:

"Effective date of changes.

"Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

"Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating petitions; incumbent judges.

"Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

"Nominating petitions.

"Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

"Nomination, election, and terms of candidates for new circuit judgeships.

"Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10 years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

"Terms of additional circuit judges.

"Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

"Terms of additional district judges in certain districts.

"Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years."

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Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 2 of Act 135 of 1988 provides:

"Any additional district judgeship to be added by election in 1988 shall not be authorized to be filled by election unless each district control unit of the district, by resolution adopted by the governing body of the district control unit, approves the creation of that judgeship and unless the clerk of each district control unit adopting such a resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the tenth Tuesday preceding the August primary for the election to fill the additional district judgeship."

Section 2 of Act 54 of 1990 provides:

"If a new judicial circuit of the circuit court is created under this amendatory act pursuant to section 550a, the change in the

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composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1991. If the fifty-sixth judicial circuit is created pursuant to this amendatory act, the incumbent judge of the fifth judicial circuit who resides in Eaton county shall become the judge of the fifty-sixth judicial circuit on January 1, 1991, and shall serve until the term for which he or she was elected in the fifth judicial circuit expires."

Enacting sections 1 and 2 of Act 448 of 2000 provide:

"Enacting section 1. The changes in the composition of first and second election divisions of the fifty-second district court district as provided in this amendatory act shall be effective for election purposes on March 1, 2002, and for judicial purposes on January 1, 2003. Electors of the townships of Rose and White Lake in Oakland county shall not be eligible to be a candidate for the office of district judge in the first election division of the fifty-second district in the primary and general elections of 2002, shall not be eligible to vote for that office in the primary and general elections of 2002, and are not qualified to sign nominating petitions for candidates for that office in 2002. If a vacancy occurs in the second election division of the fifty-second district prior to the filing deadline for the office of district judge in 2002, the townships of Rose and White Lake shall be considered part of the second election division for purposes of the election to fill the unexpired term of that judgeship.

"Enacting section 2. (1) If a new office of judge is added to the first election division of the fifty-second district to be filled by election in 2002, both of the following apply:

(a) The term of office for the new judge elected in the first election division of the fifty-second district in the November 2002 general election shall be 4 years, for that election only.

(b) The term of office for the judge elected in the first election division of the fifty-second district in the November 2006 general election shall be 4 years, for that election only.

(2) The judge serving in the first election division of the fifty-second district who is transferred to the second election division of the fifty-second district pursuant to this amendatory act shall serve as a judge of the second election division of the fifty-second district for the balance of the term for which he or she was elected or appointed."

600.8124 Fifty-third district; Livingston county.

Sec. 8124. The fifty-third district consists of the county of Livingston, is a district of the first class, and has 2 judges. Subject to section 8175, this district may have 1 additional judge effective January 1, 1987.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1970, Act 30, Imd. Eff. June 11, 1970;—Am. 1984, Act 95, Imd. Eff. Apr. 23, 1984.

600.8125 Fifty-fourth-a district, fifty-fourth-b district, and fifty-fifth district.

Sec. 8125. (1) The fifty-fourth-a district consists of the city of Lansing, is a district of the third class, and has the following number of judges:

(a) Through December 31, 1995, 6 judges.

(b) Beginning January 1, 1996, 5 judges.

(2) The fifty-fourth-b district consists of the city of East Lansing, is a district of the third class, and has 2 judges.

(3) The fifty-fifth district consists of the county of Ingham except the cities of Lansing and East Lansing, is a district of the second class, and has 2 judges.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1972, Act 169, Imd. Eff. June 15, 1972;—Am. 1978, Act 164, Imd. Eff. May 25, 1978;—Am. 1980, Act 129, Imd. Eff. May 22, 1980;—Am. 1988, Act 135, Imd. Eff. May 27, 1988;—Am. 1995, Act 112, Imd. Eff. June 29, 1995.

Compiler's note: Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third

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highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Sections 2 to 5 of Act 129 of 1980 provide:

"New circuit and district judgeships; appearance on ballot; duty of candidate; petitions; filing fee.

"Section 2. The new circuit and district judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit, county, or district, a candidate for a new judgeship authorized in that circuit, county, or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in 1980. Petitions for a new judgeship created pursuant to this amendatory act shall bear signatures affixed to the petition after the date by which all counties in the circuit, all district control units in the district, or, in the case of a probate judgeship, the county, have adopted the resolutions required by law to create that office. Notwithstanding any other provision of law, a nonreturnable filing fee of $250.00 may be paid up to 4 p.m. on June 3, 1980 in lieu of petitions for new judgeships authorized by this 1980 amendatory act which are to be filled by election in 1980.

"Additional circuit judgeship for third judicial circuit; terms.

"Section 3. If the additional circuit judgeship permitted by this amendatory act for the third judicial circuit is created pursuant to law, the candidate receiving the highest number of votes in the 1980 general election shall be elected for a term of 8 years, and the candidate receiving the second highest number of votes shall be elected for a term of 6 years.

"Additional circuit judgeship for sixteenth judicial circuit; term.

"Section 4. If the additional circuit judgeship permitted by this amendatory act for the sixteenth judicial circuit is created pursuant to law, the first term of that judgeship shall be 8 years.

"Change in composition of affected judicial circuits; effective date.

"Section 5. If a new judicial circuit of the circuit court is created pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1981. If the fifty-fourth judicial circuit is created pursuant to this act, the incumbent circuit judge of the fortieth judicial circuit who resides in Tuscola county shall become the judge of the fifty-fourth judicial circuit on January 1, 1981, and shall serve until the term for which he was elected in the fortieth judicial circuit expires."

Section 2 of Act 135 of 1988 provides:

"Any additional district judgeship to be added by election in 1988 shall not be authorized to be filled by election unless each district control unit of the district, by resolution adopted by the governing body of the district control unit, approves the creation of that judgeship and unless the clerk of each district control unit adopting such a resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the tenth Tuesday preceding the August primary for the election to fill the additional district judgeship."

600.8126 Fifty-sixth district; creation of fifty-sixth-a district and fifty-sixth-b district.

Sec. 8126. (1) Except as provided in subsection (2), the fifty-sixth district consists of the counties of Barry and Eaton, is a district of the first class, and is divided into the following election divisions:

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(a) The first division consists of the county of Barry and has 1 judge.

(b) The second division consists of the county of Eaton and has 2 judges.

(2) Effective January 1, 1999, if the county of Eaton approves the creation of the fifty-sixth-a district pursuant to law, and if the county of Barry approves the creation of the fifty-sixth-b district pursuant to law, both of the following apply:

(a) The fifty-sixth-a district consists of the county of Eaton, is a district of the first class, and has 2 judges.

(b) The fifty-sixth-b district consists of the county of Barry, is a district of the first class, and has 1 judge.

History: Add. 1968, Act 154, Eff. June 17, 1968;—Am. 1978, Act 164, Imd. Eff. May 25, 1978;—Am. 1998, Act 14, Imd. Eff. Mar. 5 1998.

Compiler's note: Sections 2 to 7 of Act 164 of 1978 provide:

"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be

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eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Enacting sections 1 and 2 of Act 14 of 1998 provide:

"Enacting section 1. The creation of the fifty-sixth-a district and the fifty-sixth-b district, as allowed by this 1998 amendatory act, shall not take place unless resolutions of approval by the county boards of commissioners of the counties of Barry and Eaton, as required by section 8176 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8176, are filed with the state court administrator not later than April 1, 1998.

"Enacting section 2. If new judicial districts of the district court are created under this amendatory act pursuant to section 8176 of the revised judicature act of 1961, 1961 PA 236, MCL 800.8176 *[sic]*, the change in the composition of the affected judicial districts shall take effect for election purposes on April 1, 1998 and shall take effect for judicial purposes on January 1, 1999. If the fifty-sixth-a district and the fifty-sixth-b district are created pursuant to this amendatory act, all of the following apply as to the incumbent judges of the fifty-sixth district:

"(a) The incumbent judge who resides in the first election division of the fifty-sixth district and whose term expires on January 1, 2001 shall become a judge of the fifty-sixth-b district on January 1, 1999 for the balance of the term for which he or she was elected or appointed, except that he or she must continue to meet other requirements for eligibility to serve as district judge, including residency requirements.

"(b) If the incumbent judge in the second election division whose term expires January 1, 1999 seeks election in the fifty-sixth-a district for a term beginning January 1, 1999 and meets other requirements for eligibility to serve as district judge, including residency requirements, that judge is entitled to the designation of his or her office on the ballot in the 1998 August primary election and in the 1998 November general election. The incumbent judge may qualify for nomination by filing an affidavit of candidacy as an incumbent judge of the fifty-sixth-a district as provided in section 467c of the Michigan election law, 1954 PA 116, MCL 168.467c.

"(c) The incumbent judge in the second election division whose term expires January 1, 2003 shall become a judge of the fifty-sixth-a district on January 1, 1999 for the balance of the term for which he or she was elected or appointed, except that he or she must continue to meet other requirements for eligibility to serve as district judge, including residency requirements."

600.8127 Fifty-seventh district; Allegan county.

Sec. 8127. The fifty-seventh district consists of the county of Allegan, is a district of the first class and has 2 judges.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1976, Act 125, Imd. Eff. May 21, 1976.

600.8128 Fifty-eighth district.

Sec. 8128. The fifty-eighth district consists of the county of Ottawa, is a district of the first class and has 3 judges. Subject to section 8175, this district may have 1 additional judge effective January 1, 1991.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1990, Act 54, Imd. Eff. Apr. 11, 1990.

Compiler's note: Section 2 of Act 54 of 1990 provides:

"If a new judicial circuit of the circuit court is created under this amendatory act pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1991. If the fifty-sixth judicial circuit is created pursuant to this amendatory act, the incumbent judge of the fifth judicial circuit who resides in Eaton county shall become the judge of the fifty-sixth judicial circuit on January 1, 1991, and shall serve until the term for which he or she was elected in the fifth judicial circuit expires."

600.8128a Fifty-ninth district.

Sec. 8128a. The fifty-ninth district consists of the cities of Grandville and Walker, is a district of the third class and has 1 judge.

History: Add. 1977, Act 129, Imd. Eff. Oct. 21, 1977.

600.8129 Sixtieth district.

Sec. 8129. (1) The sixtieth district consists of the county of Muskegon, is a district of the first class and, through December 31, 1992, has 5 judges.

(2) Effective January 1, 1993, the sixtieth district has 4 judges.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1972, Act 363, Eff. Apr. 1, 1973;—Am. 1992, Act 50, Imd. Eff. May 12, 1992.

600.8130 Sixty-first to sixty-third district.

Sec. 8130. (1) The sixty-first district consists of the city of Grand Rapids, is a district of the third class and has 5 judges. Subject to section 8175, this district may have 1 additional judge effective January 1, 1989.

(2) The sixty-second-a district consists of the city of Wyoming, is a district of the third class and has 2 judges.

(3) The sixty-second-b district consists of the city of Kentwood, is a district of the third class and has 1 judge.

(4) The sixty-third district consists of the county of Kent except the cities of Grand Rapids, Walker, Grandville, Wyoming and Kentwood, is a district of the second class and is divided into the following

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election divisions:

(a) The first division consists of the cities of Cedar Springs and Rockford and the townships of Tyrone, Solon, Nelson, Spencer, Sparta, Algoma, Courtland, Oakfield, Alpine, Plainfield, Cannon and Grattan and has 1 judge.

(b) The second division consists of the cities of East Grand Rapids and Lowell and the townships of Grand Rapids, Ada, Vergennes, Cascade, Lowell, Byron, Gaines, Caledonia and Bowne and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1970, Act 30, Imd. Eff. June 11, 1970;—Am. 1977, Act 129, Imd. Eff. Oct. 21, 1977;—Am. 1988, Act 135, Imd. Eff. May 27, 1988.

Compiler's note: Section 2 of Act 135 of 1988 provides:"Any additional district judgeship to be added by election in 1988 shall not be authorized to be filled by election unless each district control unit of the district, by resolution adopted by the governing body of the district control unit, approves the creation of that judgeship and unless the clerk of each district control unit adopting such a resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the tenth Tuesday preceding the August primary for the election to fill the additional district judgeship."

600.8131 Sixty-fourth-a district and sixty-fourth-b district.

Sec. 8131. (1) The sixty-fourth-a district consists of the county of Ionia, is a district of the first class and has 1 judge.

(2) The sixty-fourth-b district consists of the county of Montcalm, is a district of the first class, and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1970, Act 49, Imd. Eff. Jan. 1, 1971;—Am. 1990, Act 54, Imd. Eff. Apr. 11, 1990;—Am. 1992, Act 50, Imd. Eff. May 12, 1992;—Am. 1994, Act 138, Imd. Eff. May 26, 1994.

Compiler's note: Section 2 of Act 54 of 1990 provides:

"If a new judicial circuit of the circuit court is created under this amendatory act pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1991. If the fifty-sixth judicial circuit is created pursuant to this amendatory act, the incumbent judge of the fifth judicial circuit who resides in Eaton county shall become the judge of the fifty-sixth judicial circuit on January 1, 1991, and shall serve until the term for which he or she was elected in the fifth judicial circuit expires."

600.8132 Sixty-fifth district; Gratiot and Clinton counties; approval of sixty-fifth-a and sixty-fifth-b districts.

Sec. 8132. (1) Except as provided in subsection (2), the sixty-fifth district consists of the counties of Gratiot and Clinton, is a district of the first class, and is divided into the following election divisions:

(a) The first division consists of the county of Gratiot and has 1 judge.

(b) The second division consists of the county of Clinton and has 1 judge.

(2) Effective January 1, 1999, if the county of Clinton approves the creation of the sixty-fifth-a district pursuant to law and if the county of Gratiot approves the creation of the sixty-fifth-b district pursuant to law, both of the following apply:

(a) The sixty-fifth-a district consists of the county of Clinton, is a district of the first class, and has 1 judge.

(b) The sixty-fifth-b district consists of the county of Gratiot, is a district of the first class, and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1998, Act 47, Imd. Eff. Mar. 30, 1998.

Compiler's note: Enacting sections 1 and 2 of Act 46 of 1998 provide:

"Enacting section 1. The creation of the sixty-fifth-a district and the sixty-fifth-b district, as allowed by this 1998 amendatory act, shall not take place unless resolutions of approval by the county boards of commissioners of the counties of Clinton and Gratiot, as required by section 8176 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8176, are filed with the state court administrator not later than April 1, 1998.

"Enacting section 2. If new judicial districts of the district court are created under this amendatory act pursuant to section 8176 of the revised judicature act of 1961, 1961 PA 236, MCL 800.8176 *[sic]*, the change in the composition of the affected judicial districts shall take effect for judicial purposes on January 1, 1999. If the sixty-fifth-a and sixty-fifth-b districts are created pursuant to this amendatory act, all of the following apply as to the incumbent judges of the sixty-fifth district serving on the effective date of this amendatory act:

"(a) The incumbent judge who resides in Clinton county and whose term expires on January 1, 2003 shall become a judge of the sixty-fifth-a district on January 1, 1999 for the balance of the term for which he or she was elected, except that he or she must continue to meet other requirements for eligibility to serve as district judge, including residency requirements.

"(b) The incumbent judge who resides in Gratiot county and whose term expires on January 1, 2003 shall become a judge of the sixty-fifth-b district on January 1, 1999 for the balance of the term for which he or she was elected, except that he or she must continue to meet other requirements for eligibility to serve as district judge, including residency requirements."

600.8133 Sixty-sixth district; Shiawassee county.

Sec. 8133. The sixty-sixth district consists of the county of Shiawassee, is a district of the first class and has 2 judges.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1970, Act 30, Imd. Eff. June 11, 1970.

600.8134 Sixty-seventh and sixty-eighth districts; resolution designating county seat as

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place where court for sixty-seventh district sits in central court facility.

Sec. 8134. (1) The sixty-seventh district consists of the county of Genesee except the city of Flint, is a district of the second class, and is divided into the following election divisions:

(a) The first division consists of the cities of Flushing and Clio and the townships of Flushing, Flint, Montrose, Thetford, and Vienna and has 1 judge.

(b) The second division consists of the cities of Davison and Burton and the townships of Davison, Forest, Richfield, and Atlas and has 2 judges.

(c) The third division consists of the city of Mt. Morris and the townships of Mt. Morris and Genesee and has 1 judge.

(d) The fourth division consists of the cities of Fenton, Grand Blanc, and Swartz Creek and the townships of Fenton, Argentine, Grand Blanc, Mundy, Gaines, and Clayton and has 2 judges.

(2) Notwithstanding any other provision of this act, the county board of commissioners may by resolution designate the county seat as a place where the court for the sixty-seventh district shall sit in a central court facility. The adoption of such a resolution shall not require the approval of the majority of the judges of the district, and shall bind the county to maintain a court facility in each municipality in the sixty-seventh district where a court facility exists on the date of the resolution.

(3) The sixty-eighth district consists of the city of Flint, is a district of the third class, and has the following number of judges:

(a) Until subdivision (b) takes effect, this district has 6 judges.

(b) This district has 5 judges beginning on the earlier of the following dates:

(*i*) The date on which a vacancy occurs in the office of district judge in this district.

(*ii*) The beginning date of the term for which an incumbent district judge in this district no longer seeks reelection to that office.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1972, Act 169, Imd. Eff. June 15, 1972;—Am. 1974, Act 145, Imd. Eff. June 7, 1974;—Am. 1980, Act 129, Imd. Eff. May 22, 1980;—Am. 1987, Act 75, Imd. Eff. June 29, 1987;—Am. 2001, Act 253, Eff. Mar. 22, 2002.

Compiler's note: Sections 2 to 7 of Act 145 of 1974 provide:

"Effective date of changes.

"Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

"Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating petitions; incumbent judges.

"Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

"Nominating petitions.

"Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

"Nomination, election, and terms of candidates for new circuit judgeships.

"Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10 years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

"Terms of additional circuit judges.

"Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

"Terms of additional district judges in certain districts.

"Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years."

Sections 2 to 5 of Act 129 of 1980 provide:

"New circuit and district judgeships; appearance on ballot; duty of candidate; petitions; filing fee.

"Section 2. The new circuit and district judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit, county, or district, a candidate for a new judgeship

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authorized in that circuit, county, or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in 1980. Petitions for a new judgeship created pursuant to this amendatory act shall bear signatures affixed to the petition after the date by which all counties in the circuit, all district control units in the district, or, in the case of a probate judgeship, the county, have adopted the resolutions required by law to create that office. Notwithstanding any other provision of law, a nonreturnable filing fee of $250.00 may be paid up to 4 p.m. on June 3, 1980 in lieu of petitions for new judgeships authorized by this 1980 amendatory act which are to be filled by election in 1980.

"Additional circuit judgeship for third judicial circuit; terms.

"Section 3. If the additional circuit judgeship permitted by this amendatory act for the third judicial circuit is created pursuant to law, the candidate receiving the highest number of votes in the 1980 general election shall be elected for a term of 8 years, and the candidate receiving the second highest number of votes shall be elected for a term of 6 years.

"Additional circuit judgeship for sixteenth judicial circuit; term.

"Section 4. If the additional circuit judgeship permitted by this amendatory act for the sixteenth judicial circuit is created pursuant to law, the first term of that

Sec. 8134. (1) The sixty-seventh district consists of the county of Genesee except the city of Flint, is a district of the second class, and is divided into the following election divisions:

(a) The first division consists of the cities of Flushing and Clio and the townships of Flushing, Flint, Montrose, Thetford, and Vienna and has 1 judge.

(b) The second division consists of the cities of Davison and Burton and the townships of Davison, Forest, Richfield, and Atlas and has 2 judges.

(c) The third division consists of the city of Mt. Morris and the townships of Mt. Morris and Genesee and has 1 judge.

(d) The fourth division consists of the cities of Fenton, Grand Blanc, and Swartz Creek and the townships of Fenton, Argentine, Grand Blanc, Mundy, Gaines, and Clayton and has 2 judges.

(2) Notwithstanding any other provision of this act, the county board of commissioners may by resolution designate the county seat as a place where the court for the sixty-seventh district shall sit in a central court facility. The adoption of such a resolution shall not require the approval of the majority of the judges of the district, and shall bind the county to maintain a court facility in each municipality in the sixty-seventh district where a court facility exists on the date of the resolution.

(3) The sixty-eighth district consists of the city of Flint, is a district of the third class, and has the following number of judges:

(a) Until subdivision (b) takes effect, this district has 6 judges.

(b) This district has 5 judges beginning on the earlier of the following dates:

(*i*) The date on which a vacancy occurs in the office of district judge in this district.

(*ii*) The beginning date of the term for which an incumbent district judge in this district no longer seeks reelection to that office.

"Change in composition of affected judicial circuits; effective date.

"Section 5. If a new judicial circuit of the circuit court is created pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1981. If the fifty-fourth judicial circuit is created pursuant to this act, the incumbent circuit judge of the fortieth judicial circuit who resides in Tuscola county shall become the judge of the fifty-fourth judicial circuit on January 1, 1981, and shall serve until the term for which he was elected in the fortieth judicial circuit expires."

600.8135 Seventieth district.

Sec. 8135. The seventieth district consists of the county of Saginaw, is a district of the first class, and is divided into the following election divisions:

(a) The first division consists of the cities of Saginaw and Zilwaukee and the townships of Zilwaukee, Buena Vista, Carrollton, and Bridgeport and has 3 judges.

(b) The second division consists of the county of Saginaw except the cities of Saginaw and Zilwaukee and the townships of Zilwaukee, Buena Vista, Carrollton, and Bridgeport and has 3 judges.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1971, Act 38, Eff. Jan. 1, 1972;—Am. 1982, Act 161, Imd. Eff. May 20, 1982.

600.8136 Seventy-first A and B districts; Lapeer and Tuscola counties.

Sec. 8136. (1) The seventy-first-A district consists of the county of Lapeer, is a district of the first class and has 2 judges.

(2) The seventy-first-B district consists of the county of Tuscola, is a district of the first class and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1970, Act 30, Imd. Eff. June 11, 1970.

600.8137 Seventy-second district; St. Clair county.

Sec. 8137. The seventy-second district consists of the county of St. Clair, is a district of the first class and has 3 judges.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8138 Seventy-third district; Huron and Sanilac counties; creation of seventy-third-a and seventy-third-b districts.

Sec. 8138. (1) Except as provided in subsection (2), the seventy-third district consists of the counties of Huron and Sanilac, is a district of the first class, and is divided into the following election divisions:

(a) The first division consists of the county of Huron and has 1 judge.

(b) The second division consists of the county of Sanilac and has 1 judge.

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(2) Effective January 1, 1999, if the county of Sanilac approves the creation of the seventy-third-a district pursuant to law, and if the county of Huron approves the creation of the seventy-third-b district pursuant to law, both of the following apply:

(a) The seventy-third-a district consists of the county of Sanilac, is a district of the first class, and has 1 judge.

(b) The seventy-third-b district consists of the county of Huron, is a district of the first class, and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1998, Act 46, Imd. Eff. Mar. 30, 1998.

Compiler's note: Enacting sections 1 and 2 of Act 46 of 1998 provide:

"Enacting section 1. The creation of the seventy-third-a district and the seventy-third-b district, as allowed by this 1998 amendatory act, shall not take place unless resolutions of approval by the county boards of commissioners of the counties of Huron and Sanilac, as required by section 8176 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8176, are filed with the state court administrator not later than April 1, 1998.

"Enacting section 2. If new judicial districts of the district court are created under this amendatory act pursuant to section 8176 of the revised judicature act of 1961, 1961 PA 236, MCL 800.8176 *[sic]*, the change in the composition of the affected judicial districts shall take effect for judicial purposes on January 1, 1999. If the seventy-third-a district and the seventy-third-b district are created pursuant to this amendatory act, both of the following apply to the judges of the seventy-third district serving on the effective date of this amendatory act:

"(a) The judge who resides in Sanilac county and whose term expires on January 1, 2003 shall become a judge of the seventy-third-a district on January 1, 1999 for the balance of the term for which he or she was elected, except that he or she must continue to meet other requirements for eligibility to serve as district judge, including residency requirements.

"(b) The judge who resides in Huron county and whose term expires on January 1, 2003 shall become a judge of the seventy-third-b district on January 1, 1999 for the balance of the term to which he or she was elected, except that he or she must continue to meet other requirements for eligibility to serve as district judge, including residency requirements."

600.8139 Seventy-fourth district; Bay county.

Sec. 8139. The seventy-fourth district consists of the county of Bay, is a district of the first class and has 3 judges.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8140 Seventy-fifth district; Midland county.

Sec. 8140. The seventy-fifth district consists of the county of Midland, is a district of the first class and has 2 judges.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8141 Seventy-sixth district; Isabella county.

Sec. 8141. The seventy-sixth district consists of the county of Isabella, is a district of the first class and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8142 Seventy-seventh district; Mecosta and Osceola counties.

Sec. 8142. The seventy-seventh district consists of the counties of Mecosta and Osceola, is a district of the first class and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8143 Seventy-eighth district.

Sec. 8143. The seventy-eighth district consists of the counties of Newaygo and Lake, is a district of the first class, and has 1 judge. Beginning April 1, 2003, the seventy-eighth district consists of the counties of Newaygo and Oceana, is a district of the first class, and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 2002, Act 92, Eff. Mar. 31, 2003.

600.8144 Seventy-ninth district.

Sec. 8144. The seventy-ninth district consists of the counties of Oceana and Mason, is a district of the first class, and has 1 judge. Beginning April 1, 2003, the seventy-ninth district consists of the counties of Lake and Mason, is a district of the first class, and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 2002, Act 92, Eff. Mar. 31, 2003.

600.8145 Eightieth district; Clare and Gladwin counties.

Sec. 8145. The eightieth district consists of the counties of Clare and Gladwin, is a district of the first class and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

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600.8146 Eighty-first district.

Sec. 8146. The eighty-first district consists of the counties of Iosco and Arenac, is a district of the first class, and has 1 judge. Beginning April 1, 2003, the eighty-first district consists of the counties of Alcona, Arenac, Iosco, and Oscoda, is a district of the first class, and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 2002, Act 92, Eff. Mar. 31, 2003.

600.8147 Eighty-second district.

Sec. 8147. The eighty-second district consists of the counties of Alcona, Oscoda, and Ogemaw, is a district of the first class, and has 1 judge. Beginning April 1, 2003, the eighty-second district consists of the county of Ogemaw, is a district of the first class, and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1990, Act 54, Imd. Eff. Apr. 11, 1990;—Am. 2002, Act 92, Eff. Mar. 31, 2003.

Compiler's note: Section 2 of Act 54 of 1990 provides:

"If a new judicial circuit of the circuit court is created under this amendatory act pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1991. If the fifty-sixth judicial circuit is created pursuant to this amendatory act, the incumbent judge of the fifth judicial circuit who resides in Eaton county shall become the judge of the fifty-sixth judicial circuit on January 1, 1991, and shall serve until the term for which he or she was elected in the fifth judicial circuit expires."

600.8148 Eighty-third district.

Sec. 8148. The eighty-third district consists of the counties of Roscommon and Crawford, is a district of the first class, and has 1 judge. Beginning April 1, 2003, the eighty-third district consists of the county of Roscommon, is a district of the first class, and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 2002, Act 92, Eff. Mar. 31, 2003.

600.8149 Eighty-fourth district; Wexford and Missaukee counties.

Sec. 8149. The eighty-fourth district consists of the counties of Wexford and Missaukee, is a district of the first class and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8150 Eighty-fifth district; Manistee and Benzie counties.

Sec. 8150. The eighty-fifth district consists of the counties of Manistee and Benzie, is a district of the first class and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8151 Eighty-sixth district; Grand Traverse, Antrim, and Leelanau counties.

Sec. 8151. (1) Except as provided in subsection (2), the eighty-sixth district consists of the counties of Grand Traverse and Leelanau, is a district of the first class, and has 2 judges.

(2) Effective March 26, 2000, the eighty-sixth district consists of the counties of Grand Traverse, Antrim, and Leelanau, is a district of the first class, and has 3 judges. Effective March 26, 2000, the additional judgeship in this district shall be filled by the incumbent judge of the eighty-seventh district residing in Antrim county with a term ending January 1, 2001 who shall serve as a judge of the eighty-sixth district for the balance of the term to which he or she was elected or appointed.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1976, Act 125, Imd. Eff. May 21, 1976;—Am. 2000, Act 38, Imd. Eff. Mar. 24, 2000.

Compiler's note: Enacting section 1 of 2000 PA 38 provides:

"The following provisions apply to the 2000 general election for judgeship of the eighty-sixth district only:

"(a) If 2 incumbent district judges of the eighty-sixth district are candidates for the office of judge, or if no incumbent district judge of the eighty-sixth district is a candidate for the office of judge, the candidate for judgeship of the eighty-sixth district receiving the highest number of votes in the 2000 general election shall be elected for a term of 6 years and the candidate for judgeship of the eighty-sixth district receiving the second highest number of votes shall be elected for a term of 4 years for that election only.

"(b) If 1 incumbent district judge of the eighty-sixth district is a candidate for the office of judge, the candidate receiving the highest number of votes for the judgeship for which the incumbent judge is seeking election shall be elected for a term of 6 years, and the candidate receiving the highest number of votes for the judgeship for which the incumbent judge is not seeking election shall be elected for a term of 4 years."

600.8152 Eighty-seventh district.

Sec. 8152. (1) Except as provided in subsections (2) and (3), the eighty-seventh district consists of the counties of Crawford, Kalkaska, and Otsego, is a district of the first class, and has 1 judge.

(2) If the condition in subsection (3) is met, all of the following apply effective January 2, 2009:

(a) The eighty-seventh district consists of the county of Otsego, is a district of the first class, and has 1

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judge, and shall be redesignated as the eighty-seventh-A district.

(b) The eighty-seventh-B district consists of the county of Kalkaska and is a district of the first class. Pursuant to section 810a, the Kalkaska county probate judge shall serve as judge of the eighty-seventh-B district.

(c) The eighty-seventh-C district consists of the county of Crawford and is a district of the first class. Pursuant to section 810a, the Crawford county probate judge shall serve as judge of the eighty-seventh-C district.

(3) Subsection (2) does not take effect unless the county of Otsego by resolution adopted by the governing body of the district funding unit approves the reformation of the eighty-seventh district and its redesignation as the eighty-seventh-A district and files a copy of the resolution with the state court administrator.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1990, Act 54, Imd. Eff. Apr. 11, 1990;—Am. 2000, Act 38, Imd. Eff. Mar. 24, 2000;—Am. 2002, Act 92, Eff. Mar. 31, 2003;—Am. 2008, Act 137, Eff. Mar. 31, 2009.

Compiler's note: Section 2 of Act 54 of 1990 provides:

"If a new judicial circuit of the circuit court is created under this amendatory act pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1991. If the fifty-sixth judicial circuit is created pursuant to this amendatory act, the incumbent judge of the fifth judicial circuit who resides in Eaton county shall become the judge of the fifty-sixth judicial circuit on January 1, 1991, and shall serve until the term for which he or she was elected in the fifth judicial circuit expires."

Enacting sections 1 and 2 of Act 137 of 2008 provide:

"Enacting section 1. The judge of the eighty-seventh district at 11:59 p.m. on January 1, 2009, who resides in the county of Otsego, shall serve as judge of the eighty-seventh-A district for the balance of the term to which he or she was elected or appointed judge of the eighty-seventh district.

"Enacting section 2. If Otsego county, acting through its governing body, approves the reformation of the eighty-seventh district to consist of the county of Otsego with 1 district judgeship, that approval constitutes an exercise of the district funding unit's option to provide a new activity or service or to increase the level of activity or service offered in the district funding unit beyond that required by existing law, as the elements of that option are defined by 1979 PA 101, MCL 21.231 to 21.244, and a voluntary acceptance by the district funding unit of all expenses and capital improvements that may result from reformation of the district. However, the exercise of the option does not affect the state's obligation to pay the same portion of each judge's salary which is paid by the state to other district judges as provided by law, or to appropriate and disburse funds to the district funding unit for the necessary costs of state requirements established by a state law which becomes effective on or after December 23, 1978."

600.8153 Eighty-eighth district; Alpena and Montmorency counties.

Sec. 8153. The eighty-eighth district consists of the counties of Alpena and Montmorency, is a district of the first class and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8154 Eighty-ninth district; Cheboygan and Presque Isle counties.

Sec. 8154. The eighty-ninth district consists of the counties of Cheboygan and Presque Isle, is a district of the first class and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8155 Ninetieth district; Emmet and Charlevoix counties.

Sec. 8155. The ninetieth district consists of the counties of Emmet and Charlevoix, is a district of the first class and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8156 Ninety-first district; Chippewa county.

Sec. 8156. The ninety-first district consists of the county of Chippewa, is a district of the first class and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8157 Ninety-second district; Mackinac and Luce counties.

Sec. 8157. The ninety-second district consists of the counties of Mackinac and Luce, is a district of the first class and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8158 Ninety-third district; Schoolcraft and Alger counties.

Sec. 8158. The ninety-third district consists of the counties of Schoolcraft and Alger, is a district of the first class and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8159 Ninety-fourth district; Delta county.

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Sec. 8159. The ninety-fourth district consists of the county of Delta, is a district of the first class and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8160 Ninety-fifth-a district and ninety-fifth-b district.

Sec. 8160. (1) The ninety-fifth-a district consists of the county of Menominee, is a district of the first class and has 1 judge.

(2) The ninety-fifth-b district consists of the counties of Dickinson and Iron, is a district of the first class and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1972, Act 169, Imd. Eff. June 15, 1972.

600.8161 Ninety-sixth district; Marquette county.

Sec. 8161. The ninety-sixth district consists of the county of Marquette, is a district of the first class and has 2 judges.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8162 Ninety-seventh district.

Sec. 8162. The ninety-seventh district consists of the counties of Houghton, Keweenaw and Baraga, is a district of the first class and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1972, Act 169, Imd. Eff. June 15, 1972.

600.8163 Ninety-eighth district; Ontonagon and Gogebic counties.

Sec. 8163. The ninety-eighth district consists of the counties of Ontonagon and Gogebic, is a district of the first class and has 1 judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8164 Repealed. 1972, Act 169, Imd. Eff. June 15, 1972.

Compiler's note: The repealed section pertained to the ninety-ninth district, consisting of Houghton and Keweenaw counties.

600.8171 Changes in districts; supreme court recommendations.

Sec. 8171. The supreme court may make recommendations to the legislature in regard to changes in the number of judges, the creation, alteration and discontinuance of districts based on changes in judicial activity.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8175 Additional district judgeships; creation; approval by district control unit; resolution; filing; valid approval of judgeship; notice to elections division; state's obligation; election; first term.

Sec. 8175. (1) The additional district judgeships permitted by this chapter shall not be authorized to be filled by election unless each district control unit of the district, by resolution adopted by the governing body of the district control unit, approves the creation of that judgeship and unless the clerk of each district control unit adopting such a resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the sixteenth Tuesday preceding the August primary for the election to fill the additional district judgeship. The state court administrator shall immediately notify the elections division of the department of state with respect to each new district judgeship authorized pursuant to this subsection.

(2) A resolution required under subsection (1) that is filed before the effective date of the amendatory act that authorized that judgeship is a valid approval of the judgeship for purposes of this section only if the filing occurs within the 2-year state legislative session during which the amendatory act was enacted. A resolution required under subsection (1) that is filed after the effective date of the amendatory act that added that judgeship is a valid approval of the judgeship for purposes of this section only if the filing occurs not later than 4 p.m. of the sixteenth Tuesday preceding the August primary for the election immediately preceding the effective date of the additional judgeship.

(3) By permitting an additional judgeship, the legislature is not creating that judgeship. If a district control unit, acting through its governing body, approves the creation of an additional district judgeship, that approval constitutes an exercise of the district control unit's option to provide a new activity or service or to increase the level of activity or service offered in the district control unit 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 district control unit of all expenses and capital improvements which may result from the creation of the judgeship. However, the exercise of the option does not affect the state's obligation to pay the same portion of the additional judge's salary which is

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paid by the state to the other district judges in the same district, or to appropriate and disburse funds to the district control unit for the necessary costs of state requirements established by a state law which becomes effective on or after December 23, 1978.

(4) Each additional district judgeship created pursuant to subsection (1) shall be filled by election pursuant to the Michigan election law, Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws. The first term of each additional district judgeship shall be 6 years, unless the law permitting the additional judgeship provides for a term of a different length.

History: Add. 1980, Act 129, Imd. Eff. May 22, 1980;—Am. 1988, Act 135, Imd. Eff. May 27, 1988;—Am. 1990, Act 54, Imd. Eff. Apr. 11, 1990.

Compiler's note: Sections 2 to 5 of Act 129 of 1980 provide:

"New circuit and district judgeships; appearance on ballot; duty of candidate; petitions; filing fee.

"Section 2. The new circuit and district judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit, county, or district, a candidate for a new judgeship authorized in that circuit, county, or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in 1980. Petitions for a new judgeship created pursuant to this amendatory act shall bear signatures affixed to the petition after the date by which all counties in the circuit, all district control units in the district, or, in the case of a probate judgeship, the county, have adopted the resolutions required by law to create that office. Notwithstanding any other provision of law, a nonreturnable filing fee of $250.00 may be paid up to 4 p.m. on June 3, 1980 in lieu of petitions for new judgeships authorized by this 1980 amendatory act which are to be filled by election in 1980.

"Additional circuit judgeship for third judicial circuit; terms.

"Section 3. If the additional circuit judgeship permitted by this amendatory act for the third judicial circuit is created pursuant to law, the candidate receiving the highest number of votes in the 1980 general election shall be elected for a term of 8 years, and the candidate receiving the second highest number of votes shall be elected for a term of 6 years.

"Additional circuit judgeship for sixteenth judicial circuit; term.

"Section 4. If the additional circuit judgeship permitted by this amendatory act for the sixteenth judicial circuit is created pursuant to law, the first term of that judgeship shall be 8 years.

"Change in composition of affected judicial circuits; effective date.

"Section 5. If a new judicial circuit of the circuit court is created pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1981. If the fifty-fourth judicial circuit is created pursuant to this act, the incumbent circuit judge of the fortieth judicial circuit who resides in Tuscola county shall become the judge of the fifty-fourth judicial circuit on January 1, 1981, and shall serve until the term for which he was elected in the fortieth judicial circuit expires."

Section 2 of Act 135 of 1988 provides:

"Any additional district judgeship to be added by election in 1988 shall not be authorized to be filled by election unless each district control unit of the district, by resolution adopted by the governing body of the district control unit, approves the creation of that judgeship and unless the clerk of each district control unit adopting such a resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the tenth Tuesday preceding the August primary for the election to fill the additional district judgeship."

Section 2 of Act 54 of 1990 provides:

"If a new judicial circuit of the circuit court is created under this amendatory act pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1991. If the fifty-sixth judicial circuit is created pursuant to this amendatory act, the incumbent judge of the fifth judicial circuit who resides in Eaton county shall become the judge of the fifty-sixth judicial circuit on January 1, 1991, and shall serve until the term for which he or she was elected in the fifth judicial circuit expires."

600.8176 Creation of new district and judgeship; conditions; notification of elections division; resolution; exercise of option; obligation of state; election and term of judgeship; approval of district control unit not required.

Sec. 8176. (1) If a new district is proposed by law, that new district shall not be created and any district judgeship proposed for the district shall not be authorized or filled by election unless each district control unit in the proposed district, by resolution adopted by the governing body of the district control unit, approves the creation of the new district and each judgeship proposed for the district and unless the clerk of each district control unit adopting that resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the sixteenth Tuesday preceding the August primary for the election immediately preceding the effective date of the new district. The state court administrator shall immediately notify the elections division of the department of state with respect to each new judicial district and district judgeship authorized pursuant to this subsection.

(2) A resolution required under subsection (1) that is filed before the effective date of the amendatory act that authorized that new district is a valid approval for purposes of this section only if the filing occurs within the 2-year state legislative session during which the amendatory act was enacted. A resolution required under subsection (1) that is filed after the effective date of the amendatory act that authorized that new district is a valid approval for purposes of this section only if the filing occurs not later than 4 p.m. of the sixteenth Tuesday preceding the August primary for the election immediately preceding the effective date of the new district.

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(3) By proposing a new district and 1 or more district judgeships for the district, the legislature is not creating that district or any judgeship in the district. If a district control unit, acting through its governing body, approves the creation of a new district and 1 or more district judgeships proposed by law for that district, that approval constitutes an exercise of the district control unit's option to provide a new activity or service or to increase the level of activity or service offered in the district control unit beyond that required by existing law, as the elements of that option are defined by 1979 PA 101, MCL 21.231 to 21.244, and a voluntary acceptance by the district control unit of all expenses and capital improvements which may result from the creation of the new district and each judgeship. However, the exercise of the option does not affect the state's obligation to pay the same portion of each judge's salary which is paid by the state to other district judges as provided by law, or to appropriate and disburse funds to the district control unit for the necessary costs of state requirements established by a state law which becomes effective on or after December 23, 1978.

(4) Each district judgeship created pursuant to subsection (1) shall be filled by election pursuant to the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. The first term of each district judgeship shall be 6 years, unless the law permitting the creation of the new district and 1 or more judgeships provides for a term of a different length.

(5) The reformation of the seventy-eighth, seventy-ninth, eighty-first, eighty-second, eighty-third, and eighty-seventh judicial districts pursuant to the 2002 amendatory act that added this subsection does not require the approval of the district control unit under this section or section 8175.

History: Add. 1984, Act 95, Imd. Eff. Apr. 23, 1984;—Am. 1990, Act 54, Imd. Eff. Apr. 11, 1990;—Am. 1994, Act 138, Imd. Eff. May 26, 1994;—Am. 2002, Act 92, Eff. Mar. 31, 2003.

Compiler's note: Section 2 of Act 54 of 1990 provides:

"If a new judicial circuit of the circuit court is created under this amendatory act pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1991. If the fifty-sixth judicial circuit is created pursuant to this amendatory act, the incumbent judge of the fifth judicial circuit who resides in Eaton county shall become the judge of the fifty-sixth judicial circuit on January 1, 1991, and shall serve until the term for which he or she was elected in the fifth judicial circuit expires."

600.8177 Consolidation of district of third class with district of second class; procedure.

Sec. 8177. (1) If it is proposed by law to consolidate a district of the third class into or with a district of the second class, that consolidation shall not take effect unless each district control unit in the district of the second class, and each district control unit in the district of the third class that contributes to the maintaining, financing, and operating of the district court in the district of the third class, by resolution adopted by the governing body of each of those district control units, approves the consolidation and unless the clerk of each district control unit adopting the resolution files a copy of the resolution with the state court administrator. The consolidation shall take effect upon a date agreed to by all district control units adopting the resolution but not less than 60 days after the last affected district control unit adopted its resolution. The state court administrator shall immediately notify the elections division of the department of state when a consolidation has been approved under this section and the date on which the consolidation will take effect. This subsection shall apply whether the consolidated district remains a district of the second class or the consolidation results in a district of the first class.

(2) By proposing or authorizing a consolidation of a district of the third class into or with a district of the second class, the legislature is not creating a new obligation for any affected district control unit. If a district control unit, acting through its governing body, approves the consolidation, then the approval constitutes an exercise of the district control unit's option to increase the level of activity and service offered in that district control unit 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 that district control unit of all expenses and capital improvements which may result from the consolidation of the districts. However, the exercise of the option does not affect the state's obligation to pay the same portion of each judge's salary which is paid by the state to other district judges as provided by law, or to appropriate and disburse funds to the district control unit for the necessary costs of state requirements established by a state law which becomes effective on or after December 23, 1978.

(3) All full-time employees of the district court in the district of the third class shall be transferred to the district court in the consolidated district on the effective date of the consolidation. Except as provided in any agreement of consolidation by the affected district control units, salary, seniority rights, annual leave, sick leave, and retirement benefits of transferred employees shall be preserved and continued in their positions in the consolidated district in a manner not inferior to their prior status.

(4) On the effective date of the consolidation, each incumbent district judge in both districts shall serve as a district judge in the consolidated district. If an election division is created with the same boundaries as a district before consolidation, each judge from the former district shall be considered an incumbent in the new

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election division.

History: Add. 1988, Act 135, Imd. Eff. May 27, 1988;—Am. 1990, Act 54, Imd. Eff. Apr. 11, 1990.

Compiler's note: Section 2 of Act 135 of 1988 provides:

"Any additional district judgeship to be added by election in 1988 shall not be authorized to be filled by election unless each district control unit of the district, by resolution adopted by the governing body of the district control unit, approves the creation of that judgeship and unless the clerk of each district control unit adopting such a resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the tenth Tuesday preceding the August primary for the election to fill the additional district judgeship."

Section 2 of Act 54 of 1990 provides:

"If a new judicial circuit of the circuit court is created under this amendatory act pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1991. If the fifty-sixth judicial circuit is created pursuant to this amendatory act, the incumbent judge of the fifth judicial circuit who resides in Eaton county shall become the judge of the fifty-sixth judicial circuit on January 1, 1991, and shall serve until the term for which he or she was elected in the fifth judicial circuit expires."

600.8178 Failure to adopt resolution approving consolidation; submission of question to vote of electors; procedure.

Sec. 8178. (1) If it is proposed by law to consolidate 2 or more districts and 1 or all of the district control units fail, not less than 180 days before the next general election, to adopt a resolution approving the consolidation as provided in section 8177, then any 1 of the district control units designated for consolidation may submit, by resolution adopted by all of the governing bodies within the district, the question of consolidation to a vote of the electors in the county in which the consolidation is proposed. The resolutions shall be submitted to the county clerk of the county where the consolidation is proposed not later than 60 days before the general election. The question shall be submitted and placed on the ballot at the next general election.

(2) By proposing or authorizing a consolidation of districts, the legislature is not creating a new obligation for any affected district control unit. If a district control unit, acting through its governing body and electors, approves the consolidation, then the approval constitutes an exercise of the district control unit's option to increase the level of activity and service offered in that district control unit 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 that district control unit of all expenses and capital improvements which may result from the consolidation of the districts. However, the exercise of the option does not affect the state's obligation to pay the same portion of each judge's salary which is paid by the state to other district judges as provided by law, or to appropriate and disburse funds to the district control unit for the necessary costs of state requirements established by a state law which becomes effective on or after December 23, 1978.

(3) All full-time employees of the district courts shall be transferred to the consolidated district on the effective date of the consolidation. Except as provided in any agreement of consolidation by the affected district control units, salary, seniority rights, annual leave, sick leave, and retirement benefits of transferred employees shall be preserved and continued in their positions in the consolidated district in a manner not inferior to their prior status.

(4) On the effective date of the consolidation, each incumbent district judge in both districts shall serve as a district judge in the consolidated district. If an election division is created with the same boundaries as a district before consolidation, each judge from the former district shall be considered an incumbent in the new election division.

History: Add. 1988, Act 135, Imd. Eff. May 27, 1988.

Compiler's note: Section 2 of Act 135 of 1988 provides:

"Any additional district judgeship to be added by election in 1988 shall not be authorized to be filled by election unless each district control unit of the district, by resolution adopted by the governing body of the district control unit, approves the creation of that judgeship and unless the clerk of each district control unit adopting such a resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the tenth Tuesday preceding the August primary for the election to fill the additional district judgeship."

600.8180 Consolidation of twelfth and thirteenth districts; expenses and capital improvements; judges' salaries; costs of state requirements; filing copies of resolutions and agreements; notification of elections division; transfer of employees; rights and benefits of employees.

Sec. 8180. (1) Because the city of Jackson on April 2, 1985 and the county of Jackson on March 28, 1985 have approved the consolidation of the twelfth and thirteenth districts by resolutions adopted by their respective governing bodies, and because the city of Jackson and the county of Jackson made an agreement regarding the consolidation on April 4, 1985, that approval constitutes an exercise of the county of Jackson's option to increase the level of activity and service offered in that district control unit beyond that required by

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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 that district control unit of all expenses and capital improvements which may result from the consolidation of the twelfth and thirteenth districts. However, the exercise of the option does not affect the state's obligation to pay the same portion of each judge's salary which is paid by the state to other district judges as provided by law, or to appropriate and disburse funds to the district control unit for the necessary costs of state requirements established by a state law which becomes effective on or after December 23, 1978.

(2) The city of Jackson and the county of Jackson shall file copies of the resolutions and the agreement adopted by their governing bodies approving the consolidation of the twelfth and thirteenth districts with the state court administrator before January 1, 1986. The state court administrator shall immediately notify the elections division of the department of state with respect to the consolidation authorized by this amendatory act.

(3) All full-time employees of the abolished thirteenth district court shall be transferred to the twelfth district court effective January 1, 1986. Except as provided in the agreement of consolidation by the city of Jackson and the county of Jackson, seniority rights, annual leave, sick leave, and retirement benefits of those employees shall be preserved and continued in their positions in the twelfth district court in a manner not inferior to their prior status.

History: Add. 1985, Act 192, Imd. Eff. Dec. 20, 1985.

600.8181 Record of proceedings; reports.

Sec. 8181. Each district court shall keep a record of its proceedings in accordance with rules prescribed by the supreme court and make such reports as the court administrator shall require from time to time.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

CHAPTER 82
DISTRICT JUDGES

600.8201 District judges; qualifications.

Sec. 8201. A candidate for and a judge of the district court shall be licensed to practice law in this state and shall be a registered elector of the district and election division in which he seeks and holds office. Except in any district or election division in which there is a vacancy and in which a registered elector qualified to practice law in this state has not filed nominating petitions by the filing deadline for the primary election, a registered elector of an adjoining district or election division within the district who is qualified to practice law in this state shall be eligible for the office of district judge by filing nominating petitions signed by the required number of qualified electors of the district or election division in which he seeks election within 5 days after such deadline.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8202 District judge; annual salary; additional salary; compensation and expenses; increase or decrease in salary; Michigan judges retirement system; evening and Saturday sessions.

Sec. 8202. (1) Subject to subsection (3), a district judge shall receive an annual salary payable by this state as provided in this section.

(2) In addition to the salary received from this state, a district judge may receive from a district funding unit in which the judge regularly holds court an additional salary as determined by the governing legislative body of the district funding unit as provided in this section. Supplemental salaries paid by a district funding unit shall be uniform as to all judges who regularly hold court in the district funding unit. However, the total annual additional salary paid to a district court judge by the district funding units in which the judge regularly holds court shall not cause the district judge's total annual salary received from state and district funding unit funds to exceed the maximum total salary allowed under this section.

(3) An increase in the amount of salary payable to a judge under subsection (1) caused by an increase in the salary payable to a justice of the supreme court resulting from the operation of Act No. 357 of the Public Acts of 1968, being sections 15.211 to 15.218 of the Michigan Compiled Laws, shall not be effective until February 1 of the year in which the increase in the salary of a justice of the supreme court becomes effective. If an increase in salary becomes effective on February 1 of a year in which an increase in the salary of a justice of the supreme court becomes effective, the increase shall be retroactive to January 1 of that year.

(4) Until the salary of a justice of a supreme court exceeds $124,413.00, each district judge shall receive an annual salary of $104,507.00 determined as follows:

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(a) An annual salary of $58,783.00 payable by the state.

(b) An additional salary of $45,724.00 payable by the district funding unit or units as provided in subsection (2). If a district judge receives a total additional salary of $45,724.00 from the district funding unit or units and does not receive less than or more than $45,724.00, including any cost-of-living allowance, the state shall reimburse the district funding unit or units the amount that the unit or units have paid to the judge.

(5) If the salary of a justice of the supreme court exceeds $124,413.00, each district judge shall receive an annual salary determined as follows:

(a) A minimum annual salary of the difference between 84% of the salary of a justice of the supreme court and $45,724.00.

(b) An additional salary of $45,724.00 from the district funding unit or units as provided in subsection (2). If a district judge receives a total additional salary of $45,724.00 from the district funding unit or units and does not receive less than or more than $45,724.00, including any cost-of-living allowance, the state shall reimburse the district funding unit or units the amount that the unit or units have paid to the judge.

(6) A district judge who holds court in a county other than the county of the judge's residence shall be reimbursed for his or her actual and necessary expenses incurred in holding court upon certification and approval by the state court administrator. Upon certification of the judge's expenses, the sum shall be paid out of the state treasury pursuant to the accounting laws of this state.

(7) Salaries of a district court judge may be increased but shall not be decreased during a term of office except and only to the extent of a general salary reduction in all other branches of government.

(8) A judge of the district court is eligible to be a member of the Michigan judges retirement system created by the judges retirement act of 1992, Act No. 234 of the Public Acts of 1992, being sections 38.2101 to 38.2608 of the Michigan Compiled Laws.

(9) The district court in a district may hold evening and Saturday sessions.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1970, Act 248, Eff. July 1, 1971;—Am. 1975, Act 324, Imd. Eff. Jan. 2, 1976;—Am. 1978, Act 150, Imd. Eff. May 18, 1978;—Am. 1980, Act 438, Eff. Sept. 1, 1981;—Am. 1992, Act 233, Eff. Mar. 31, 1993;—Am. 1995, Act 259, Imd. Eff. Jan. 5, 1996;—Am. 1996, Act 374, Eff. Jan. 1, 1997;—Am. 1996, Act 388, Eff. Jan. 1, 1998.

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."

600.8203 District judges; practice of law prohibited.

Sec. 8203. Upon taking office, a district judge shall not engage in the practice of law other than as a judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8204 District judges; nonpartisan election.

Sec. 8204. Judges of the district court shall be nominated and elected on nonpartisan judicial ballots in the manner provided by law.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8212 Temporary service as district judge in adjoining district.

Sec. 8212. The chief judge of any district upon the request of the chief judge of an adjoining district may direct a district judge within the district to serve temporarily as a district judge in the adjoining district from

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which the request was made.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1972, Act 303, Eff. Jan. 1, 1973;—Am. 1976, Act 326, Imd. Eff. Dec. 8, 1976;—Am. 1990, Act 185, Eff. Oct. 1, 1990.

600.8221 Presiding judge; election; term; vacancies; authority.

Sec. 8221. The judges in each district shall meet and by a majority vote of all the judges serving in the district elect a presiding judge to hold office for 1 year. Vacancies in the office of presiding judge shall be filled in like manner. The presiding judge shall have full authority and control, subject to supervision of the supreme court, over all matters of administration. In any district having only 1 judge, such judge shall be the presiding judge. In districts having only 2 judges, the judge receiving the higher number of votes shall be the presiding judge for the year 1969 and thereafter the position of presiding judge shall be alternated.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8222 District judges; meetings.

Sec. 8222. All district judges of a district shall meet on call of the presiding judge to discuss problems pertinent to the operations of the court.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8231 Statewide and regional meetings; purpose; expenses.

Sec. 8231. (1) The court administrator, under the supervision and direction of the supreme court, shall call an annual statewide meeting of the judges of the district court and such additional statewide and regional meetings of such judges as the supreme court directs, for the purpose of studying the organization, rules, methods of procedure and practice of the judicial system of the state, the problems of administration confronting the courts and the judicial system in general and making recommendations for the modification or amelioration of existing conditions, for harmonizing and improving laws or for amendments to the rules and statutes relating to practice and procedure in the judicial system of the state.

(2) The chief justice of the supreme court or such person as he designates shall preside over such meetings and the court administrator of the supreme court or his deputy shall act as secretary therefor.

(3) District judges shall attend such meetings when and as directed by the court administrator. District judges shall be reimbursed by the state for their actual and necessary expenses incurred in attending such meetings.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1970, Act 238, Eff. Jan. 1, 1971.

600.8251 Places of sitting of district court; "population" defined.

Sec. 8251. (1) In districts of the first class, the court shall sit at each county seat. In districts of the first class consisting of 1 county having a population of 130,000 or more, the court shall also sit at each city having a population of 6,500 or more, except the court is not required to sit at any city that is contiguous to the county seat or is contiguous to a city having a greater population. The court shall also sit at other places as the judges of the district determine. The court shall sit not less than once each week in each county of a multicounty district.

(2) In districts of the second class, the court shall sit at any county seat within the district, and at each city and incorporated village within the district having a population of 3,250 or more, except that if 2 or more cities or incorporated villages are contiguous the court need sit only in the city having the greater population. The court is not required to sit in any political subdivision if the governing body of that subdivision by resolution and the court agree that the court shall not sit in the political subdivision. If the district does not contain a county seat and does not contain any city or incorporated village having a population of 3,250 or more, the court shall sit at a place or places within the district as the judges of the district determine. In addition to the place or places where the court is required to sit, the court may upon agreement of a majority of the judges of the district and upon approval by resolution of the board of commissioners also sit at the county seat of its district control unit situated outside the district, but the court shall sit not less than once each week within the district. If the district does not contain any city, the foregoing provisions of this subsection do not apply to the district, and the court shall sit at the county seat of its district control unit situated outside the district. In addition to the place or places where the court is required to sit pursuant to the provisions of this subsection, the court may sit at a place or places within the district as the judges of the district determine. If the court sits at a county seat situated outside the district pursuant to this subsection, it has the same powers, jurisdiction, and venue as if sitting within the district.

(3) In districts of the third class, the court shall sit at each city having a population of 3,250 or more and within each township having a population of 12,000 or more and at other places as the judges of the district

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determine. The court is not required to sit in any political subdivision if the governing body of that subdivision by resolution and the court agree that the court shall not sit in the political subdivision.

(4) Each judge of the district shall sit at places within the district as the presiding judge designates.

(5) A district judge or district court magistrate may sit at a place outside the district under a multiple district plan pursuant to section 8320.

(6) As used in this section, "population" means population according to the most recent federal decennial census, except that the most recent census shall not apply until the expiration of 18 months from the date on which the census is taken.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1969, Act 6, Imd. Eff. Apr. 19, 1969;—Am. 1970, Act 238, Eff. Jan. 1, 1971;—Am. 1988, Act 135, Imd. Eff. May 27, 1988;—Am. 1994, Act 5, Imd. Eff. Feb. 24, 1994;—Am. 2003, Act 7, Imd. Eff. May 20, 2003.

Compiler's note: Section 2 of Act 135 of 1988 provides:

"Any additional district judgeship to be added by election in 1988 shall not be authorized to be filled by election unless each district control unit of the district, by resolution adopted by the governing body of the district control unit, approves the creation of that judgeship and unless the clerk of each district control unit adopting such a resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the tenth Tuesday preceding the August primary for the election to fill the additional district judgeship."

600.8261 Court facilities.

Sec. 8261. Court facilities shall be provided at those places where the court sits. In districts of the first and second class they shall be provided by the county and in districts of the third class they shall be provided by each political subdivision where the court sits.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8262 Magistrates' facilities.

Sec. 8262. Facilities for magistrates shall be provided by the district control unit.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8263 Rental of facilities; contracts.

Sec. 8263. Rental of court or magistrate facilities constitutes the providing of such facilities and those units of government responsible for providing same may contract with the state, its political subdivisions, corporations or persons for the rental thereof.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8271 Operation of district 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 (11) to employees in thirty-sixth district; employees of abolished courts; chief judge as principal administrator; "locally-funded employees of the district court" defined.

Sec. 8271. (1) The governing body of each district funding unit shall annually appropriate, by line-item or lump-sum budget, funds for the operation of the district court in that district. However, before a governing body of a district funding unit may appropriate a lump-sum budget, the chief judge of the judicial district shall submit to the governing body of the district funding unit 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 governing body. A court that receives a lump-sum budget shall not exceed that budget without the prior approval of the governing body.

(2) The district funding unit is the employer of the locally-funded employees of the district court in that district, except as provided in subsections (3) and (4).

(3) In a multicounty district, the employer shall be as follows:

(a) As determined pursuant to a contract entered into by the counties in the district 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 in the district do not enter into an agreement described in subdivision (a), each county is the employer of the locally-funded employees of the district court who serve in that county or who are designated by agreement of the member counties as being employed by that county.

(4) In a district of the third class consisting of 2 or more municipalities, the employer of the employees appointed under subsection (1) is 1 of the following, as applicable:

(a) The employer provided by an agreement entered into by the municipalities for that purpose under Act No. 8 of the Public Acts of the Extra Session of 1967.

(b) If the municipalities do not enter into an agreement under subdivision (a), the employer is the district

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funding unit.

(5) The employer of locally-funded employees of the district court, in concurrence with the chief judge of the district 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 locally-funded employees of the district court.

(6) If the employer of the locally-funded employees of the district court and the chief judge of the district court are not able to concur on the exercise of their authority as to any matter described in subsection (5)(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).

(7) The employer of the locally-funded employees of the district court and the chief judge of the district court each may appoint an agent for collective bargaining conducted under subsection (5) or (6).

(8) The chief judge of the district court may elect not to participate in the collective bargaining process for locally-funded employees of the district court.

(9) Except as otherwise provided, the chief judge of the district court district shall appoint, supervise, discipline, or dismiss the employees of the district court in accordance with personnel policies and procedures developed pursuant to subsection (5) or (6) and any applicable collective bargaining agreement. Compensation of employees of the district court shall be paid by each district funding unit, except as otherwise provided in this act.

(10) 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 this section 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 this section. An employee who is transferred shall not be made subject to any residency requirements by the employer designated under this section.

(11) The employer designated under this section 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.

(12) District court employees when performing services in the courtroom are subject to control of the judge holding court in the courtroom.

(13) Subsections (2) to (11) shall not apply to employees serving in the district court in the thirty-sixth district.

(14) Except as provided in section 8273, full-time employees of abolished municipal courts in districts of the third class are transferred to the district court for the city in which they were previously employed and all other full-time employees of abolished courts shall have preferential employment rights in the district court.

(15) Except as provided in section 8273, seniority rights, annual leave, sick leave, and longevity pay and retirement benefits to which employees of abolished courts are now entitled shall be preserved and continued in their positions in the district court in a manner not inferior to their prior status.

(16) Except as provided in section 8275, the obligations of municipalities or other agencies of government for retirement benefits to employees and personnel of abolished courts for their accrued service in such courts shall not be transferred from their present system. Any retirement system available to district court personnel shall provide retirement benefits to employees of abolished courts not inferior to those provided therefor under their prior status.

(17) 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

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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.

(18) As used in this section, "locally-funded employees of the district court" means persons employed in the district court in a district who receive any compensation as a direct result of an annual budget appropriation approved by the governing body of 1 or more district funding units of that district, but does not include a judge of the district court.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 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."

600.8272 Repealed. 1996, Act 374, Eff. Oct. 1, 1996.

Compiler's note: The repealed section pertained to employees of state judicial council serving in thirty-sixth district.

600.8273 Employee of former judicial council serving in thirty-sixth district court as employee of Detroit judicial council or city of Detroit.

Sec. 8273. Effective October 1, 1996, each employee of the former state judicial council serving in the district court in the thirty-sixth district shall become an employee of the Detroit judicial council if that council is created pursuant to section 8274 or, if that council is not created, shall become an employee of the city of Detroit.

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

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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."

600.8274 Detroit judicial council; creation; employees of former state judicial council in thirty-sixth district court; employer; authority; collective bargaining; appointment, supervision, discipline, or dismissal of employees; chief judge as principal administrator; transfer of employees; effect of existing collective bargaining agreement; annual leave; state employees' retirement system.

Sec. 8274. (1) The city council of the city of Detroit, by resolution, may create the Detroit 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 Detroit judicial council, if created, shall be a successor agency to the state judicial council and, effective October 1, 1996, shall be the employer of the employees of the former state judicial council assigned to serve in the district court in the thirty-sixth district. The composition of the Detroit judicial council and its powers and duties shall be as prescribed by resolution of the city of Detroit.

(3) If the Detroit judicial council is not created pursuant to subsection (1), the employees of the former state judicial council serving in the thirty-sixth district of the district court shall become employees of the city of Detroit, effective October 1, 1996.

(4) The employer designated under subsection (2) or (3), in concurrence with the chief judge of the district court in the thirty-sixth district, 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 chief judge of the district court in the thirty-sixth district 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 district court in the thirty-sixth district 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 district court in the thirty-sixth district 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 district court in the thirty-sixth district shall be paid by the city of Detroit, except as otherwise provided by this act.

(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 district court in the thirty-sixth district shall be transferred to, and appointed as, employees of the appropriate employer designated under

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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 requirement 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 district court in the thirty-sixth district 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 city of Detroit 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 annual leave accumulated that is paid to the city of Detroit 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.

600.8275 Employee of state judicial council serving in thirty-sixth district court; member of state employees' retirement system; submission of reports and contributions.

Sec. 8275. An employee of the state judicial council serving in the district court in the thirty-sixth district who becomes an employee of the Detroit judicial council or the city of Detroit serving in the district court in the thirty-sixth district on October 1, 1996, shall remain a member of the state employees' retirement system created by Act No. 240 of the Public Acts of 1943, being sections 38.1 to 38.47 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. May 1, 1981;—Am. 1981, Act 13, 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

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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 13 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.

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.

600.8281 Clerk of court and deputy clerks; appointment; term.

Sec. 8281. (1) In each county within a district of the first class, in each district of the second class, and in each political subdivision where the court sits within a district of the third class, the district judge or judges of the district shall appoint a clerk of the court. In districts of the first class the judge or judges may appoint the county clerk to act as clerk of the court.

(2) The clerk of the court shall appoint deputy clerks of the court subject to the approval of the judges.

(3) The clerk of the court, including a county clerk to the extent he or she is serving as clerk of the court, shall serve at the pleasure of the district judge or judges of the district.

(4) In the thirty-sixth district the chief judge of the district shall appoint the clerk of the court and deputy clerks pursuant to sections 8272, 8273, and 9104.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1971, Act 49, Eff. Jan. 1, 1972;—Am. 1980, Act 438, Eff. Sept. 1, 1981.

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

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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."

600.8283 Court security.

Sec. 8283. In the thirty-sixth district, the district control unit shall be responsible for maintaining court security. Persons providing security services shall be assigned subject to the approval of the chief judge of the thirty-sixth district and, when performing services in the courtroom, shall be subject to the control of the judge holding court.

History: Add. 1980, Act 438, Eff. Sept. 1, 1981.

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."

600.8286-600.8288 Repealed. 1981, Act 146, Eff. Jan. 1, 1983.

Compiler's note: The repealed sections pertained to district court referees for thirty-sixth district.

CHAPTER 83
DISTRICT COURT: JURISDICTION; POWERS

600.8301 Exclusive jurisdiction in civil actions; jurisdiction over civil infraction actions.

Sec. 8301. (1) The district court has exclusive jurisdiction in civil actions when the amount in controversy does not exceed $25,000.00.

(2) The district court has jurisdiction over civil infraction actions.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1971, Act 148, Eff. Jan. 1, 1972;—Am. 1978, Act 511, Eff. Aug. 1, 1979;—Am. 1996, Act 388, Eff. Jan. 1, 1998.

600.8302 Equitable jurisdiction and authority; injunctive order; order rescinding or reforming contract; equitable claims; judgment or order; jurisdiction and authority of district and circuit courts.

Sec. 8302. (1) In addition to the civil jurisdiction provided in sections 5704 and 8301, the district court has equitable jurisdiction and authority concurrent with that of the circuit court in the matters and to the extent provided by this section.

(2) In cases brought under chapter 84, the district court may issue and enforce an injunctive order or an order rescinding or reforming a contract.

(3) In an action under chapter 57, the district court may hear and determine an equitable claim relating to or arising under chapter 31, 33, or 38 or involving a right, interest, obligation, or title in land. The court may issue and enforce a judgment or order necessary to effectuate the court's equitable jurisdiction as provided in this subsection, including the establishment of escrow accounts and receiverships.

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(4) In an action under chapter 87, the district court may issue and enforce any judgment, writ, or order necessary to enforce the ordinance. The grant of equitable jurisdiction and authority to the district court under this subsection does not affect the jurisdiction of the circuit court to do either of the following:

(a) Hear and decide claims based on nuisance or abate nuisances under section 2940.

(b) Hear and decide actions challenging the validity or applicability of an ordinance and, in those actions, enjoin a defendant from enforcing the ordinance in the district court or in a municipal court pending the outcome of the action in circuit court.

History: Add. 1980, Act 438, Eff. Sept. 1, 1981;—Am. 1994, Act 12, Eff. May 1, 1994.

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."

600.8303 Forfeiture proceedings under chapter 47.

Sec. 8303. The district court shall have equitable jurisdiction over forfeiture proceedings brought under chapter 47. The district court may hear and determine a forfeiture action or a motion relating to a forfeiture action, and may issue and enforce any order or judgment relating to a forfeiture action, as provided in chapter 47.

History: Add. 1988, Act 104, Eff. June 1, 1988.

600.8304 District court; jurisdiction.

Sec. 8304. In a district court district in which the district court is affected by a plan of concurrent jurisdiction adopted under chapter 4, the district court has concurrent jurisdiction with the circuit court or the probate court, or both, as provided in the plan of concurrent jurisdiction, except as to the following matters:

(a) The circuit court shall have exclusive jurisdiction over appeals from the district court and from administrative agencies as authorized by statute.

(b) The circuit court shall have exclusive jurisdiction and power to issue, hear, and determine prerogative and remedial writs consistent with section 13 of article VI of the state constitution of 1963.

(c) The circuit court shall have exclusive jurisdiction to hear and decide matters within the jurisdiction of the court of claims under chapter 64.

(d) The probate court shall have exclusive jurisdiction over trusts and estates.

History: Add. 2002, Act 678, Eff. Apr. 1, 2003.

600.8306 Power with respect to attachment and garnishment; conditions upon which relief available; compliance with rules; garnishment proceedings as auxiliary actions; fees.

Sec. 8306. (1) Subject to the limitations of jurisdictional amount and venue otherwise applicable in the particular court, the district court and municipal courts shall have the same power with respect to attachment and garnishment as the circuit court.

(2) The conditions upon which relief is available under this section shall be the same as are applicable to actions in the circuit court under section 4001 with respect to attachment and under sections 4011 and 4012 with respect to garnishment.

(3) The district court and municipal courts may exercise the jurisdiction granted by this section only if action is taken in accordance with rules adopted by the supreme court to protect the parties.

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(4) In the district court, except where service of a writ of garnishment is a prerequisite to the exercise of jurisdiction under the conditions prescribed in section 4011(3), all garnishment proceedings shall be treated as auxiliary actions to the principal action. The party commencing such a proceeding in the district court shall not be required to pay an additional filing fee or jury fee with respect to that garnishment proceeding. The clerk shall charge and collect a $15.00 service fee for each writ of garnishment, attachment, or execution or for each judgment debtor discovery subpoena issued.

(5) Fees shall not be required with respect to attachment and garnishment except as otherwise provided by law.

History: Add. 1971, Act 41, Eff. Mar. 30, 1972;—Am. 1974, Act 371, Eff. Apr. 1, 1975;—Am. 1984, Act 278, Eff. Jan. 1, 1985;—Am. 1993, Act 189, Eff. Oct. 8, 1993.

Compiler's note: Section 3 of Act 371 of 1974 provides: "The provisions of this act shall apply to all actions pending or commenced on or after the effective date of this act."

600.8307 Actions as cause of discipline or discharge of principal defendant from employment; reinstatement; civil action.

Sec. 8307. A garnishee defendant shall not use the fact that the principal defendant has had 1 or more actions brought against him under the provisions of section 8306 or chapter 40 as a cause of discipline or discharge of the principal defendant from employment. A garnishee defendant who violates the provisions of this section shall be required to reinstate the principal defendant to employment and reimburse all compensation lost by the discipline or discharge. The principal defendant may enforce his rights under this section by appropriate civil action.

History: Add. 1974, Act 371, Eff. Apr. 1, 1975.

Compiler's note: Section 3 of Act 371 of 1974 provides: "The provisions of this act shall apply to all actions pending or commenced on or after the effective date of this act."

600.8308 Unlawful taking or detention of goods or chattels; civil action to recover possession; power of district court, municipal court, and common pleas court; conditions; delivery before judgment.

Sec. 8308. (1) Subject to the limitations of jurisdictional amount and venue otherwise applicable in the particular court, the district court, municipal court, and a common pleas court shall have the same power as the circuit court with respect to civil actions to recover the possession of goods or chattels which are unlawfully taken or unlawfully detained.

(2) The conditions upon which relief is available under this section shall be the same as are applicable to actions in the circuit court under section 2920(1).

(3) Delivery of the goods or chattels to the claimant before judgment may be required only as provided in section 2920(1)(d).

History: Add. 1976, Act 79, Imd. Eff. Apr. 12, 1976.

Compiler's note: Section 2 of Act 79 of 1976 provides: "This amendatory act shall apply to all actions pending or commenced on or after the effective date of this act."

600.8311 District court; criminal jurisdiction.

Sec. 8311. The district court shall have jurisdiction of:

(a) Misdemeanors punishable by a fine or imprisonment not exceeding 1 year, or both.

(b) Ordinance and charter violations punishable by a fine or imprisonment, or both.

(c) Arraignments, the fixing of bail and the accepting of bonds.

(d) Preliminary examinations in all felony cases and misdemeanor cases not cognizable by the district court, but there shall not be a preliminary examination for any misdemeanor to be tried in a district court.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1969, Act 261, Eff. Sept. 1, 1969.

600.8312 Venue.

Sec. 8312. (1) In a district of the first class, venue in criminal actions for violations of state law and all city, village, or township ordinances shall be in the county where the violation took place.

(2) In a district of the second class, venue in criminal actions for violations of state law and all city, village, or township ordinances shall be in the district where the violation took place.

(3) In a district of the third class, venue in criminal actions for violations of state law and all city, village, or township ordinances shall be in the political subdivision where the violation took place, except that when the violation is alleged to have taken place within a political subdivision where the court is not required to sit, the action may be tried in any political subdivision within the district where the court is required to sit.

(4) With regard to state criminal violations cognizable by the district court, the following special

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provisions shall apply:

(a) If an offense is committed on the boundary of 2 or more counties, districts, or political subdivisions or within 1 mile thereof, venue is proper in any of the counties, districts, or political subdivisions concerned.

(b) If an offense is committed in or upon any railroad train, automobile, aircraft, vessel, or other conveyance in transit, and it cannot readily be determined in which county, district, or political subdivision the offense was committed, venue is proper in any county, district, or political subdivision through or over which the conveyance passed in the course of its journey.

(5) Venue in civil actions, other than civil infraction actions, shall be governed by sections 1601 to 1659 except that for purposes of this subsection all references to "county" in sections 1601 to 1659 shall mean "district" with respect to districts of the second and third class.

(6) Venue in civil infraction actions shall be determined as follows:

(a) In a district of the first class, venue shall be in the county where the civil infraction occurred.

(b) In a district of the second class, venue shall be in the district where the civil infraction occurred.

(c) In a district of the third class, venue shall be in the political subdivision where the civil infraction occurred, except that when the violation is alleged to have taken place within a political subdivision where the court is not required to sit, the action may be heard or an admission entered in any political subdivision within the district where the court is required to sit.

(7) For purposes of venue, a city which is located in more than 1 county and which is placed in 1 district of the first class by chapter 81, shall be considered a part of that county which contains the greater portion of its population.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1969, Act 333, Imd. Eff. Nov. 4, 1969;—Am. 1974, Act 319, Imd. Eff. Dec. 15, 1974;—Am. 1978, Act 511, Eff. Aug. 1, 1979.

600.8313 Prosecution of violations; exception.

Sec. 8313. (1) A violation of state criminal law shall be prosecuted in the district court by the prosecuting attorney. A violation of an ordinance of a political subdivision that is a misdemeanor or that is not designated as a civil infraction shall be prosecuted in the district court by the attorney for the political subdivision whose ordinance was violated. If the violation is a civil infraction, the prosecuting attorney or attorney for the political subdivision shall appear in court only in those civil infraction actions that are contested before a judge of the district court in a formal hearing as provided in any of the following, as applicable:

(a) Section 8721.

(b) Section 8821.

(c) Section 747 of the Michigan vehicle code, 1949 PA 300, MCL 257.747.

(2) This section does not apply to an ordinance violation designated a blight violation by a political subdivision that establishes an administrative hearings bureau pursuant to statute to adjudicate and impose sanctions for blight violations.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1978, Act 511, Eff. Aug. 1, 1979;—Am. 1994, Act 12, Eff. May 1, 1994;—Am. 1995, Act 54, Eff. Jan. 1, 1996;—Am. 2003, Act 319, Imd. Eff. Jan. 12, 2004.

600.8314 Probation departments.

Sec. 8314. In each district of the district court, the judge or judges of the district may establish a probation department within a district control unit. The necessary and reasonable expense of a probation department shall be borne by the district control unit.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1980, Act 438, Eff. Sept. 1, 1981;—Am. 1984, Act 278, Eff. Jan. 1, 1985;—Am. 1996, Act 374, Eff. Oct. 1, 1996.

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

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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."

600.8315 Actions prohibited; exception.

Sec. 8315. The district court shall not have jurisdiction in actions for injunctions, divorce or actions which are historically equitable in nature, except as otherwise provided by law. However, the district court has jurisdiction and power to make any order proper to fully effectuate the district court's jurisdiction and judgments.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1996, Act 374, Eff. Oct. 1, 1996.

600.8316 Marriages; authority to perform; fee.

Sec. 8316. District judges and magistrates shall have authority to perform marriages and shall charge a fee of $10.00 which fees shall be deposited in the treasury of the district control unit at the end of each month.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8317 Powers of district court.

Sec. 8317. The district court has the same power to issue warrants; subpoena witnesses; and require the production of books, papers, records, documents, and other evidence; and to punish for contempt as the circuit court now has or may hereafter have. The district court and the several judges thereof may provide for pleadings and motions; issue process and subpoenas; compel the attendance and testimony of witnesses; enter and set aside defaults and default judgments; allow amendments to pleadings, process, motions, and orders; order adjournments and continuances; appoint attorneys to represent indigent persons accused of misdemeanors or ordinance violations as defined in section 1(h) and (j) of chapter 1 of Act No. 175 of the Public Acts of 1927, being section 761.1 of the Michigan Compiled Laws; make and enforce all other writs and orders; and do all other things necessary to hear and determine matters within the jurisdiction of the court as provided by law. This section shall not be construed as an independent grant of jurisdiction in actions for injunctions, divorce, or actions which are historically equitable in nature. The judges and clerks of the district court and district court magistrates may administer oaths and affirmations and take acknowledgments of instruments in writing.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1974, Act 52, Imd. Eff. Mar. 26, 1974;—Am. 1984, Act 278, Eff. Jan. 1, 1985.

600.8318 Pleadings and procedures; rules.

Sec. 8318. Pleadings and procedures in the district court shall be governed by rules established by the supreme court and the district court under supervision of the supreme court, except as otherwise provided by law.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8319 Basis and exercise of jurisdiction.

Sec. 8319. Except as to an action commenced in the small claims division, the existence of any basis of jurisdiction provided for in chapter 7 shall enable the district court to exercise the jurisdiction provided therein.

History: Add. 1971, Act 61, Imd. Eff. July 20, 1971.

600.8320 Definitions; multiple district plans; assignment as district judge.

Sec. 8320. (1) As used in this section:

(a) "Multiple district area" means an area composed of either of the following:

(*i*) Two or more districts of the district court within a county participating or proposing to participate in a multiple district plan.

(*ii*) Two adjoining districts of the first class.

(b) "Multiple district plan" means an arrangement in which a district judge or district court magistrate is authorized to conduct arraignments, set bail or recognizances, provide for the appointment of counsel, or make determinations of probable cause and issue warrants, for all of the participating districts within a multiple district area.

(2) The chief or only judges of 2 or more districts of the district court within a county or the chief or only

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judges of 2 adjoining districts of the first class may create a multiple district plan or plans subject to all of the following limitations and requirements:

(a) A multiple district plan shall be in writing and shall be signed by the chief or only judges of all participating districts in the multiple district area.

(b) A multiple district plan shall specify who has superintending control of a district court magistrate acting under the plan and may include, but shall not be limited to, provisions regarding compensation for the district court magistrate and any support personnel and use of facilities.

(c) A multiple district plan shall not grant to a district court magistrate powers or duties that are not authorized by chapter 85 or that exceed the authorization of the chief or only judge of the district on behalf of which the magistrate is acting.

(d) A multiple district plan may authorize a district court magistrate appointed pursuant to section 8501 to serve at any location, and on behalf of all participating districts, within the multiple district area.

(e) A multiple district plan is subject to approval by the state court administrator.

(3) A district judge shall not serve outside the district for which he or she is elected pursuant to a multiple district plan under this section unless he or she is assigned by the supreme court to act as a district judge for the other district or districts designated by the plan.

History: Add. 1994, Act 5, Imd. Eff. Feb. 24, 1994.

600.8321 Civil process; service.

Sec. 8321. (1) Civil process in the district court shall be served by a sheriff, deputy sheriff or a court officer appointed by the judges of the court for that purpose, except that officers of the department of state police or conservation officers of the department of natural resources may serve civil process in any action to which the state is a party and police officers of an incorporated city or village may serve civil process in any action to which the incorporated city or village is a party.

(2) Under rules of the supreme court, any other person may serve any process or order of the district court that does not require the seizure, attachment, or garnishment of property or the arrest of a person. This section applies notwithstanding section 1908.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 2005, Act 326, Imd. Eff. Dec. 27, 2005.

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 transactions; audit; compensation; contributions to retirement system in which bailiff member; payments to Wayne county retirement system; review of retirement fund; copies of actuarial reports.

Sec. 8322. (1) A person serving as a bailiff of the common pleas court of Detroit on August 31, 1981, pursuant to 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 shall be 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 pursuant to 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 premium on the surety bond shall be paid by the district control unit. A bailiff shall possess only the powers necessary to serve process issued by the court. A bailiff governed pursuant to 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 misfeasance or malfeasance in office. A vacancy in the office of bailiff as established pursuant to this subsection shall not be filled.

(2) A person serving as a bailiff of the common pleas court on August 31, 1981, pursuant to 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 shall be 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 pursuant to rules adopted by the court, except that a writ of restitution shall 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 premium on the surety bond shall be paid by the district control unit. A bailiff governed pursuant to this subsection shall be 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 misfeasance or malfeasance in office. A vacancy in the office of bailiff established pursuant to

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this subsection shall not be filled.

(3) A bailiff governed pursuant to 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. An audit of each bailiff's financial transactions shall be conducted annually by the district control unit and reported 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 cost of the audit shall be paid by the district control unit.

(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 pursuant to section 8321(1).

(5) A bailiff serving civil process pursuant to 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 which 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 covered by 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 pursuant to 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 which the state would have contributed to the state employees' retirement system pursuant to 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 pursuant to 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 pursuant to 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 the sum of $1.00, to be credited to the retirement fund of the bailiffs of the district court in the thirty-sixth district serving civil process pursuant to 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 the sum of $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 pursuant to 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.

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.

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"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.

600.8323 District court; witnesses, fees; payment.

Sec. 8323. Witnesses in the district court shall be entitled to receive the same fees and mileage allowances to which witnesses in circuit court are entitled. Where the county is responsible for such expenses in the circuit court, the district control unit for the place where the trial occurs shall be responsible for such expenses in the district court.

History: Add. 1969, Act 269, Eff. Sept. 1, 1969.

600.8326 Service of process; schedule of fees; mileage rate.

Sec. 8326. The schedule of fees and the rate for mileage provided in section 2559 shall be the fees and the rate of mileage for process served out of the district court.

History: Add. 1979, Act 182, Imd. Eff. Dec. 19, 1979;—Am. 1982, Act 173, Eff. Sept. 1, 1982.

600.8331 Proceedings to be recorded.

Sec. 8331. All proceedings in the district court, except as otherwise provided by law or supreme court rule, shall be recorded.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1986, Act 308, Eff. Jan. 1, 1987;—Am. 2005, Act 326, Imd. Eff. Dec. 27, 2005.

600.8341 Appeals on record.

Sec. 8341. Appeals from the district court shall be on a written transcript of the record made in the district court or on a record settled and agreed to by the parties and approved by the court.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8342 Appeals from district court; appeals to court of appeals from circuit court or recorder's court; appeals based on pleas of guilty or nolo contendere.

Sec. 8342. (1) Appeals from the district court shall be to the circuit court in the county in which the judgment is rendered.

(2) Except as provided in subsections (4) and (5), all appeals from final judgments shall be as of right and all other appeals shall be by application.

(3) All appeals to the court of appeals from judgments entered by the circuit court or the recorder's court on appeals from the district court shall be by application.

(4) All appeals from final orders and judgments based upon pleas of guilty or nolo contendere shall be by application.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1981, Act 206, Eff. Jan. 1, 1982;—Am. 1994, Act 375, Imd. Eff. Dec. 27, 1994;—Am. 1996, Act 374, Eff. Oct. 1, 1997.

600.8343 Judgments of abolished courts.

Sec. 8343. All orders and judgments entered prior to January 1, 1969 by courts abolished under section 9921 shall be appealable in like manner and to the same courts as applicable prior to January 1, 1969.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

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600.8344 Disposal of documents, records, recordings, and notes; schedule; destruction of notes, tapes, and recordings; register of actions as official record; applicability of section.

Sec. 8344. Except as provided in this section, not less than 6 years after the entry of a judgment in a civil action, including a summary proceeding, or in an ordinance violation case or a criminal case in the district court, the court may dispose of documents, records, recordings, and notes related to that action, except the register of actions pursuant to a schedule adopted by the state administrative board. The court may order the destruction of documents, records, recordings, and notes related to a civil infraction action not less than 3 years after the entry of a finding in the action. The court may order the destruction of notes, tapes, and recordings that have been transcribed and filed with the court 1 year after the date of the filing of the transcript. The register of actions shall be in a form adequate to reveal, in summary fashion, the general nature of the action and judgment. After the disposal of the documents, records, recordings, and notes, the register of actions or a certified reproduction of the register of actions pursuant to the records media act is the official record of the action and judgment. The validity and enforceability of a judgment are not affected by the destruction of the piece of paper upon which the judgment is entered, but the register of actions itself, or a certified reproduction of the register of actions pursuant to the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406, is a complete replacement of the judgment and the records of the action. This section applies to judgments of municipal and common pleas courts abolished after January 1, 1969, if the judgment was entered or the action disposed of after January 1, 1969. This section applies to actions entered in the small claims division of the district court, except that a register of actions need not be preserved or maintained after destruction of the file.

History: Add. 1976, Act 371, Imd. Eff. Dec. 23, 1976;—Am. 1984, Act 43, Imd. Eff. Mar. 26, 1984;—Am. 1992, Act 192, Imd. Eff. Oct. 5, 1992;—Am. 2005, Act 326, Imd. Eff. Dec. 27, 2005.

600.8345 Causes transferred from abolished courts.

Sec. 8345. All causes of action transferred to the district court by the provisions of this act from any court abolished by the provisions of this act shall be as valid and subsisting as they were in the court from which they were transferred.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8351 Jurors; selection; compensation; failure to respond to jury duty.

Sec. 8351. Jurors for the district court shall be selected in accordance with the provisions of chapter 13. Jurors in the district court shall be paid by the county in districts of the first and second class and by the political subdivisions where the trial takes place in districts of the third class in like amount as is paid to jurors of the circuit court. Failure to respond to jury duty in the district court shall be punishable in like manner as in the circuit court.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1969, Act 326, Eff. Sept. 1, 1969.

600.8353 Civil jury; number; verdict.

Sec. 8353. In civil actions in the district court the jury shall consist of 6 persons. The court shall receive the verdict of 5 of such 6 jurors.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8355 Criminal jury; number; verdict.

Sec. 8355. In criminal actions in the district court the jury shall consist of 6 persons. The court shall receive only a unanimous verdict.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8361 Repealed. 1984, Act 278, Eff. Jan. 1, 1985.

Compiler's note: The repealed section pertained to judgment fees.

600.8371 Filing fees paid to clerk of district court; disposition; waiver or suspension; exception; filing fee for civil action; fee in trial by jury; motion filing fees.

Sec. 8371. (1) In the district court, the fees prescribed in this section shall be paid to the clerk of the court.

(2) Before a civil action is commenced in the district court, the party commencing the action shall pay to the clerk the sum of $150.00 if the amount in controversy exceeds $10,000.00. For each fee collected under this subsection, the clerk shall transmit $31.00 to the treasurer of the district funding unit in which the action was commenced, and shall transmit the balance to the state treasurer for deposit in the civil filing fee fund created by section 171.

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(3) Before a civil action is commenced in the district court, the party commencing the action shall pay to the clerk the sum of $65.00 if the amount in controversy exceeds $1,750.00 but does not exceed $10,000.00. For each fee collected under this subsection, the clerk shall transmit $23.00 to the treasurer of the district funding unit in which the action was commenced, of which not less than $5.00 shall be used by the district funding unit to fund a drug treatment court if one is planned, established, or operated in that judicial district. If the entire amount attributable to the $5.00 portion is not needed for the operation of a drug treatment court, the balance that is not needed for that purpose shall be used for the operation of the district court. If a drug treatment court is not planned, established, or operated in that judicial district, all $23.00 shall be used for the operation of the district court. The clerk of the district court shall transmit the balance of the filing fee to the state treasurer for deposit in the civil filing fee fund created by section 171.

(4) Before a civil action is commenced in the district court, the party commencing the action shall pay to the clerk the sum of $45.00 if the amount in controversy exceeds $600.00 but does not exceed $1,750.00. For each fee collected under this subsection, the clerk shall transmit $17.00 to the treasurer of the district funding unit in which the action was commenced, of which not less than $5.00 shall be used by the district funding unit to fund a drug treatment court if one is planned, established, or operated in that judicial district. If the entire amount attributable to the $5.00 portion is not needed for the operation of a drug treatment court, the balance that is not needed for that purpose shall be used for the operation of the district court. If a drug treatment court is not planned, established, or operated in that judicial district, all $17.00 shall be used for the operation of the district court. The clerk of the district court shall transmit the balance of the filing fee to the state treasurer for deposit in the civil filing fee fund created by section 171.

(5) Before a civil action is commenced in the district court, the party commencing the action shall pay to the clerk the sum of $25.00 if the amount in controversy does not exceed $600.00. For each fee collected under this subsection, the clerk shall transmit $11.00 to the treasurer of the district funding unit in which the action was commenced, of which not less than $5.00 shall be used by the district funding unit to fund a drug treatment court if one is planned, established, or operated in that judicial district. If the entire amount attributable to the $5.00 portion is not needed for the operation of a drug treatment court, the balance that is not needed for that purpose shall be used for the operation of the district court. If a drug treatment court is not planned, established, or operated in that judicial district, all $11.00 shall be used for the operation of the district court. The clerk of the district court shall transmit the balance of the filing fee to the state treasurer for deposit in the civil filing fee fund created by section 171.

(6) The judge shall order payment of any statutory fees waived or suspended if the person subject to the fee is receiving public assistance or is determined by the court to be indigent.

(7) Neither this state nor a political subdivision of this state shall be required to pay a filing fee in a civil infraction action.

(8) Except for civil actions filed for relief under chapter 43, 57, or 84, if a civil action is filed for relief other than money damages, the filing fee shall be equal to the filing fee in actions for money damages in excess of $1,750.00 but not in excess of $10,000.00 as provided in subsection (3) and shall be transmitted in the same manner as a fee under subsection (3) is transmitted. If a claim for money damages is joined with a claim for relief other than money damages, the plaintiff shall pay a supplemental filing fee in the same amount as required under subsections (2) to (5).

(9) If a trial by jury is demanded, the party making the demand at the time shall pay the sum of $50.00. Failure to pay the fee at the time the demand is made constitutes a waiver of the right to a jury trial. The sum shall be taxed in favor of the party paying the fee, in case the party recovers a judgment for costs. For each fee collected under this subsection, the clerk shall transmit $10.00 to the state treasurer for deposit in the juror compensation reimbursement fund created in section 151d.

(10) A sum of $20.00 shall be assessed for all motions filed in a civil action. A motion fee shall not be assessed in a civil infraction action. For each fee collected under this subsection, the clerk shall transmit $10.00 to the state treasurer for deposit in the state court fund created in section 151a and the balance shall be transmitted to the treasurer of the district funding unit for the district court in the district in which the action was commenced.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1970, Act 248, Eff. Jan. 1, 1971;—Am. 1971, Act 202, Eff. Jan. 1, 1972;—Am. 1978, Act 511, Eff. Aug. 1, 1979;—Am. 1982, Act 511, Eff. Jan. 1, 1983;—Am. 1984, Act 278, Eff. Jan. 1, 1985;—Am. 1988, Act 310, Eff. Jan. 1, 1989;—Am. 1992, Act 233, Eff. Mar. 31, 1993;—Am. 1992, Act 292, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 189, Eff. Oct. 8, 1993;—Am. 1996, Act 388, Eff. Jan. 1, 1998;—Am. 2002, Act 605, Eff. Jan. 1, 2003;—Am. 2003, Act 138, Eff. Oct. 1, 2003;—Am. 2003, Act 178, Eff. Oct. 1, 2003;—Am. 2005, Act 151, Imd. Eff. Sept. 30, 2005.

600.8372, 600.8373 Repealed. 1993, Act 189, Imd. Eff. Oct. 8, 1993.

Compiler's note: The repealed sections pertained to trial and jury fees.

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600.8375 Assessment of costs.

Sec. 8375. The district court may assess the same costs as are permitted in the circuit court. In civil infraction actions, the district court may assess costs as provided in section 907 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.907 of the Michigan Compiled Laws, section 8727, or section 8827, as applicable. A district court magistrate may assess costs in an amount fixed by rule of the district court.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1978, Act 511, Eff. Aug. 1, 1979;—Am. 1994, Act 12, Eff. May 1, 1994;—Am. 1995, Act 54, Eff. Jan. 1, 1996.

600.8379 Fines and costs assessed in district court; payment; disposition; definitions.

Sec. 8379. (1) Fines and costs assessed in the district court shall be paid to the clerk of the court who shall appropriate them as follows:

(a) A fine imposed for the violation of a penal law of this state and a civil fine ordered in a civil infraction action for violation of a law of this state shall be paid to the county treasurer and applied for library purposes as provided by law.

(b) In districts of the first and second class, costs imposed for the violation of a penal law of this state or ordered in a civil infraction action for the violation of a law of this state shall be paid to the treasurer of the county in which the action was commenced. In districts of the third class, costs imposed for the violation of a penal law of this state or ordered in a civil infraction action for the violation of a law of this state shall be paid to the treasurer of the political subdivision where the guilty plea or civil infraction admission was entered or where the trial or civil infraction action hearing took place.

(c) Except as provided in subsection (2), in districts of the first and second class, 1/3 of all fines and costs, other than those imposed for the violation of a penal law of this state or ordered in a civil infraction action for the violation of a law of this state, shall be paid to the political subdivision whose law was violated and 2/3 shall be paid to the county in which the political subdivision is located. In districts of the third class, all fines and costs, other than those imposed for the violation of a penal law of this state or ordered in a civil infraction action for the violation of a law of this state, shall be paid to the political subdivision whose law was violated, except that where fines and costs are assessed in a political subdivision other than the political subdivision whose law was violated, 2/3 shall be paid to the political subdivision where the guilty plea or civil infraction admission was entered or where the trial or civil infraction action hearing took place and the balance shall be paid to the political subdivision whose law was violated.

(d) In a district of the third class, if each political subdivision within the district, by resolution of its governing body, agrees to a distribution of fines and costs, other than fines imposed for the violation of a penal law of this state or ordered in a civil infraction action for the violation of a law of this state, differently than as provided by this section, the distribution of those fines and costs among the political subdivisions of that district shall be as agreed to. An existing agreement applicable to the distribution of fines and costs shall apply with the same effect to the distribution of civil fines and costs ordered in civil infraction actions.

(e) A civil fine imposed upon a person for violation of a provision of a code or an ordinance of a political subdivision of this state regulating the operation of a commercial vehicle that substantially corresponds to a provision of the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, shall be paid to the county treasurer and allocated as follows:

(*i*) Seventy percent to the political subdivision in which the citation is issued.

(*ii*) Thirty percent for library purposes as provided by law.

(f) A civil fine imposed upon a person for violation of a provision of a code or an ordinance regulating the operation of a commercial vehicle adopted by a city, township, or village pursuant to section 1 of 1956 PA 62, MCL 257.951, shall be paid to the county treasurer and allocated as follows:

(*i*) Seventy percent to the political subdivision in which the citation is issued.

(*ii*) Thirty percent for library purposes as provided by law.

(2) In the fifty-second district, 30% of all fines and costs, other than those imposed for the violation of a penal law of this state or ordered in a civil infraction action for the violation of a law of this state, shall be paid to the political subdivision whose law was violated and 70% shall be paid to the county in which the political subdivision is located. This subsection shall apply only if the consolidation of the forty-fifth-b district with the fifty-second district, as provided in section 8123, takes place pursuant to section 8177.

(3) As used in subsection (1)(e) and (f):

(a) "Commercial vehicle" includes a motor vehicle used for the transportation of passengers for hire or constructed or used for transportation of goods, wares, or merchandise and a motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load on the vehicle independently or any part

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of the weight of a vehicle or load so drawn.

(b) "Operation" means being in actual physical control of a vehicle regardless of whether the person is licensed under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, as an operator or chauffeur.

(c) "Person" means every natural person, partnership, association, or corporation and their legal successors.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1969, Act 239, Eff. Sept. 1, 1969;—Am. 1978, Act 511, Eff. Aug. 1, 1979;—Am. 1979, Act 67, Eff. Aug. 1, 1979;—Am. 1990, Act 54, Imd. Eff. Apr. 11, 1990;—Am. 2000, Act 93, Imd. Eff. May 15, 2000.

Compiler's note: Section 2 of Act 54 of 1990 provides:

"If a new judicial circuit of the circuit court is created under this amendatory act pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1991. If the fifty-sixth judicial circuit is created pursuant to this amendatory act, the incumbent judge of the fifth judicial circuit who resides in Eaton county shall become the judge of the fifty-sixth judicial circuit on January 1, 1991, and shall serve until the term for which he or she was elected in the fifth judicial circuit expires."

600.8381 Fines and costs; convictions; civil infraction determinations, guilty pleas, or civil infraction admission; disposition; court filing fee report; definitions.

Sec. 8381. (1) Until October 1, 2003, when fines and costs are assessed by a magistrate, a traffic bureau, or a judge of the district court, not less than $9.00 shall be assessed as costs and collected for each conviction or civil infraction determination and each guilty plea or civil infraction admission except for parking violations. Of the costs assessed and collected, for each conviction or civil infraction determination and each guilty plea or civil infraction admission, $9.00 shall be paid to the clerk of the district court.

(2) The clerk of the district court, on or before the fifteenth day of the month following the month in which costs are collected under subsection (1), shall transmit the following amounts:

(a) Until October 1, 2003, the clerk shall transmit 45 cents of the costs collected to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, and shall transmit $8.55 of the costs collected to the state treasurer. Of each $8.55 received, the state treasurer shall deposit 30 cents in the legislative retirement fund created by the Michigan legislative retirement system act, 1957 PA 261, MCL 38.1001 to 38.1080; $4.25 in the court equity fund created under section 151b; and shall deposit the balance in the state court fund created by section 151a.

(b) Beginning October 1, 2003, the clerk shall transmit $9.00 of any costs assessed before October 1, 2003 to the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181.

(3) Until October 1, 2003, the clerk of the district court shall prepare and submit a court filing fee report to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, at the same time the clerk of the district court transmits the portion of the costs collected under this section to the executive secretary.

(4) Beginning October 1, 2003, when fines and costs are assessed by a judge or district court magistrate, the defendant shall be ordered to pay costs of not less than $45.00 for each conviction for a serious misdemeanor or a specified misdemeanor or costs of not less than $40.00 for each conviction for any other misdemeanor or ordinance violation.

(5) Beginning October 1, 2003, when fines and costs are assessed by a judge or district court magistrate in a civil infraction action, the defendant shall be ordered to pay the state assessment required by section 8727 or 8827 of this act or by section 907 of the Michigan vehicle code, 1949 PA 300, MCL 257.907.

(6) As used in this section:

(a) "Ordinance violation" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1.

(b) "Serious misdemeanor" means that term as defined in section 61 of the crime victim's rights act, 1985 PA 87, MCL 780.811.

(c) "Specified misdemeanor" means that term as defined in section 1 of 1989 PA 196, MCL 780.901.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1970, Act 248, Eff. Jan. 1, 1971;—Am. 1975, Act 324, Imd. Eff. Jan. 2, 1976;—Am. 1978, Act 511, Eff. Aug. 1, 1979;—Am. 1992, Act 233, Eff. Mar. 31, 1993;—Am. 1993, Act 189, Imd. Eff. Oct. 8, 1993;—Am. 1996, Act 374, Eff. Oct. 1, 1996;—Am. 2003, Act 96, Eff. Oct. 1, 2003.

600.8391 Traffic bureau; establishment; administration; purpose; authority over personnel; location and number of offices; appeals.

Sec. 8391. With the approval of the governing body of a district control unit, the district court may establish within the court a traffic bureau which may be administered by clerks or other personnel of the district court to accept, as authorized by the judges of the district, admissions for civil infractions under Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Michigan Compiled

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Laws, or a local ordinance corresponding thereto, and to collect civil fines and costs as prescribed by the judges of the district. Beginning August 1, 1979, a traffic bureau may also accept pleas of guilty for such traffic offenses as authorized by the judges of the district, except for violations of sections 625, 625b, 626, 626b, and 904 of Act No. 300 of the Public Acts of 1949, as amended, or a local ordinance corresponding thereto, and collect fines and costs as prescribed by the judges of the district, if the offense occurred before August 1, 1979 and if the maximum permissible punishment for the offense at the time the offense was committed did not exceed 90 days in jail or a fine of not more than $100.00, or both. The presiding judge of the district, subject to the supervision of the supreme court, shall have authority over the personnel and determine the location and number of traffic bureau offices. Appeals as of right may be taken from the traffic bureau to the district court. Appeals shall be taken within 7 days after the entry of the civil infraction admission and shall be heard de novo.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1978, Act 511, Eff. Aug. 1, 1979;—Am. 1979, Act 67, Eff. Aug. 1, 1979.

600.8392 State civil infraction bureau.

Sec. 8392. (1) Upon the approval of the governing body of a district control unit, the district court may establish within the court a state civil infraction bureau. The state civil infraction bureau may utilize clerks or other personnel of the district court to accept, as authorized by the judges of the district, admissions for civil infractions under chapter 88, and to collect civil fines and costs as prescribed by the judges of the district. The chief or only judge of the district, subject to the supervision of the supreme court, has authority over the state civil infraction bureau personnel and shall determine the location and number of state civil infraction bureau offices. Appeals by leave of the court may be taken from the state civil infraction bureau to the district court. Appeals shall be taken within 7 days after the entry of the civil infraction admission and shall be heard de novo.

(2) A state civil infraction bureau may be combined with a traffic bureau.

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

600.8395 Parking violations bureau; establishment; purpose; operating expense; operation by downtown development authority; definition.

Sec. 8395. (1) A city, village, or township may establish a parking violations bureau to accept civil infraction admissions in parking violation cases and to collect and retain civil fines and costs as prescribed by ordinance. Beginning August 1, 1979, a parking violations bureau may also accept pleas of guilty in parking violation cases if the violation occurred before August 1, 1979, and may collect and retain fines and costs as prescribed by ordinance at the time the violation occurred. Except as otherwise provided in subsection (2), the expense of operating parking violations bureaus shall be borne by the city, village, or township and the personnel of the bureau shall be city, village, or township employees.

(2) A city, village, or township may designate a downtown development authority located in that city, village, or township to operate a parking violations bureau under this section. The administration, expenses, personnel, distribution of parking violation revenue, and related matters shall be determined by a written agreement between the downtown development authority and the legislative body of the city, village, or township in which the downtown development authority is located.

(3) As used in this section, "downtown development authority" means an authority as defined under section 1 of 1975 PA 197, MCL 125.1651.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1978, Act 511, Eff. Aug. 1, 1979;—Am. 1979, Act 67, Eff. Aug. 1, 1979;—Am. 2005, Act 287, Imd. Eff. Dec. 19, 2005.

600.8396 Municipal ordinance violations bureau.

Sec. 8396. A county, city, village, or township may by ordinance establish a municipal ordinance violations bureau to accept admissions of responsibility for municipal civil infractions and to collect and retain civil fines and costs pursuant to a schedule as prescribed by ordinance. The expense of operating a municipal ordinance violations bureau shall be borne by the county, city, village, or township, and the personnel of the bureau shall be county, city, village, or township employees.

History: Add. 1994, Act 12, Eff. May 1, 1994.

CHAPTER 84
SMALL CLAIMS DIVISION

600.8401 Small claims division; creation; judge; jurisdiction.

Sec. 8401. A small claims division is created in each district as a division of the district court. A judge of

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the district court shall sit as judge of the small claims division. The jurisdiction of the small claims division shall be confined to cases for the recovery of money only when the amount claimed does not exceed $3,000.00.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1978, Act 496, Eff. Jan. 1, 1979;—Am. 1984, Act 278, Eff. Jan. 1, 1985;—Am. 1991, Act 192, Eff. July 1, 1992;—Am. 1999, Act 27, Eff. Jan. 1, 2000.

600.8401a Instruction sheets.

Sec. 8401a. (1) The state court administrator shall prepare instruction sheets clearly explaining in plain English how the small claims division functions and how to commence and defend an action in the small claims division. A copy of the instruction sheet must be given to the claimant upon filing a claim. Copies of the instruction sheets shall be made available at the office of each clerk and deputy clerk of the district court and a copy of the defendant's instruction sheet shall be sent by the clerk or deputy clerk to the defendant along with the copy of the affidavit served upon the defendant under section 8404.

(2) In addition to general instruction sheets, the state court administrator shall prepare instruction sheets under subsection (1) specifically for an action under section 73109 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.73109.

History: Add. 1984, Act 278, Eff. Jan. 1, 1985;—Am. 1998, Act 547, Eff. Mar. 23, 1999.

600.8402 Commencement of action; filing, form, and contents of affidavit; notice; name of plaintiff; removal; waiver.

Sec. 8402. (1) An action shall be commenced in the small claims division by filing with the clerk or a deputy clerk of the district court an affidavit and 1 copy of the affidavit for each defendant to be served. The form and contents of the affidavit shall be as prescribed by statute and the state court administrator. On the same form as the affidavit there shall be printed a notice directing the defendant to appear and answer as prescribed in section 8404.

(2) The full and correct name of the plaintiff shall be given, and the affidavit shall state whether the plaintiff is a corporation, partnership, sole proprietorship, or individual. If the plaintiff was acting under an assumed name or business name at the time the claim arose, the assumed name or business name shall be given.

(3) The affidavit, in boldface type, shall inform both parties of the right to removal before trial from magistrate jurisdiction, if applicable, and removal before trial to the general civil division. The affidavit shall inform the parties of rights waived if they choose to remain in the small claims division.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1978, Act 496, Eff. Jan. 1, 1979;—Am. 1984, Act 278, Eff. Jan. 1, 1985;—Am. 1991, Act 192, Eff. July 1, 1992.

600.8403 Affidavit forms; availability; preparation.

Sec. 8403. Printed affidavit forms for the commencement of actions in the small claims division shall be available at the office of each clerk and deputy clerk of the district court who shall prepare such affidavit for a claimant upon request.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8404 Service of affidavit and notice on defendant; form and contents of notice; evening and Saturday court hours.

Sec. 8404. (1) Upon the filing of the affidavit, the clerk or deputy clerk shall cause a copy of the affidavit to be served upon each defendant with a notice directing the defendant to appear and answer before a judge of the small claims division. The notice shall be in a form prescribed by the state court administrator and shall inform the defendant of all of the following:

(a) When and where to appear.

(b) That the defendant and the plaintiff are to bring all books, papers, and witnesses needed to establish any claim or defense.

(c) That failure to appear may result in a judgment against the defendant of up to the applicable jurisdictional amount as prescribed by section 8401, or the amount of the claim stated in the affidavit, whichever is less, together with costs of the action.

(d) That if settlement of the dispute is made before or at the hearing, the defendant may be charged with costs incurred by the plaintiff in initiating the action.

(e) That, even if the defendant does not have a legal defense, the defendant may appear to request installment payments pursuant to section 8410.

(2) The clerk shall inform the plaintiff and defendant that evening and Saturday court hours may be made

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available upon written request and need shown.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1978, Act 496, Eff. Jan. 1, 1979;—Am. 1984, Act 278, Eff. Jan. 1, 1985.

600.8405 Service; manner; proof.

Sec. 8405. Except as otherwise provided in this section, service of the affidavit and notice to appear and answer shall be made upon the defendant by certified mail, return receipt requested and deliverable to the addressee only, by personal service, or upon a showing that service of process cannot reasonably be made as provided by this section, the court may, by order, permit service of process to be made in any other manner reasonably calculated to give the defendant actual notice of the proceedings and an opportunity to be heard. Where service by certified mail is made, it shall be made by the clerk and the receipt of mailing together with the return card signed by the defendant shall constitute proof of service.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1996, Act 579, Imd. Eff. Jan. 17, 1997.

600.8406 Appearances; copy of affidavit and notice of hearing; application for new notice; jurisdiction to render judgment; continuance.

Sec. 8406. (1) The date for the appearance of the defendant provided in the notice shall not be less than 15 days nor more than 45 days after the date of the notice. The person filing the claim shall receive from the clerk a copy of the affidavit and notice of hearing. The plaintiff shall appear on the date shown in the notice of hearing and have all books, papers, and witnesses necessary to prove the claim. If the notice is not served upon the defendant at least 7 days before the appearance date, the plaintiff may apply to the clerk or deputy clerk for a new notice setting a new date for the appearance of the defendant which shall be not less than 15 days nor more than 30 days after the date of the issuance of the new notice.

(2) If a defendant is not personally served or did not sign the certified mail return receipt at least 7 days before the appearance date, there shall not be jurisdiction to render judgment, unless the defendant appears on the appearance date and does not request a continuance. If the defendant was not served within the minimum time specified, the matter, upon request of either party, shall be continued for not less than 7 days.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1978, Act 496, Eff. Jan. 1, 1979.

600.8407 Filing of claim in small claims division; restrictions.

Sec. 8407. (1) A claim shall not be filed or prosecuted in the small claims division by an assignee of a claim or by a third party beneficiary under a third party beneficiary contract.

(2) Within a district court district a person shall not file more than the following number of claims in the small claims division in 1 week:

(a) Except as provided in subdivision (b), a person shall not file more than 5 claims.

(b) A person shall not file more than 20 claims on behalf of a county, city, village, or township.

(3) A person shall not file a claim on behalf of a sole proprietorship or a partnership unless that person is the proprietor, a partner in the plaintiff partnership, or a full-time salaried employee of the plaintiff having knowledge of the facts surrounding the complaint. A person shall not file a claim on behalf of a corporation unless that person is a full-time, salaried employee having knowledge of the facts surrounding the complaint. A person shall not file a claim on behalf of a county, city, village, township, or local or intermediate school district unless that person is an elected or appointed officer or an employee of the county, city, village, township, or local or intermediate school district who has knowledge of the facts surrounding the complaint and who is authorized by the governing body of the county, city, village, township, or local or intermediate school district to file the claim.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1978, Act 496, Eff. Jan. 1, 1979;—Am. 1984, Act 272, Imd. Eff. Dec. 19, 1984;—Am. 1991, Act 192, Eff. July 1, 1992;—Am. 2006, Act 486, Eff. Jan. 1, 2007.

600.8408 Parties; representation; request for trial before district court judge; removal; waiver.

Sec. 8408. (1) An attorney at law, except on the attorney's own behalf, a collection agency or agent or employee of a collection agency, or a person other than the plaintiff and defendant, except as is otherwise provided in this chapter, shall not take part in the filing, prosecution, or defense of litigation in the small claims division.

(2) A sole proprietorship, partnership, or corporation as plaintiff or defendant may be represented by an officer or employee who has direct and personal knowledge of facts in dispute. If the officer or employee who has direct and personal knowledge of facts in dispute is no longer employed by the defendant or plaintiff or is medically unavailable, the representation may be made by that person's supervisor, or by the sole proprietor, a

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partner, or an officer or a member of the board of directors of a corporation.

(3) A county, city, village, township, or local or intermediate school district as plaintiff or defendant may be represented only by an elected or appointed officer or an employee who has direct and personal knowledge of the facts in dispute. If the officer or employee who has direct and personal knowledge of the facts in dispute is no longer an officer or employee of the plaintiff or defendant, the representation may be made by that officer's successor or that employee's supervisor, or by a member of the governing body of the county, city, village, township, or local or intermediate school district. In addition, a person may not represent a county, city, village, township, or local or intermediate school district in the small claims division unless authorized to appear in the case by the governing body of the county, city, village, township, or local or intermediate school district.

(4) Before commencement of a trial, the plaintiff or defendant may, upon demand, require that the trial be conducted before a district court judge and not a magistrate, or may remove the case from the small claims division to the general civil division of the district court. If the parties commence a trial of the case in the small claims division, both parties waive all rights mentioned in section 8412.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1978, Act 496, Eff. Jan. 1, 1979;—Am. 1984, Act 272, Imd. Eff. Dec. 19, 1984;—Am. 1984, Act 278, Eff. Jan. 1, 1985;—Am. 1991, Act 192, Eff. July 1, 1992.

600.8409 Attachment or garnishment prohibited; execution; judgment, enforcement; instruction sheets.

Sec. 8409. (1) Attachment or garnishment shall not issue from the small claims division prior to judgment but execution may issue in the manner prescribed by law and the judgment may be enforced in any other manner provided by law and not prohibited under the provisions of this chapter.

(2) The state court administrator shall prepare instruction sheets clearly explaining in plain English how, and under what circumstances, a plaintiff in whose favor a judgment has been entered may request the court to issue execution, attachment, or garnishment to enforce payment of the judgment. A copy of the instruction sheet shall be offered to the plaintiff at the same time as a copy of the judgment is given to the plaintiff under section 8410. Additional copies of the instruction sheets, and forms for writs of garnishment, shall be made available at the office of each clerk and deputy clerk of the district court.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1991, Act 192, Eff. July 1, 1992.

600.8410 Settlement; payment of judgment; execution, attachment, or garnishment; warning; examination of assets; payment of judgment in full; copy of judgment.

Sec. 8410. (1) Before or at the hearing the parties may make a settlement upon those terms as they may agree. The settlement shall be in writing and signed by both parties. Upon filing of the settlement with the court, the judge shall review the settlement and may enter it as the judgment of the court or may require that a full hearing take place.

(2) The judge shall order that a judgment in the small claims division shall be satisfied by payment to the clerk or the plaintiff either in a lump sum or in installments in amounts and at times as the judge considers just and reasonable under the circumstances. The judge shall also provide for a stay of further proceedings to collect the judgment while the defendant is in compliance with the order of the court.

(3) For good cause shown, the judge may reinstate an installment payment judgment previously not performed or the judge may alter the amount of installment payments and the time of payment of the judgment and shall authorize execution, attachment, or garnishment to issue where it appears that the defendant has not paid according to the terms of the judgment.

(4) The judgment shall include a warning that the defendant's failure to pay the judgment pursuant to its terms or any installment payment ordered may result in execution against the defendant's property and that the defendant may be compelled to appear for an examination of the defendant's assets.

(5) If the defendant is not present when the judgment is entered, or is present but does not immediately pay the full amount of the judgment when the judgment is entered, the judge shall order that the defendant, within 30 days after the date of entry of the judgment, pay the judgment in full or disclose in writing to the plaintiff and the court his or her place of employment and the location of his or her accounts in state or federally chartered banks, savings and loan associations, and credit unions.

(6) A copy of the judgment shall be given in court, delivered, or mailed immediately to each plaintiff and defendant following entry of the judgment.

History: Add. 1968, Act 154, Imd, Eff. June 17, 1968;—Am. 1978, Act 496, Eff. Jan. 1, 1979;—Am. 1991, Act 192, Eff. July 1, 1992.

600.8410a Writ of garnishment as to periodic payments issued by small claims division of

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district court; duration.

Sec. 8410a. A writ of garnishment issued by the small claims division of the district court remains in effect as to periodic payments as provided in section 4012.

History: Add. 1991, Act 67, Eff. Dec. 31, 1991;—Am. 1994, Act 175, Imd. Eff. June 20, 1994.

600.8411 Removal; waiver; hearings; manner of conducting; no jury or verbatim record.

Sec. 8411. (1) Before the commencement of a trial in the small claims division, the district court judge or magistrate shall inform both parties, orally or in writing, of the right to removal before trial to the general civil division and of all rights waived if they choose to remain in the small claims division.

(2) In hearings before the small claims division, witnesses shall be sworn. The judge shall conduct the trial in an informal manner so as to do substantial justice between the parties according to the rules of substantive law but shall not be bound by the statutory provisions or rules of practice, procedure, pleading, or evidence, except provisions relating to privileged communications, the sole object of such trials is to dispense expeditious justice between the parties. There shall be no jury nor shall a verbatim record of such proceedings be made.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1991, Act 192, Eff. July 1, 1992.

600.8412 Waiver of rights.

Sec. 8412. Unless a party removes a small claims action to the district court pursuant to section 8408(4), all parties to an action in the small claims division shall be considered to have waived the right to counsel, the right to trial by jury, the right to recover more than the applicable jurisdictional amount as prescribed by section 8401, and any right of appeal, except that if the action is heard before a district court magistrate pursuant to section 8427, the parties have a right to an appeal to the small claims division of the district court as provided by section 8427. The affidavit prescribed in section 8402 shall contain a statement that the plaintiff understands that he or she has waived these rights.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1978, Act 496, Eff. Jan. 1, 1979;—Am. 1984, Act 278, Eff. Jan. 1, 1985.

600.8413 Judgments; conclusiveness; form.

Sec. 8413. All judgments of the small claims division shall be conclusive upon the plaintiff and the defendant and shall be in a form prescribed by the supreme court.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8415 Venue of actions.

Sec. 8415. (1) Except as provided in subsections (3) and (4), in districts of the first class actions in the small claims division shall be filed in the county in which the cause of action arose or in the county in which the defendant is established or resides or is employed. If there is more than 1 defendant, actions shall be filed in the county in which any defendant is established or resides or is employed.

(2) Except as provided in subsections (3) and (4), in districts of the second or third class actions in the small claims division shall be filed in the district in which the cause of action arose or in the district in which the defendant is established or resides or is employed. If there is more than 1 defendant, actions shall be filed in the district in which any defendant is established or resides or is employed.

(3) In districts of the first class actions in the small claims division against a city, village, or township shall be filed in the county in which the city, village, or township is located. In districts of the first class actions in the small claims division against a county shall be filed in that county. In districts of the second or third class actions in the small claims division against a city, village, or township shall be filed in the district in which the city, village, or township is located. In districts of the second or third class actions in the small claims division against a county shall be filed in the district in which the county seat of the county is located.

(4) In districts of the first class, actions in the small claims division against a local or intermediate school district shall be filed in the county in which the local or intermediate school district has its principal administrative office. In districts of the second or third class, actions in the small claims division against a local or intermediate school district shall be filed in the district in which the local or intermediate school district has its principal administrative office.

(5) If the venue of an action is proper under this section at the time the action is filed in the small claims division and a party removes the action to the general civil division of the district court as provided by law or court rule, the court shall not order a change of venue of the action because the venue in which the action was filed would not have been proper if the action would have been filed in the general civil division of the district court. The court may order a change of venue of the action as otherwise required or permitted by court rule.

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History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1984, Act 272, Imd. Eff. Dec. 19, 1984;—Am. 1991, Act 192, Eff. July 1, 1992;—Am. 1993, Act 99, Eff. Sept. 1, 1993.

600.8416 Location of small claims division; filing of claims after regular court hours; scheduling of small claims hearings; hearings after regular court hours.

Sec. 8416. (1) The small claims division of the district court shall sit at least once each 30 days at the locations at which the district court is required to sit pursuant to section 8251.

(2) A clerk or deputy clerk of the district may be available for filing of claims with the small claims division after regular court hours at the discretion of the presiding judge.

(3) Scheduling of small claims hearings shall be done to lessen as much as possible the time that it is necessary for a plaintiff or defendant to be absent from employment. A judge of the district court may be available to hear small claims after regular court hours if the presiding judge determines that evening hours will facilitate the adjudication of small claims cases.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1978, Act 496, Eff. Jan. 1, 1979.

600.8418 Judgments; certification.

Sec. 8418. If the defendant fails to pay the judgment according to the terms and conditions thereof, the clerk or deputy clerk of the court, on application of the plaintiff, shall certify such judgment on a form prescribed by the supreme court.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8419 Forms and stationery.

Sec. 8419. Every clerk and deputy clerk of the district court shall be furnished a reasonable supply of all forms and stationery necessary for the expeditious and efficient operation of the small claims division by the governing legislative body of each district control unit.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8420 Fees; disposition.

Sec. 8420. (1) A fee of the following amount, as applicable, shall be charged and collected for the filing of the affidavit for the commencement of any action:

(a) $25.00, if the amount in controversy does not exceed $600.00.

(b) $45.00, if the amount in controversy exceeds $600.00 but does not exceed $1,750.00.

(c) $65.00, if the amount in controversy exceeds $1,750.00.

(2) A fee in an amount equal to the prevailing postal rate for the service provided shall be charged and collected for each defendant to whom a copy of the affidavit is mailed by the clerk. A fee of $15.00 shall be charged and collected for the issuance of a writ of execution, attachment, or garnishment and for the issuance of a judgment debtor discovery subpoena. Except as otherwise provided in this chapter, a fee or charge shall not be collected by an officer for any service rendered under this chapter or for the taking of affidavits for use in connection with any action commenced under this chapter.

(3) Of each filing fee under subsection (1)(a) collected within the month, at the end of each month, the clerk shall transmit $11.00 to the treasurer of the district funding unit in which the action was commenced, of which not less than $5.00 shall be used by the district funding unit to fund a drug treatment court if one is planned, established, or operated in that judicial district. If the entire amount attributable to the $5.00 portion is not needed for the operation of a drug treatment court, the balance that is not needed for that purpose shall be used for the operation of the district court. If a drug treatment court is not planned, established, or operated in that judicial district, all $11.00 shall be used for the operation of the district court. The clerk of the district court shall transmit the balance of the filing fee to the state treasurer for deposit in the civil filing fee fund created in section 171.

(4) Of each filing fee under subsection (1)(b) collected within the month, at the end of each month, the clerk shall transmit $17.00 to the treasurer of the district funding unit in which the action was commenced, of which not less than $5.00 shall be used by the district funding unit to fund a drug treatment court if one is planned, established, or operated in that judicial district. If the entire amount attributable to the $5.00 portion is not needed for the operation of a drug treatment court, the balance that is not needed for that purpose shall be used for the operation of the district court. If a drug treatment court is not planned, established, or operated in that judicial district, all $17.00 shall be used for the operation of the district court. The clerk of the district court shall transmit the balance of the filing fee to the state treasurer for deposit in the civil filing fee fund created in section 171.

(5) Of each filing fee under subsection (1)(c) collected within the month, at the end of each month, the

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clerk shall transmit $23.00 to the treasurer of the district funding unit in which the action was commenced, of which not less than $5.00 shall be used by the district funding unit to fund a drug treatment court if one is planned, established, or operated in that judicial district. If the entire amount attributable to the $5.00 portion is not needed for the operation of a drug treatment court, the balance that is not needed for that purpose shall be used for the operation of the district court. If a drug treatment court is not planned, established, or operated in that judicial district, all $23.00 shall be used for the operation of the district court. The clerk of the district court shall transmit the balance of the filing fee to the state treasurer for deposit in the civil filing fee fund created in section 171.

(6) If the affidavit and notice to appear and answer are served by personal service, the person serving the process is entitled to the same fee and mileage as for the service of a summons and complaint out of the district court.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1970, Act 238, Eff. Jan. 1, 1971;—Am. 1980, Act 67, Imd. Eff. Apr. 3, 1980;—Am. 1984, Act 278, Eff. Jan. 1, 1985;—Am. 1988, Act 310, Eff. Jan. 1, 1989;—Am. 1992, Act 233, Eff. Mar. 31, 1993;—Am. 1992, Act 292, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 189, Eff. Oct. 8, 1993;—Am. 2003, Act 138, Eff. Oct. 1, 2003;—Am. 2005, Act 151, Imd. Eff. Sept. 30, 2005.

600.8421 Costs to prevailing party.

Sec. 8421. The prevailing party in any action in the small claims division is entitled to costs of the action and also the costs of execution upon a judgment rendered therein. The costs shall include cost of service of the notice for the appearance of the defendant.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8422 Counterclaim; continuance.

Sec. 8422. If the defendant files a verified answer stating any new matter which constitutes a counterclaim, the court may grant a continuance upon request of either party.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8423 Separate action by defendant; transmittal fee; transfer of cause.

Sec. 8423. (1) If a defendant in a small claims action has a claim against the plaintiff, which claim is for an amount over the jurisdiction of the small claims division but of a nature which would be subject to counterclaim in accordance with rules of the supreme court, he may commence an action against the plaintiff in a court of competent jurisdiction and file with the clerk or deputy clerk of the small claims division wherein the plaintiff has commenced his action, at or before the time set for the trial of the small claims action, an affidavit in a form prescribed by the supreme court setting forth the fact of the commencement of such action by the defendant. He shall attach to the affidavit a true copy of the complaint filed by him against plaintiff, and pay to the clerk or deputy clerk the sum of $1.00 for a transmittal fee, and shall mail to the plaintiff a copy of the affidavit and complaint at or before the time above stated. Thereupon the judge of the small claims division shall order that the small claims action shall be transferred to the court set forth in the affidavit and he shall transmit all files and papers in the action to the other court and the actions shall then be tried together in the other court.

(2) The plaintiff in the small claims action shall not be required to pay to the clerk of the court to which the action is transferred any transmittal, appearance or filing fee in the action.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8424 Actions for fraud, libel, slander, assault, battery, or other intentional torts; governmental agency as party.

Sec. 8424. (1) Actions of fraud and actions of libel, slander, assault, battery, or other intentional torts shall not be instituted in the small claims division. This subsection does not apply to either of the following:

(a) An action for fraud under section 2952 or under the Michigan consumer protection act, 1976 PA 331, MCL 445.901 to 445.922.

(b) An action under section 73109 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.73109.

(2) Except as provided in subsection (3), the state, a political subdivision of the state, or any other governmental agency shall not be a party to an action in the small claims division.

(3) A county, city, village, township, or local or intermediate school district may file an action in the small claims division. An action may be filed in the small claims division against a county, city, village, township, or local or intermediate school district, but a party may not assert a claim with respect to which the county, city, village, township, or local or intermediate school district has immunity.

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History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1978, Act 496, Eff. Jan. 1, 1979;—Am. 1984, Act 272, Imd. Eff. Dec. 19, 1984;—Am. 1984, Act 278, Eff. Jan. 1, 1985;—Am. 1991, Act 192, Eff. July 1, 1992;—Am. 1998, Act 547, Eff. Mar. 23, 1999.

600.8425 Limitation on claim or recovery; amendment increasing amount claimed.

Sec. 8425. (1) A person having a claim in excess of the applicable jurisdictional amount as prescribed by section 8401 may institute an action in the small claims division but may not claim or recover more than the jurisdictional amount.

(2) If an action properly commenced in the small claims division is removed to the district court or to any other court pursuant to section 8408 or 8423, either party may amend his or her own pleadings to increase the amount claimed upon payment of any difference in the applicable filing fee.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1978, Act 496, Eff. Jan. 1, 1979;—Am. 1984, Act 278, Eff. Jan. 1, 1985.

600.8426 Name in which defendant sued; validity of judgment.

Sec. 8426. An individual, sole proprietorship, partnership, or corporation may be sued in the small claims division in any name used in any advertisement, sign, invoice, sales slip, register tape, business card, contract, or other communication or document, published, displayed or issued to the public in the course of its business. Any judgment in such a name shall be valid if the business is accurately identified by a location or mailing address where or through which the business is carried on.

History: Add. 1978, Act 496, Eff. Jan. 1, 1979.

600.8427 Conduct of small claims hearing by district court judge or magistrate; appeal.

Sec. 8427. A small claims hearing may be conducted either by a district court judge or by a district court magistrate who is an attorney licensed to practice in this state and who is authorized to do so by the chief judge of the district court district as provided in section 8514. If the hearing is conducted by a district court magistrate, an appeal de novo as of right may be taken by either party to the small claims division of the district court. Appeal shall be taken within 7 days after the entry of the decision of the magistrate. Further appeal from the judgment of the district court judge shall not be available to either party.

History: Add. 1984, Act 278, Eff. Jan. 1, 1985.

CHAPTER 85
MAGISTRATES

600.8501 District court magistrates; number; appointment; approval; qualifications; thirty-sixth district.

Sec. 8501. (1) In a county which elects by itself fewer than 2 district judges, the county board of commissioners shall provide for 1 district court magistrate. In all other counties in districts of the first and second class, the county board of commissioners shall provide for at least 1 magistrate when recommended by the judges of the district. Additional magistrates may be provided by the board upon recommendation of the judges. All magistrates provided for shall be appointed by the judges of the district and the appointments shall be subject to approval by the county board of commissioners before a person assumes the duties of the office of magistrate.

(2) In each district of the third class, the judge or judges of the district may appoint 1 or more district court magistrates. A person shall not be appointed magistrate unless the person is a registered elector in the district for which the person was appointed. Before a person assumes the duties of the office of magistrate in a district of the third class, the appointment of that person as a district court magistrate shall be subject to approval by the governing body or bodies of the district control unit or units which, individually or in the aggregate, contain more than 50% of the population of the district. This subsection shall not apply to the thirty-sixth district.

(3) The thirty-sixth district shall have not more than 6 district court magistrates. The chief judge of the thirty-sixth district may appoint 1 or more magistrates as permitted by this subsection. If a vacancy occurs in the office of district court magistrate, the chief judge may appoint a successor. Each magistrate appointed under this subsection shall serve at the pleasure of the chief judge of the thirty-sixth district.

(4) A person shall not be appointed district court magistrate under subsection (3) unless the person is a registered elector in the district.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1976, Act 16, Eff. Apr. 1, 1976;—Am. 1978, Act 164, Imd. Eff. May 25, 1978;—Am. 1980, Act 438, Eff. Sept. 1, 1981;—Am. 1981, Act 146, Eff. Dec. 1, 1981;—Am. 1984, Act 278, Eff. Jan. 1, 1985;—Am. 1988, Act 135, Imd. Eff. May 27, 1988.

Compiler's note: Sections 2 to 7 of Act 164 of 1978 provide:

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"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

"Election to fill new circuit and district judgeships; term.

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

"Ballot; nominating petition; affidavit of candidacy.

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

"Terms of judges.

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

"Election of additional judges; assumption and term of office.

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Residence of certain circuit judges; effect.

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

Section 1 of Act 128 of 1980 provides:

"Enacting sections amended; revised judicature act of 1961.

"Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

"Election of additional judges; assumption and terms of office.

"Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

"Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

"Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

"(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years."

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

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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."

Sections 2, 3, and 4 of Act 146 of 1981 provide:

"Repeal of MCL 600.8286, 600.8287, and 600.8288; effective date of repeal; exception.

"Section 2. Except as provided in enacting section 4, sections 8286, 8287, and 8288 of Act No. 236 of the Public Acts of 1961, being sections 600.8286, 600.8287, and 600.8288 of the Compiled Laws of 1970, are repealed effective January 1, 1983.

"Effective date of MCL 600.8286, 600.8287, 600.8288, and 600.8501; exception.

"Section 3. Except as provided in enacting section 4, sections 8286, 8287, 8288, and 8501 shall take effect December 1, 1981.

"Conditional effective date of MCL 600.8286, 600.8287, 600.8288, and 600.8501, and of enacting Section 2; adoption and filing of resolution by city of Detroit; effect of assuming responsibility for expenses.

"Section 4. (1) Sections 8286, 8287, 8288, and 8501 and enacting section 2 shall not take effect unless the city of Detroit, by resolution adopted not later than November 30, 1981, by the governing body of the city, agrees to assume responsibility for any expenses required of the city by this amendatory act and an authenticated copy is filed with the secretary of state not later than 4 p.m. November 30, 1981.

"(2) If the city of Detroit, acting through its governing body, agrees to assume responsibility for any expenses required of the city by this amendatory act, that action constitutes an exercise of the city's option to provide a new activity or service or to increase the level of activity or service offered in the city of Detroit 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 of all expenses and capital improvements which may result from establishment of the office of district court referee in the thirty-sixth district of the district court."

The resolution referred to in Section 4 was adopted by the city council of the city of Detroit on November 25, 1981, and an authenticated copy was filed with the secretary of state at 3:30 p.m. on November 30, 1981.

Section 2 of Act 135 of 1988 provides:

"Any additional district judgeship to be added by election in 1988 shall not be authorized to be filled by election unless each district control unit of the district, by resolution adopted by the governing body of the district control unit, approves the creation of that judgeship and unless the clerk of each district control unit adopting such a resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the tenth Tuesday preceding the August primary for the election to fill the additional district judgeship."

600.8503 District court of first or second class; clerk or deputy clerk as magistrate.

Sec. 8503. Subject to the provisions of section 8501, the judges of the district court within a district of the first or second class may appoint a clerk or deputy clerk as a magistrate to perform the duties and exercise the powers of a magistrate in addition to the duties as a clerk or deputy clerk of the district court.

History: Add. 1970, Act 61, Eff. Apr. 1, 1971;—Am. 1984, Act 278, Eff. Jan. 1, 1985.

600.8507 Magistrates; qualifications; term; oath; bond; temporarily absent or incapacitated magistrate; ordering temporary service of magistrate of another county; reimbursement; service of magistrate in another county; service of magistrate pursuant to multiple district plan.

Sec. 8507. (1) Magistrates shall be registered electors in the county in which they are appointed. All magistrates appointed shall serve at the pleasure of the judges of the district court. Before assuming office, persons appointed magistrates shall take the constitutional oath of office and file a bond with the treasurer of a district funding unit of that district in an amount determined by the state court administrator. The bond shall also apply to temporary service in another county under subsection (2), (3), or (4), or pursuant to a multiple district plan under subsection (5).

(2) In a district of the first class that consists of more than 1 county, if a magistrate is temporarily absent or incapacitated, the chief or only district judge may direct a magistrate of another county of the same district to serve temporarily in the county where the magistrate is temporarily absent or incapacitated. The district judge shall make his or her order in writing. A magistrate serving temporarily under this subsection is not entitled to additional compensation but shall be reimbursed for actual and necessary expenses incurred during the authorized temporary service upon certification and approval by the state court administrator. Upon allowance, the reimbursement shall be paid by the state treasurer out of the appropriation for the state court administrative office.

(3) In a district of the first class that consists of more than 1 county, the chief or only district judge may

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authorize a magistrate appointed in 1 county to serve in another county in the district.

(4) Pursuant to a multiple district plan under section 8320 involving adjoining districts of the first class, a district court magistrate appointed in a county of 1 district may be authorized to serve in a county of the adjoining district. While serving in the adjoining district, the magistrate shall be subject to the superintending control of the chief or only district judge of that district.

(5) Pursuant to a multiple district plan under section 8320 involving districts in the same county, a district court magistrate may be authorized to serve in any participating district of the county.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1976, Act 16, Eff. Apr. 1, 1976;—Am. 1980, Act 294, Imd. Eff. Oct. 19, 1980;—Am. 1994, Act 5, Imd. Eff. Feb. 24, 1994;—Am. 2005, Act 326, Imd. Eff. Dec. 27, 2005.

Compiler's note: Enacting section 1 of Act 326 of 2005 provides:

"Enacting section 1. Section 8507 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8507, as amended by this amendatory act, applies to bonds filed or renewed by district court magistrates after December 31, 2005."

600.8509 Repealed. 1969, Act 333, Imd. Eff. Nov. 4, 1969.

Compiler's note: The repealed section pertained to magistrates; jurisdiction and duties.

600.8511 District court magistrate; jurisdiction and duties.

Sec. 8511. A district court magistrate has the following jurisdiction and duties:

(a) To arraign and sentence upon pleas of guilty or nolo contendere for violations of the following acts or parts of acts, or a local ordinance substantially corresponding to these acts or parts of acts, when authorized by the chief judge of the district court district and if the maximum permissible punishment does not exceed 90 days in jail or a fine, or both:

(*i*) Part 487 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.48701 to 324.48740.

(*ii*) Part 401 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.40101 to 324.40119.

(*iii*) Part 801 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80101 to 324.80199.

(*iv*) The motor carrier act, 1933 PA 254, MCL 475.1 to 479.43.

(*v*) Motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.25.

(*vi*) Dog law of 1919, 1919 PA 339, MCL 287.261 to 287.290.

(*vii*) Section 703 or 915 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703 and 436.1915.

(*viii*) Part 5 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.501 to 324.511.

(*ix*) Part 89 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.8901 to 324.8907.

(*x*) Part 435 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.43501 to 324.43561.

(*xi*) Part 731 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.73101 to 324.73111.

(*xii*) Chapter LXXXV of the Michigan penal code, 1931 PA 328, MCL 750.546 to 750.552.

(b) To arraign and sentence upon pleas of guilty or nolo contendere for violations of the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a local ordinance substantially corresponding to a provision of the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, except for violations of sections 625 and 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m, or a local ordinance substantially corresponding to section 625 or 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m, when authorized by the chief judge of the district court district and if the maximum permissible punishment does not exceed 93 days in jail or a fine, or both. However, the magistrate may have the jurisdiction to arraign defendants and set bond with regard to violations of sections 625 and 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m, or a local ordinance substantially corresponding to section 625 or 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m.

(c) To arraign and sentence upon pleas of guilty or nolo contendere for violations of part 811 or 821 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81101 to 324.81150 and 324.82101 to 324.82160, or a local ordinance substantially corresponding to a provision of part 811 or 821 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81101 to 324.81150 and 324.82101 to 324.82160, except for violations of sections 81134, 81135, 82128, and 82129 of the natural

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resources and environmental protection act, 1994 PA 451, MCL 324.81134, 324.81135, 324.82128, and 324.82129, or a local ordinance substantially corresponding to sections 81134, 81135, 82128, and 82129 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134, 324.81135, 324.82128, and 324.82129, when authorized by the chief judge of the district court district and if the maximum permissible punishment does not exceed 93 days in jail or a fine, or both. However, the magistrate may have the jurisdiction to arraign defendants and set bond with regard to violations of sections 81134, 81135, 82128, and 82129 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134, 324.81135, 324.82128, and 324.82129.

(d) To arraign, when authorized by the chief judge of the district court district, for a contempt violation or a violation of a condition of probation when either arises directly out of a case for which a judge or district court magistrate conducted the arraignment under subdivision (a), (b), or (c), or the first appearance under section 8513, involving the same defendant. This subdivision applies only to offenses punishable by imprisonment for not more than 1 year or a fine, or both. The district court magistrate may set bond and accept a plea but may not conduct a violation hearing or sentencing.

(e) To issue warrants for the arrest of a person upon the written authorization of the prosecuting or municipal attorney, except written authorization shall not be required for a vehicle law or ordinance violation within the jurisdiction of the magistrate if a police officer issued a traffic citation pursuant to section 728 of the Michigan vehicle code, 1949 PA 300, MCL 257.728, and the defendant failed to appear.

(f) To fix bail and accept bond in all cases.

(g) To issue search warrants, when authorized to do so by a district court judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1969, Act 182, Imd. Eff. Aug. 5, 1969;—Am. 1970, Act 238, Eff. Jan. 1, 1971;—Am. 1976, Act 402, Imd. Eff. Jan. 5, 1977;—Am. 1984, Act 290, Imd. Eff. Dec. 20, 1984;—Am. 1990, Act 266, Imd. Eff. Oct. 17, 1990;—Am. 1996, Act 79, Imd. Eff. Feb. 27, 1996;—Am. 1999, Act 75, Eff. Oct. 1, 1999;—Am. 2008, Act 95, Imd. Eff. Apr. 8, 2008.

Compiler's note: Section 2 of Act 402 of 1976 provides:

"District court magistrates may exercise any authority or duty added by this amendatory act with regard to violations occurring before, on, or after the effective date of this amendatory act."

600.8512 Civil infractions; authority of district court magistrate; special training course; limitation on authority.

Sec. 8512. (1) A district court magistrate may hear and preside over civil infraction admissions and admissions with explanation and conduct informal hearings in civil infraction actions pursuant to section 746 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.746 of the Michigan Compiled Laws, section 8719, or section 8819, as applicable. In exercising the authority conferred by this subsection, the magistrate may administer oaths, examine witnesses, and make findings of fact and conclusions of law. If the defendant is determined to be responsible for a civil infraction, the magistrate may impose the civil sanctions authorized by section 907 of Act No. 300 of the Public Acts of 1949, being section 257.907 of the Michigan Compiled Laws, section 8727, or section 8827, as applicable.

(2) A district court magistrate shall not conduct an informal hearing in a civil infraction action involving a traffic or parking violation governed by Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws, until he or she has successfully completed a special training course in traffic law adjudication and sanctions. The course shall be given periodically by the state court administrator.

(3) A district court magistrate may exercise the authority conferred by this section only to the extent expressly authorized by the chief judge, presiding judge, or only judge of the district court district.

History: Add. 1978, Act 511, Eff. Aug. 1, 1979;—Am. 1984, Act 278, Eff. Jan. 1, 1985;—Am. 1994, Act 12, Eff. May 1, 1994;—Am. 1995, Act 54, Eff. Jan. 1, 1996.

600.8512a Powers of district court magistrate generally.

Sec. 8512a. Only to the extent expressly authorized by the chief judge, presiding judge, or only judge of the district court district, a district court magistrate may do 1 or more of the following:

(a) Accept an admission of responsibility and order civil sanctions for a civil infraction and order an appropriate civil sanction permitted by the statute or ordinance defining the act or omission.

(b) Accept a plea of guilty or nolo contendere and impose sentence for a misdemeanor or ordinance violation punishable by a fine and which is not punishable by imprisonment by the terms of the statute or ordinance creating the offense.

History: Add. 1984, Act 278, Eff. Jan. 1, 1985.

600.8513 Additional powers of district court magistrate.

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Sec. 8513. (1) When authorized by the chief judge of the district and whenever a district judge is not immediately available, a district court magistrate may conduct the first appearance of a defendant before the court in all criminal and ordinance violation cases, including acceptance of any written demand or waiver of preliminary examination and acceptance of any written demand or waiver of jury trial. However, this section does not authorize a district court magistrate to accept a plea of guilty or nolo contendere not expressly authorized pursuant to section 8511 or 8512a. A defendant neither demanding nor waiving preliminary examination in writing is deemed to have demanded preliminary examination and a defendant neither demanding nor waiving jury trial in writing is considered to have demanded a jury trial.

(2) If authorized by the chief judge of the district, a district court magistrate may do any of the following:

(a) Approve and grant petitions for the appointment of an attorney to represent an indigent defendant accused of any misdemeanor punishable by imprisonment for not more than 1 year or ordinance violation punishable by imprisonment.

(b) Suspend payment of court fees by an indigent party in any civil, small claims, or summary proceedings action, until after judgment has been entered.

(c) Upon written authorization of the prosecuting or city attorney, sign a nolle prosequi, dismissing any criminal or ordinance violation case over which the district court has jurisdiction and release any bail bond or bail bond deposit to the persons entitled to the bail bond or deposit. However, if the preliminary examination or trial has commenced or a plea of guilty or nolo contendere has been accepted by a district court judge, the dismissal order may be entered only by that judge or his or her alternate.

(d) Execute and issue process to carry into effect authority expressly granted by law to district court magistrates.

(3) A district court magistrate, for acts done within his or her jurisdiction as provided by law, has judicial immunity to the extent accorded a district court judge.

History: Add. 1984, Act 278, Eff. Jan. 1, 1985;—Am. 2008, Act 95, Imd. Eff. Apr. 8, 2008.

600.8514 Administration of oaths; examination of witnesses; findings of fact and conclusions of law; recommending judgment; functions of magistrate.

Sec. 8514. A district court magistrate who is an attorney licensed to practice law in this state, if authorized by the chief judge of the district, in cases in the small claims division, may administer oaths, examine witnesses, make findings of fact and conclusions of law, and recommend a judgment in the case. In doing so, the magistrate shall perform all functions which a district judge could perform in trying a case in the small claims division. A recommended judgment shall become a final judgment as of the date the judgment was recommended unless an appeal is taken within 7 days after the judgment was recommended.

History: Add. 1984, Act 278, Eff. Jan. 1, 1985.

600.8515 Appeals.

Sec. 8515. Appeals as of right may be taken from the district court magistrate to the district court. Appeal shall be taken within 7 days after the entry of the decision of the magistrate and shall be heard de novo.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1979, Act 67, Eff. Aug. 1, 1979.

600.8521 Magistrates; compensation.

Sec. 8521. (1) Magistrates shall be paid by the county in districts of the first and second class and by the district control unit or units in districts of the third class on a salary or per diem basis as determined by the county board of commissioners in districts of the first and second class or by the governing bodies of the district control unit or units in districts of the third class except that in no case shall the salary of the magistrate be less than $5,000.00 per year if paid a salary or less than $20.00 per day and $10.00 per half day if paid per diem. Uniformity in compensation of magistrates within a county in a district of the first class or within a district of the second class is not essential. Where a magistrate is paid on a per diem basis, the presiding judge of the district shall certify the number of days and half days which the magistrate worked in a pay period.

(2) The salaries of all magistrates appointed to serve in the thirty-sixth district shall be uniform.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1976, Act 16, Eff. Apr. 1, 1976;—Am. 1980, Act 438, Eff. Sept. 1, 1981;—Am. 1996, Act 374, Eff. Oct. 1, 1996.

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.

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"(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."

600.8525 Practice of law prohibited.

Sec. 8525. An attorney at law who is a magistrate shall be prohibited from the practice of law in the district court for the district in which the attorney serves. A person who is appointed as a magistrate in the thirty-sixth district shall not engage in the practice of law while he or she is a magistrate.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1976, Act 16, Eff. Apr. 1, 1976;—Am. 1980, Act 438, Eff. Sept. 1, 1981.

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."

600.8535 Disposition of fines and costs.

Sec. 8535. (1) Except as provided in subsection (2), district court magistrates shall pay all fines and costs received by them to the clerk of the district court on or before the last day of the month following receipt of those funds, which shall be allocated as provided in section 8379.

(2) In the thirty-sixth district, each district court magistrate shall cause all fines and costs received by the magistrate to be paid immediately to the clerk of the district court for the thirty-sixth district.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1980, Act 438, Eff. Sept. 1, 1981.

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

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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."

600.8541 Superintending control of district judge; limitation; functions and duties of district judge in chambers.

Sec. 8541. (1) The judges of the district court shall exercise superintending control over all magistrates within their districts. A district judge may not extend the jurisdiction of a district court magistrate beyond the jurisdiction expressly provided by law.

(2) A district court judge may perform in chambers all functions and duties which a district court magistrate is authorized to perform under section 8511 or 8512a.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1984, Act 278, Eff. Jan. 1, 1985.

600.8545 Small claims division; duties.

Sec. 8545. Magistrates shall exercise the same powers and perform the same duties as deputy clerks of the district court for the purpose of carrying out the provisions of chapter 84 although they shall not be considered deputy clerks.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.8551 Magistrates to sit at county seat, city, or other determined location.

Sec. 8551. Magistrates shall sit at any county seat and city or other locations as determined by the presiding judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1976, Act 16, Eff. Apr. 1, 1976.

600.8555 Repealed. 2005, Act 326, Imd. Eff. Dec. 27, 2005.

Compiler's note: The repealed section pertained to maintenance of docket on certain forms.

CHAPTER 86
RECORDERS AND STENOGRAPHERS

600.8601 Certified recorder or reporter; number; functions and duties.

Sec. 8601. There shall be not less than 1 district court certified recorder or reporter for each judge of the district court who, in addition to acting as official court recorder or reporter, may act as secretary to the district court judge and perform other functions and duties as may be required by rule of the supreme court.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1986, Act 308, Eff. Jan. 1, 1987.

600.8602 Appointment of recorder or reporter; appointment of additional recorders or reporters; functions and duties.

Sec. 8602. (1) Each judge of the district court shall appoint his or her own recorder or reporter.

(2) Pursuant to supreme court rule, the chief or only judge of the district may appoint additional certified recorders or reporters. Appointed additional recorders or reporters shall perform the duties and functions of recorder or reporter when so assigned and shall perform other functions and duties as may be assigned by the chief or only judge of the district or the court administrator.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1986, Act 308, Eff. Jan. 1, 1987.

600.8611 Repealed. 2005, Act 326, Imd. Eff. Dec. 27, 2005.

Compiler's note: The repealed section pertained to proceedings to be recorded.

600.8615 Annual salary of district court recorders or reporters.

Sec. 8615. The annual salary of district court recorders or reporters appointed pursuant to section 8602(1) shall be not less than $8,000.00 per year.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1974, Act 158, Eff. Sept. 1, 1974;—Am. 1986, Act 308, Eff. Jan. 1, 1987.

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600.8621 Court recorders and reporters; salaries; payment; contributions; recording devices.

Sec. 8621. (1) District court recorders and reporters shall be paid by each district control unit. In districts consisting of more than 1 district control unit, each district control unit shall contribute to the salary in the same proportion as the number of cases entered and commenced in the district control unit bears to the number of cases entered and commenced in the district, as determined by the judges of the district court under rules prescribed by the supreme court.

(2) The state shall purchase and pay for a recording device for each district or municipal judge, but the replacement, maintenance, and repair of the recording devices and the cost of supplies shall be paid for by the district or municipality. The recording devices shall be the property of the district or municipal court.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1980, Act 438, Eff. Sept. 1, 1981;—Am. 1986, Act 144, Imd. Eff. July 2, 1986;—Am. 1986, Act 308, Eff. Jan. 1, 1987;—Am. 1996, Act 374, Eff. Oct. 1, 1996.

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."

600.8625 Recorders or reporters; expenses; sworn statement; order.

Sec. 8625. The recorders or reporters of district courts composed of more than 1 county shall be entitled to receive, in addition to the salary provided for in this act, their necessary and actual expenses incurred in attending court in the counties of their district other than the county in which the recorder or reporter resides. Upon filing with the clerk of the district control unit in which the recorder or reporter has attended court a sworn statement that the expenses were incurred by the recorder or reporter and that the expenditures were necessary in performing such services, the district control unit treasurer shall pay such sum to the person entitled to it on presentation of an order properly drawn by the clerk, which order the clerk shall draw on receiving the sworn statement.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1986, Act 308, Eff. Jan. 1, 1987.

600.8626 Residence of recorder or reporter.

Sec. 8626. For the purposes of this chapter, the residence of a recorder or reporter who does not reside in the district in which he or she serves shall be deemed to be the same as the residence of the district judge for whom he or she serves.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1986, Act 308, Eff. Jan. 1, 1987.

600.8631 Fees for transcripts; fees as part of taxable costs.

Sec. 8631. (1) A district court recorder or reporter shall be entitled to receive for a transcript ordered by any person the same fees as provided by law for circuit court reporters or recorders. For a transcript ordered by the district judge or a circuit judge, recorders or reporters shall be entitled to receive from the district control unit the same compensation.

(2) The amount of a recorder's or reporter's fees paid shall be recoverable as a part of the taxable costs by the prevailing party in a motion or on appeal.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1969, Act 266, Eff. Sept. 1, 1969;—Am. 1972, Act 325, Imd. Eff. Jan. 2, 1973;—Am. 1977, Act 31, Imd. Eff. June 22, 1977;—Am. 1978, Act 156, Eff. July 1, 1978;—Am. 1986, Act 308, Eff. Jan. 1, 1987.

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600.8635 Reduction of record to writing; costs; transcript of trial or other proceeding ordered other than for filing.

Sec. 8635. (1) An original and copy of the verbatim record of all preliminary examinations in which the defendant is bound over to the circuit court for further proceedings shall be reduced to writing by the district court recorder or reporter when ordered by the circuit court and upon completion of the verbatim record shall be filed with the clerk of the circuit court, or as directed by the circuit court. An original of the verbatim record of other matters as may be required by supreme court rule shall be reduced to writing by the district court recorder or reporter and upon completion of the verbatim record shall be filed with the clerk of the district court or as directed by the district court. The county shall pay the costs of transcribing preliminary examinations in accordance with the schedule provided in section 8631.

(2) If a transcript of a trial or other proceeding is ordered other than for filing in the case file, the district court recorder or reporter also shall prepare and shall file a certified copy of the transcript in the case file at the expense of the person ordering the transcript unless a copy has been filed with the court, unless the circuit court has a copy pursuant to subsection (1), or unless the chief judge of the district court district orders otherwise in an order filed in the case file.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1969, Act 267, Eff. Sept. 1, 1969;—Am. 1978, Act 156, Eff. July 1, 1978;—Am. 1984, Act 43, Imd. Eff. Mar. 26, 1984;—Am. 1986, Act 308, Eff. Jan. 1, 1987.

CHAPTER 87
MUNICIPAL CIVIL INFRACTIONS

600.8701 Definitions.

Sec. 8701. As used in this chapter:

(a) "Authorized local official" means a police officer or other personnel of a county, city, village, township, or regional parks and recreation commission created under section 2 of Act No. 265 of the Public Acts of 1961, being section 46.352 of the Michigan Compiled Laws, legally authorized to issue municipal civil infraction citations.

(b) "Citation" means a written complaint or notice to appear in court upon which an authorized local official records the occurrence or existence of 1 or more municipal civil infractions by the person cited.

(c) "Municipal civil infraction determination" means a determination that a defendant is responsible for a municipal civil infraction by 1 of the following:

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

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

(*iii*) A preponderance of the evidence at an informal hearing or formal hearing on the question under section 8719 or 8721, respectively.

(*iv*) A default judgment for failing to appear as directed by a citation or other notice, at a scheduled appearance under section 8715(3)(b) or (4), at an informal hearing under section 8719, or at a formal hearing under section 8721.

History: Add. 1994, Act 12, Eff. May 1, 1994.

600.8703 Municipal civil infraction; commencement; political subdivision as plaintiff; jurisdiction of courts; time and place of appearance.

Sec. 8703. (1) A municipal civil infraction action is commenced upon the issuance of a citation as provided in section 8707. The plaintiff in a municipal civil infraction action is the political subdivision whose ordinance has been violated.

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

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

(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 municipal civil infraction occurred. Venue in the district court is governed by section 8312.

History: Add. 1994, Act 12, Eff. May 1, 1994;—Am. 1996, Act 388, Eff. Jan. 1, 1998.

600.8705 Citation; numbering; form; contents; modification; treatment as under oath.

Sec. 8705. (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 authorized official and shall be filed with

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the court in which the appearance is to be made.

(b) The first copy, which shall be retained by the ordinance 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 municipal 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 municipal civil infractions is optional.

(3) A citation for a municipal civil infraction signed by an authorized local official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the authorized local official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief."

History: Add. 1994, Act 12, Eff. May 1, 1994.

600.8707 Citation; preparation; issuance; service; municipal ordinance violation notice.

Sec. 8707. (1) An authorized local official who witnesses a person violate an ordinance a violation of which is a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and 3 copies of a citation, except as provided in subsection (6).

(2) An authorized local official may issue a citation to a person if, based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction. An authorized local official may issue a citation to a person if, based upon investigation of a complaint by someone who allegedly witnessed the person violate an ordinance a violation of which is a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction and if the prosecuting attorney or other attorney for the political subdivision employing the authorized local official approves in writing the issuance of the citation.

(3) Except as otherwise provided under subsection (4), the authorized local official shall personally serve the third copy of the citation upon the alleged violator.

(4) In a municipal civil infraction action involving the use or occupancy of land or a building or other structure, a copy of the citation need not be personally served upon the alleged violator but may be served upon an owner or occupant of the land, building, or structure by posting the copy on the land or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first-class mail to the owner of the land, building, or structure at the owner's last known address.

(5) A citation served under subsection (4) for a violation involving the use or occupancy of land or a building or other structure shall be processed in the same manner as a citation served personally upon a defendant pursuant to subsection (1) or (2).

(6) Except under the circumstances described in section 8709(5)(a) or (b), if a county, city, village, or township has established a municipal ordinance violations bureau, an authorized local official of the county, city, village, or township may issue and serve a municipal ordinance violation notice, instead of a citation, under the same circumstances and upon the same persons as provided in this section for the service of a citation. If an authorized local official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by ordinance for the violation are not paid at the municipal ordinance violations bureau, a citation may be filed with the court described in section 8703(4) and a copy of the citation may be served by first-class mail upon the alleged violator at his or her last known address. The citation filed with the court pursuant to this subsection need not comply in all particulars with sections 8705 and 8709 but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the defendant how to respond to the citation. A citation issued under this subsection shall be processed in the same manner as a citation issued personally to a defendant pursuant to subsection (1) or (2). As used in this subsection, "municipal ordinance violation notice" means a notice, other than a citation, directing a person to appear at a municipal ordinance violations bureau in the city, village, township, or county in which the notice is issued and to pay the fine and costs, if any, prescribed by ordinance for the violation of the ordinance.

History: Add. 1994, Act 12, Eff. May 1, 1994.

600.8709 Citation; contents; trailway municipal civil infraction.

Sec. 8709. (1) A citation issued pursuant to section 8707 shall contain the name of the plaintiff, the name and address of the defendant, the municipal 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

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the additional information required by this section.

(2) Except as provided in subsection (5), the citation shall inform the defendant that he or she may do 1 of the following:

(a) Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.

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

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

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

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

(3) Except as provided in subsection (5), the citation shall inform the defendant of all of the following:

(a) That if the defendant desires to admit responsibility "with explanation" in person or by representation, 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 for an appearance.

(b) That if the defendant desires to deny responsibility, 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 unless a hearing date is specified on the citation.

(c) That a hearing shall be an informal hearing unless a formal hearing is requested by the defendant or the plaintiff political subdivision.

(d) That at an informal hearing the defendant must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.

(e) That at a formal hearing the defendant must appear in person before a judge with the opportunity of being represented by an attorney.

(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 is a misdemeanor and will result in entry of a default judgment against the defendant on the municipal civil infraction. Except as provided in subsection (5), return of the citation with an admission of responsibility and with full payment of applicable civil fines and costs, return of the citation with an admission of responsibility with explanation, or timely application to the court for a scheduled date and time for an appearance under subsection (3)(a) or a hearing under subsection (3)(b) constitutes a timely appearance.

(5) A citation that may be issued for a trailway municipal civil infraction shall be designed to allow the authorized local official to indicate that the defendant is required to appear at a formal hearing. An authorized local official issuing a citation for a trailway municipal civil infraction shall require the defendant to appear at a formal hearing if either or both of the following apply:

(a) The trailway municipal civil infraction caused damage to a natural resource or facility.

(b) The authorized local official impounds the vehicle.

History: Add. 1994, Act 12, Eff. May 1, 1994.

600.8711 Citation; admission; denial of responsibility; filing of sworn complaint; failure to appear; warrant for arrest.

Sec. 8711. If an authorized local official issues a citation under section 8707, 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 municipal civil infraction, further proceedings shall not be held until a sworn complaint is filed with the court. A warrant for arrest for failure to appear on the municipal civil infraction citation under section 8727(9) shall not be issued until a sworn complaint relative to the municipal civil infraction is filed with the court.

History: Add. 1994, Act 12, Eff. May 1, 1994.

600.8713 Materially false statement; penalty.

Sec. 8713. An authorized local official who, knowing the statement is false, makes a materially false statement in a citation issued under section 8707 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. 1994, Act 12, Eff. May 1, 1994.

600.8715 Citation; appearance; response to allegations; acceptance of admission;

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sanctions; admission of responsibility with explanation; effect; denial of responsibility; hearing.

Sec. 8715. (1) A person to whom a citation is issued under section 8707 shall appear by or at the time specified in the citation and, except as otherwise provided by section 8709(5), may respond to the allegations in the citation as provided in this section.

(2) If the defendant wishes to admit responsibility for the municipal 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 8727.

(3) If the defendant wishes to admit responsibility for the municipal 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 for an appearance, at which time the defendant shall appear in court in person or by representation.

(4) If a defendant admits responsibility for a municipal 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 8727. 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 municipal 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. The hearing shall be an informal hearing, unless a formal hearing is requested by the defendant or the plaintiff as provided by section 8717. If a 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 8719, and a formal hearing shall be conducted pursuant to section 8721.

History: Add. 1994, Act 12, Eff. May 1, 1994.

600.8717 Request for formal hearing.

Sec. 8717. (1) The court shall schedule a formal hearing if either the defendant or the plaintiff expressly requests a formal hearing as provided by this section.

(2) A request for a formal hearing must be received by the court at least 10 days before the hearing date. The request may be made in person, by representation, by mail, or by telephone.

(3) The party requesting a formal hearing shall notify the other party or parties of the request. Notification of the request must be received by the other parties at least 10 days before the hearing date. The notification of a request for a formal hearing may be made in person, by representation, by mail, or by telephone.

(4) In a trailway municipal civil infraction action, the court shall also schedule a formal hearing if either or both of the following apply:

(a) The trailway municipal civil infraction caused damage to a natural resource or facility.

(b) The authorized local official impounded the vehicle.

History: Add. 1994, Act 12, Eff. May 1, 1994.

600.8719 Informal hearing.

Sec. 8719. (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 shall not be represented by an attorney and the plaintiff shall not be represented by the prosecuting attorney or attorney for a political subdivision.

(3) Notice of a scheduled informal hearing shall be given to the plaintiff. The plaintiff and defendant may

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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, or by the city or village if the hearing involves an ordinance violation in a district where the district court is not functioning.

(4) If the judge or district court magistrate determines by a preponderance of the evidence that the defendant is responsible for a municipal civil infraction, the judge or magistrate shall enter an order against the defendant as provided in section 8727. Otherwise, a judgment shall be entered for the defendant, but the defendant is not entitled to costs of the action.

(5) The plaintiff and defendant are entitled to appeal an adverse judgment entered at an informal hearing. An appeal from a municipal judge shall be a 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. 1994, Act 12, Eff. May 1, 1994.

600.8721 Formal hearing.

Sec. 8721. (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 or the attorney who represents the plaintiff political subdivision. That 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, or by the city or village if the hearing involves an ordinance violation in a district where the district court is not functioning.

(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 municipal civil infraction, the judge shall enter an order against the defendant as provided in section 8727. Otherwise, a judgment shall be entered for the defendant, but the defendant is not entitled to costs of the action.

History: Add. 1994, Act 12, Eff. May 1, 1994.

600.8723 Failure to appear; default judgment.

Sec. 8723. If the defendant fails to appear as directed by the citation or other notice at a scheduled appearance under section 8715(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.

History: Add. 1994, Act 12, Eff. May 1, 1994.

600.8725 Issuance of citation; fee prohibited; violation.

Sec. 8725. (1) An authorized local official issuing a citation under this chapter for a municipal civil infraction shall not accept a fee for issuing the citation.

(2) An authorized local official who violates this section is guilty of misconduct in office and subject to removal from office.

History: Add. 1994, Act 12, Eff. May 1, 1994.

600.8727 Municipal civil infraction; civil fine, costs, justice system assessments, damages, and expenses.

Sec. 8727. (1) A municipal civil infraction is not a lesser included offense of a criminal offense or an ordinance violation that is not a civil infraction.

(2) If a defendant is determined to be responsible or responsible “with explanation” for a municipal civil infraction, the judge or district court magistrate may order the defendant to pay a civil fine, costs as provided in subsection (3), the justice system assessment as provided in subsection (4), and, if applicable, damages and expenses as provided in section 8733(2). In the order of judgment, the judge or district court magistrate may grant a defendant permission to pay a civil fine, costs, assessment, and damages and expenses within a specified period of time or in specified installments. Otherwise, the civil fine, costs, assessment, and damages and expenses are due immediately.

(3) If a defendant is ordered to pay a civil fine under subsection (2), the judge or district court magistrate

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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 municipal civil infraction, up to the entry of judgment. Costs of not more than $500.00 shall be ordered. Until September 30, 2003, the amount of costs ordered shall be not less than $9.00. Except as otherwise provided by law, costs shall be payable to the general fund of the plaintiff.

(4) Effective October 1, 2003, in addition to any fine or cost ordered to be paid under subsection (2), 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) In addition to ordering the defendant to pay a civil fine, costs, a justice system assessment, and damages and expenses, the judge or district court magistrate may issue a writ or order under section 8302.

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

(7) Each district of the district court and each municipal court may establish a schedule of civil fines, costs, and assessments to be imposed for municipal civil infractions that occur within the district or city. If a schedule is established, it shall be prominently posted and readily available for public inspection. A schedule need not include all municipal civil infractions. A schedule may exclude cases on the basis of a defendant's prior record of municipal civil infractions.

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

(9) If a defendant fails to comply with an order or judgment issued pursuant to this section within the time prescribed by the court, the court may proceed under section 8729, 8731, or 8733, as applicable.

(10) A defendant who fails to answer a citation or notice to appear in court for a municipal civil infraction is guilty of a misdemeanor.

History: Add. 1994, Act 12, Eff. May 1, 1994;—Am. 2003, Act 95, Eff. Oct. 1, 2003.

600.8729 Payment of fine, costs, assessment, damages, or expenses; default as civil contempt.

Sec. 8729. (1) If a defendant defaults in the payment of a civil fine, costs, assessment, or, if applicable, damages or expenses as provided in section 8733(2) if applicable, or any installment, as ordered pursuant to section 8727, the court, upon the motion of the plaintiff or upon its own motion, may require the defendant to show cause why the defendant should not be held in civil contempt and may issue a summons, an 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, assessment, or damages or expenses, the individuals authorized to make disbursement shall pay the fine, costs, assessment, or damages or expenses, 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 amount due is paid.

(4) If it appears that the default in the payment of a fine, costs, assessment, or damages or expenses 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, costs, assessment, or damages or expenses.

(5) The term of imprisonment on civil contempt for nonpayment of a civil fine, costs, assessment, or damages or expenses shall be specified in the order of commitment and shall not exceed 1 day for each $30.00 due. A person committed for nonpayment of a civil fine, costs, assessment, or damages or expenses 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, assessment, or damages or expenses 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).

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History: Add. 1994, Act 12, Eff. May 1, 1994;—Am. 2003, Act 95, Eff. Oct. 1, 2003.

600.8731 Violation involving land, building, or other structure; nonpayment of civil fine, costs, or installment; lien.

Sec. 8731. (1) If a defendant does not pay a civil fine, costs, or assessment or an installment ordered under section 8727 within 30 days after the date on which payment is due under section 8727 in a municipal civil infraction action brought for a violation involving the use or occupation of land or a building or other structure, the plaintiff may obtain a lien against the land, building, or structure involved in the violation by recording a copy of the court order requiring payment of the fines, costs, and assessment with the register of deeds for the county in which the land, building, or structure is located. The court order shall not be recorded unless a legal description of the property is incorporated in or attached to the court order. The lien is effective immediately upon recording of the court order with the register of deeds.

(2) The court order recorded with the register of deeds shall constitute notice of the pendency of the lien. In addition, a written notice of the lien shall be sent by the plaintiff by first-class mail to the owner of record of the land, building, or structure at the owner's last known address.

(3) The lien may be enforced and discharged by a county, city, village, or township in the manner prescribed by its charter, by the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, or by an ordinance duly passed by the governing body of the county, city, village, or township. However, property is not subject to sale under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, for nonpayment of a civil fine, costs, or assessment or an installment ordered under section 8727 unless the property is also subject to sale under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, for delinquent property taxes.

(4) A lien created under this section has priority over any other lien unless 1 or more of the following apply:

(a) The other lien is a lien for taxes or special assessments.

(b) The other lien is created before May 1, 1994.

(c) Federal law provides that the other lien has priority.

(d) The other lien is recorded before the lien under this section is recorded.

(5) A political subdivision may institute an action in a court of competent jurisdiction for the collection of the judgment imposed by a court order for a municipal civil infraction. However, an attempt by a county, city, village, or township to collect the judgment by any process does not invalidate or waive the lien upon the land, building, or structure.

(6) A lien provided for by this section shall not continue for a period longer than 5 years after a copy of the court order imposing a fine, costs, or assessment is recorded, unless within that time an action to enforce the lien is commenced.

History: Add. 1994, Act 12, Eff. May 1, 1994;—Am. 2003, Act 95, Eff. Oct. 1, 2003;—Am. 2003, Act 178, Eff. Oct. 1, 2003.

600.8733 Trailway municipal civil infraction; seizure and impoundment of vehicle; lien; bond; payments; forfeiture and application of bond; enforcement of lien by foreclosure sale; notice; distribution of proceeds.

Sec. 8733. (1) An authorized local official may seize and impound a vehicle operated in the commission of a trailway municipal civil infraction. Upon impoundment, the vehicle is subject to a lien, subordinate to a prior lien of record, in the amount of any fine, costs, or assessment that the defendant may be ordered to pay under section 8727 and any expenses described in subsection (2) that the defendant may be ordered to pay under section 8727. The defendant or a person with an ownership interest in the vehicle may post with the court a cash or surety bond in the amount of $750.00. If such a bond is posted, the vehicle shall be released from impoundment. The vehicle shall also be released, and the lien shall be discharged, upon a judicial determination that the defendant is not responsible for the trailway municipal civil infraction or upon payment of the fine, costs, assessment, and damages and expenses.

(2) In a trailway municipal civil infraction action, an order under section 8727 may require the defendant to pay 1 or both of the following:

(a) The amount of damages to any land, water, wildlife, vegetation, or other natural resource or to any facility damaged by the violation of the ordinance. Money collected under this subdivision shall be distributed to the governmental entity that has jurisdiction over the recreational trailway.

(b) The reasonable expense of impoundment under subsection (1). Money collected under this subdivision shall be distributed to the governmental entity employing the authorized local official who impounded the vehicle involved in the trailway municipal civil infraction.

(3) If the court determines that the defendant is responsible for the trailway municipal civil infraction and

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the defendant defaults in the payment of the fine, costs, assessment, or damages or expenses, or in any installment, as ordered pursuant to section 8727, any bond posted under subsection (1) shall be forfeited and applied to the fine, costs, assessment, damages, expenses, or installment. The court shall certify any remaining unpaid amount to the attorney for the governmental entity whose ordinance was violated. The attorney for the governmental entity may enforce the lien by a foreclosure sale. The foreclosure sale shall be conducted in the manner provided and subject to the same rights as apply in the case of execution sales under sections 6031, 6032, 6041, 6042, and 6044 to 6047.

(4) Not less than 21 days before the foreclosure sale, the attorney for the governmental entity whose ordinance was violated shall by certified mail send written notice of the time and place of the foreclosure sale to each person with a known ownership interest in or lien of record on the vehicle. In addition, not less than 10 days before the foreclosure sale, the attorney shall twice publish notice of the time and place of the foreclosure sale in a newspaper of general circulation in the county in which the vehicle was seized. The proceeds of the foreclosure sale shall be distributed in the following order of priority:

(a) To discharge any lien on the vehicle that was recorded prior to the creation of the lien under subsection (1).

(b) To the clerk of the court for the payment of the fine, costs, assessment, damages, and expenses that the defendant was ordered to pay under section 8727.

(c) To discharge any lien on the vehicle that was recorded after the creation of the lien under subsection (1).

(d) To the owner of the vehicle.

History: Add. 1994, Act 12, Eff. May 1, 1994;—Am. 2003, Act 95, Eff. Oct. 1, 2003.

600.8735 Municipal civil infraction; additional costs.

Sec. 8735. If the defendant in a municipal civil infraction action is determined responsible for a municipal civil infraction, the judge or district court magistrate, in addition to any fine, costs, and assessment imposed under section 8727, 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.

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.

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(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.

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(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.

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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

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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 shall be ordered. Until September 30, 2003, the amount of costs ordered shall be not less than $9.00. Costs in a state civil infraction action in the district court shall be distributed as provided in sections 8379 and 8381. Beginning October 1, 2003, costs ordered in a state civil infraction action shall be distributed as provided in section 8379. Costs in a state civil infraction action in a municipal court shall 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.

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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 shall 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) Not less than 28 days after a defendant fails to appear in response to a citation issued for, or fails to comply with an order or judgment involving, a state civil infraction, the court shall give notice by ordinary mail, addressed to the defendant's last known address, that if the defendant fails to appear or fails to comply with the order or judgment described in this subsection within 14 days after the notice is issued, the court will give to the secretary of state notice of that failure. Upon receiving notice of that failure, the secretary of state shall not issue or renew an operator's or chauffeur's license for the defendant until both of the following occur:

(a) The court informs the secretary of state that the defendant has resolved all outstanding matters regarding each notice or citation.

(b) The defendant has paid to the court a $45.00 driver license reinstatement fee. If the court determines that the defendant is not responsible for any violation for which the defendant's license was not issued or renewed under this subsection, the court shall waive the driver license reinstatement fee.

(9) 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.

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 600.8831; 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

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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.

CHAPTER 91
STATE JUDICIAL COUNCIL

600.9101-600.9107 Repealed. 1996, Act 374, Eff. Oct. 1, 1996.

Compiler's note: The repealed sections pertained to state judicial council and agreements with council employees.

600.9108 State judicial council; pay raises and benefit plan changes prohibited.

Sec. 9108. The state judicial council shall not, from the effective date of this section until the transfer of employees to the appropriate employer, grant any pay raises or make any changes in benefit plans for any of its employees.

History: Add. 1996, Act 374, Imd. Eff. July 17, 1996.

600.9109 Payroll services.

Sec. 9109. Notwithstanding the employer status of the county-paid employees serving in the circuit court in the third judicial circuit, or serving in the recorder's court of the city of Detroit, or of the city-paid employees serving in the district court in the thirty-sixth district as of October 1, 1996, as established in sections 593a and 8274, the state may, upon request of the new employer, continue to provide payroll services to those employees. These payroll services may continue for a transition period not to extend beyond January 31, 1997. If the state provides payroll services upon request of an employer, the requesting employer shall reimburse the state for its actual expenses in providing the payroll services. At the discretion of the department of management and budget, these expenses may be offset by payments from the court equity fund and hold harmless fund to which the county of Wayne or the city of Detroit otherwise would be entitled under section 151b.

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

CHAPTER 99
REPEALS, SAVINGS CLAUSE AND EFFECTIVE DATE

600.9901 Repeal.

Sec. 9901. The following acts and parts of acts, as amended, are hereby repealed:

(1) Revised Statutes of 1846,

Chapter	Section Numbers	Compiled Law Sections (1948)
43	11 to 14	692.311 to 692.314
107	26	691.626
110	1 to 11	692.401 to 692.411
111	1	692.451
130	1 to 18	692.1 to 692.18

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150	10	691.830
150	12	691.832
150	14	691.834
150	16	691.836
150	20	691.840
150	43	691.843

(2) Public Acts,

Year of Act	Public Act Number	Section Numbers	Compiled Law Sections (1948)
1848	38		691.581 and 691.582
1869	67		691.431 to 691.434
1879	148		692.19
1885	133		692.31
1893	204		691.441 to 691.466
1895	26		691.411 to 691.416
1895	125	18 and 22	691.248 and 691.252
1897	144		691.731 to 691.737
1897	183		691.301 to 691.352
1899	21		691.348a
1901	41		691.348b
1903	22		691.348c
1903	31		691.473 and 691.474
1905	107		692.201 to 692.203
1905	272		691.261 to 691.266
1905	280		691.591
1911	86		691.761 and 691.762
1911	233		691.571
1915	200		691.681

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1915	217	691.691 to 691.693
1915	242	691.221
1915	314	600.1 to 681.13
1917	200	602.46b
1917	214	691.871 to 691.873
1917	216	602.46a
1917	294	615.11 and 615.12
1919	54	602.46d
1919	151	691.881 to 691.883
1919	231	691.348d
1919	311	691.350a and 691.350b
1921	178	691.641 to 691.643
1921	179	691.631 to 691.633
1921	185	691.891
1921	224	691.281
1923	31	602.119a
1925	84	691.851
1925	104	691.211 to 691.213
1925	110	692.151 to 692.155
1925	122	691.2
1925	142	691.651 to 691.654
1925	257	630.30
1925	389	692.251 to 692.268
1926(Ex.Sess.)	19	692.20
1927	73	691.701
1927	313	691.231 to 691.233
1927	315	691.521 to 691.524

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1929	27	691.21
1929	36	691.501 to 691.507
1929	91	691.271 and 691.272
1929	120	602.46e
1929	147	692.551
1929	212	691.771 to 691.776
1929	255	691.601
1929	294	691.611 and 691.612
1931	93	691.421 to 691.423
1931	111	692.101 to 692.104
1933	153	602.101a
1933	184	691.801 to 691.813
1933	195	617.19a
1935	41	617.85
1935	58	691.51 and 691.52
1935	106	691.711 to 691.720
1937	13	691.751
1937	31	691.781
1937	54	619.23a
1937	107	628.44a
1937	135	628.47 and 676.37
1937	143	692.51
1937	170	622.27 and 671.17
1937	171	692.501
1937	296	691.541 to 691.545
1939	7	602.57a
1939	132	678.2a
1939	135	691.101 to 691.123

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1939	297	691.583
1939	317	645.24
1941	4	612.2a
1941	6	628.1a
1941	7	691.661 and 691.662
1941	18	691.671
1941	123	691.531
1941	137	691.111a and 691.112a
1941	265	676.38
1941	270	691.401 and 691.402
1941	286	691.803a
1941	303	691.561 to 691.564
1942(2d.Ex.Sess.)	9	601.53a
1945	87	691.141
1945	127	691.151 and 691.152
1945	222	628.48
1945	309	691.901 to 691.911
1945	311	691.348e and 691.348f
1947	8	602.45a
1947	21	606.5
1947	141	614.16
1947	183	678.21a
1949	136	602.45b
1949	138	692.601 and 692.602
1949	304	691.921
1951	6	667.29
1951	135	602.45c
1952	28	692.621 to 692.624
1952	37	692.641 to 692.643
1952	269	692.701 to 692.707

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1953	45	692.661 and 692.662
1953	48	617.40a
1953	56	618.38a
1953	164	692.671 to 692.676
1953	177	602.39b and 602.45d
1954	128	692.751 to 692.754
1954	162	692.708
1954	177	691.348g
1954	195	692.721 to 692.724
1955	261	691.351
1956	67	692.581
1956	116	691.931 to 691.935
1957	114	676.39
1957	127	602.46f
1957	130	691.951 and 691.952
1957	149	676.1a
1957	218	671.18
1957	234	692.821 and 692.822
1957	237	602.96a
1958	44	691.463a
1958	126	692.841 to 692.850
1958	182	692.861
1959	1	691.248b
1959	161	691.481 to 691.492
1959	167	691.721
1959	249	669.17a

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

600.9905 Savings clause; special cases and proceedings; law applicable.

Sec. 9905. (1) Except as specifically stated or reasonably inferred from the provisions of this act, this act shall not impair or affect any act done, offense committed or right accruing, accrued, or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time this act takes effect, but the same may be enjoyed, asserted, enforced, prosecuted, or inflicted as if this act had not been passed.

(2) Laws relating to actions in special cases and in special proceedings, the subject matter of which is not

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embraced within the provisions of this act, and not specifically repealed, are not to be deemed repealed or superseded by this act, but the same are retained and the procedure therein shall be as in such laws provided.

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

600.9906 Special nonsevering clause as to court fees and retirement funds.

Sec. 9906. Notwithstanding section 5 of chapter 1 of the Revised Statutes of 1846, being section 8.5 of the Compiled Laws of 1948, if any part of section 2528 is declared to be unconstitutional by a court of competent jurisdiction, the entire section 2528 shall be deemed unconstitutional and inoperative.

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

600.9911 Effective date of act.

Sec. 9911. This act shall become effective on January 1, 1963.

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

600.9921 Courts abolished; extension of term of certain judges.

Sec. 9921. (1) Effective January 1, 1969, the following courts are abolished except as provided in section 9928:

(a) Justices of the peace.

(b) Circuit court commissioners.

(c) Municipal courts.

(d) Police courts.

(e) Recorders court of the city of Cadillac.

(2) Notwithstanding any provision of law or charter to the contrary, the term of office of all incumbent municipal and associate municipal judges ending at any time prior to December 31, 1968, is extended through December 31, 1968.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.9922 Transfer of duties and powers to district court; circuit court referees.

Sec. 9922. All duties and powers which by law may be performed by justices of the peace, circuit court commissioners, judges of municipal courts, judges of police courts and judges of the recorders court of Cadillac shall be performed after December 31, 1968 by the district court. In any district in which there is a common pleas court, the duties and powers of the circuit court commissioner shall be performed by 4 referees appointed by the circuit court, which referees shall be court clerks of the circuit court commissioners court with 25 years' experience as such court clerks, and if an insufficient number of such qualified court clerks are available, the remaining referees shall be persons licensed to practice law in this state. The present employees of the circuit court commissioners shall become employees of the circuit court in similar positions with salary ranges and benefits not inferior to their present status. The circuit court shall appoint all bailiffs of the superseded circuit court commissioner's court to continue to act as bailiffs and to serve all process in the same manner and with the same fee schedule as formerly issued by the circuit court commissioner's court and formerly served by such bailiffs. All the rights, privileges and benefits of the bailiffs shall be maintained. Appeals from the referee shall be to the circuit court in the manner prescribed by rules of the supreme court. Fees payable under any statutory provisions for the performance of any of the duties of the offices abolished by this act shall be payable to the clerk of the district court for forwarding to the political subdivision involved. Unless the context otherwise indicates references in all laws to the courts so abolished shall be deemed to refer to the district court. This act shall supersede and revoke any acts or parts of acts in conflict with its provisions but only to the extent of such conflict.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.9923 Municipal judges in third class districts.

Sec. 9923. (1) After December 31, 1968, any elected incumbent associate municipal judge who is prohibited from practicing law pursuant to state statute or city charter or ordinance and any elected incumbent municipal judge who serves in a city which is in and of itself a district of the third class or an election division thereof or who serves in a city which contains more than 85% of the population of a district of the third class, and whose term of office does not expire until after December 31, 1968, shall become a judge of the district court, unless he files with the city clerk within 10 days after the effective date of this section, an affidavit of intent not to be made a district judge, and shall serve through December 31 of the year in which his term as municipal or associate municipal judge would normally expire, except that when such term would normally expire in an odd numbered year he shall serve as district judge through December 31 of the next even numbered year. Commencing with the 1968 general elections, the number of district judges to be elected in a

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district of the third class or an election division thereof shall be reduced by the number of municipal and associate municipal judges made district judges under this subsection. As the term of each such municipal and associate municipal judge becoming a judge of the district court expires, the number of district judges to be elected within such district or election division thereof shall be increased by 1. This subsection shall not apply to any city having more such elected incumbent municipal and associate municipal judges than the number of district judges authorized such city pursuant to the provisions of this act.

(2) In seeking election after the 1968 general election to the district court, such judges or associate judges becoming judges of the district court may file affidavits of candidacy in like manner as elected incumbent district court judges and shall be entitled to designation on the ballot as a judge of the district court.

(3) In the primary and general election of judges of the district court to be held in 1968 any elected incumbent municipal or associate municipal judge who is a candidate for district judge shall be entitled to the designation on the ballot that he holds the judicial office of which he is then incumbent.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

Constitutionality: This section was held to constitute an abuse of elective franchise, since only municipal judges were granted right of incumbency designation on the ballot, thereby giving candidate an unfair advantage. Wells v Kent County Board of Election Commissioners, 382 Mich 112; 168 NW2d 222 (1969).

600.9924 Transfer of files, records, funds, and pending cases of abolished courts to district court; powers and jurisdiction of district court; orders and judgments appealable; exceptions; effect of reconstituting district court districts into single district.

Sec. 9924. (1) All files, records, funds, and pending cases of the courts abolished under section 9921 or courts or divisions of courts abolished on or after April 1, 1973, and succeeded by the district court shall be transferred to the district court of the district in which the courts have served, in accordance with rules prescribed by the supreme court, and the district court shall exercise all powers in regard thereto as provided by rules of the supreme court. The district court shall have jurisdiction to hear and determine all cases transferred under this section, and shall exercise all authority with regard to those cases as though the cases had been commenced in district court. All orders and judgments of courts or divisions of courts abolished on or after May 1, 1981, and succeeded by the district court shall be appealable in like manner and to the same courts as applicable before that date. This subsection shall not apply to files, records, funds, and pending cases of the traffic and ordinance division of the recorder's court which are transferred to the recorder's court pursuant to section 38 of Act No. 369 of the Public Acts of 1919, being section 725.38 of the Michigan Compiled Laws.

(2) When 2 or more district court districts are reconstituted into a single district, all files, records, funds, property, and pending cases of the district court of the abolished districts shall be transferred to the district court of the reconstituted district. The district court of the reconstituted district shall exercise all powers with regard to transferred files, records, funds, property, and cases as the district courts of the abolished districts could have exercised before the reconstitution. The district court of the reconstituted district shall have jurisdiction to hear and determine all cases transferred to it from the district courts of the abolished districts.

(3) When 2 or more district court districts are reconstituted into a single district, each incumbent district judge of the abolished district or reconstituted district shall serve as a district judge of the reconstituted district until the expiration of the term for which he or she was elected or appointed and shall be considered an incumbent district judge of the reconstituted district for all purposes for the balance of that term.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1972, Act 363, Eff. Apr. 1, 1973;—Am. 1980, Act 438, Eff. Sept. 1, 1981.

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."

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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."

600.9924a Destruction of documents or records; exceptions; right to move for order setting aside conviction.

Sec. 9924a. The records, files, pleadings, process, papers, dockets, journals and indices of justices of the peace, justice courts, municipal courts, police courts and the recorders court of the city of Cadillac abolished effective January 1, 1969, may be destroyed on or after January 1, 1977, except that dockets, journals and indices of those courts and justices of the peace may be disposed of only upon compliance with section 5 of Act No. 271 of the Public Acts of 1931, as amended, being section 399.5 of the Michigan Compiled Laws. This section shall not apply to a document or record subpoenaed by a court or otherwise ordered maintained and preserved for use as evidence upon the order of a court of competent jurisdiction before January 1, 1977. This section shall not bar or impair the right of a defendant to move the district court successor to the convicting court pursuant to Act No. 213 of the Public Acts of 1965, being sections 780.621 and 780.622 of the Michigan Compiled Laws, for an order setting aside the conviction.

History: Add. 1976, Act 381, Imd. Eff. Dec. 28, 1976.

600.9925 Primary election in 1968.

Sec. 9925. In the primary election of judges of the district court to be held in 1968, all candidates for the office shall file petitions or a filing fee of $100.00 as provided by law.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.9926 Election in 1968; terms.

Sec. 9926. (1) The first general election of judges of the district court shall be held in 1968 and in that election only, the terms of office of the judges of the district court shall be as follows:

NUMBER OF JUDGES TO BE ELECTED IN A DISTRICT OR DIVISION	LENGTH OF TERM OF JUDGES
1	4 years
2	1 judge 4 years; 1 judge 6 years.
3	1 judge 4 years; 1 judge 6 years; 1 judge 8 years.
4 or more judges	1/3 of the judges 4 years; 1/3 of the judges 6 years; and 1/3 of the judges 8 years.

(2) Where the number of judges to be elected in 1968 are not divisible by 3, there shall first be an additional 1 for a term of 4 years and then an additional 1 for a term of 6 years.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.9926a Repealed. 1982, Act 149, Imd. Eff. May 6, 1982.

Compiler's note: The repealed section pertained to staggered terms for district judges in certain districts.

600.9927 Election of 1968; terms; determination.

Sec. 9927. The candidates receiving the highest number of votes in the 1968 general election shall serve the longest terms available at such election.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.9928 Municipal courts; retention in certain cities.

Sec. 9928. (1) The district court shall not function nor shall district judges be elected in any district of the third class in which 1 or more cities which maintain municipal or police courts and which contain, individually or in the aggregate, more than 50% of the population of the district elect to retain their municipal or police courts by resolution adopted by their respective governing bodies within 7 days after the effective date of this section.

(2) Municipal and police courts retained under the provisions of this section shall perform all duties and powers which by law may be performed by justices of the peace and the circuit court commissioners.

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(3) The jurisdiction of such municipal or police courts is limited to their respective cities except that where the district contains 1 or more townships such courts shall exercise the same jurisdiction and powers in such townships as they exercise in their respective cities.

(4) Notwithstanding any other provision of law, a city shall not establish a municipal or police court after July 1, 1968.

(5) The city clerks of cities adopting resolutions under this section shall file copies of such resolutions with the court administrator within 30 days after the adoption of such resolutions.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

600.9930 Municipal courts; abolition; function of district court; judges; transfer of cases; employees; municipal judge as district judge; retention of municipal court; resolutions; filing.

Sec. 9930. (1) Effective January 1, 1971, all municipal courts which were not abolished by section 9921 due to the action of municipal governing bodies pursuant to the provisions of section 9928 are abolished.

(2) Effective January 1, 1971, the district court shall function in those districts in which municipal courts were retained under section 9928 except as otherwise provided in subsection (8). In such districts, district judges shall be elected in 1970 as provided in chapter 21a of Act No. 116 of the Public Acts of 1954, being sections 168.467 to 168.467m of the Compiled Laws of 1948. Except as otherwise provided in subsection (7), the number of district judges to be elected in each such district or election division thereof shall be as provided in chapter 81.

(3) Where only 1 judge is to be elected in a district or election division at the 1970 general election, he shall serve a term of 6 years. Where 2 or more judges are to be elected in a district or election division at the 1970 general election, their terms of office shall be determined in accordance with the formula prescribed in section 9926 for the 1968 general election, and the candidates who receive the highest number of votes in the 1970 general election shall serve the longest terms available at that election.

(4) All files, records, funds and pending cases of municipal courts abolished by this section shall be transferred to the district court in the same manner as prescribed in section 9924. The district court shall have jurisdiction to hear and determine all cases transferred under this section. All causes of action so transferred shall be as valid and subsisting as they were in the court from which they were transferred. All orders and judgments entered prior to January 1, 1971, by municipal courts abolished by this section shall be appealable in like manner and to the same courts as applicable prior to January 1, 1971.

(5) The rights and privileges accorded under subsections (4) and (5) of section 8271 to employees of courts abolished by section 9921 shall apply to employees of the municipal courts abolished by this section to the same extent and effect.

(6) After the effective date of this amendatory act, the term of office of all incumbent municipal and associate municipal judges ending prior to December 31, 1970, is extended through December 31, 1970, notwithstanding any provision of law or charter to the contrary.

(7) Where the total number of incumbent attorney municipal judges, in all cities having a population of 22,500 or more within a district of the third class or election division thereof, having terms of office which do not expire until after December 31, 1970, is equal to or less than the number of district judges to which such district or election division is entitled, such judge or judges shall become a judge of the district court, unless he files with the city clerk of the city in which he serves on or before May 1, 1970, an affidavit of intent not to be made a district judge, and shall serve through December 31 of the year in which his term as municipal judge would normally expire, except that when such term would normally expire in an odd numbered year he shall serve as a district judge through December 31 of the next even numbered year. Commencing with the 1970 general elections, the number of district judges to be elected in a district of the third class or an election division thereof, under the provisions of this section, shall be reduced by the number of municipal judges made district judges under this subsection. As the term of each such municipal judge becoming a judge of the district court expires, the number of district judges to be elected within such district or election division thereof shall be increased by 1. Under this subsection the term “municipal judge” or “municipal judges” shall be deemed to include an associate municipal judge only if such associate municipal judge is prohibited from practicing law pursuant to city charter or ordinance. In seeking election after the 1970 general election to the district court, such judges becoming judges of the district court may file affidavits of candidacy in like manner as elected incumbent district court judges and shall be entitled to designation on the ballot as a judge of the district court.

(8) The district court shall not function nor shall district judges be elected in any district of the third class in which 1 or more cities presently maintain municipal courts if:

(a) In a district which has only 1 city which maintains a municipal court, the governing body of that city

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elects to retain its municipal court by resolution adopted by its governing body within 17 days after the effective date of this 1969 amendatory act.

(b) In a district which has 2 cities which maintain municipal courts, the city having the largest population of those 2 cities elects to retain its municipal court by resolution adopted by its governing body within 17 days after the effective date of this 1969 amendatory act.

(c) In a district which has more than 2 cities which maintain municipal courts, a majority of the cities within the district elect to retain their municipal courts by resolution adopted by their respective governing bodies within 17 days after the effective date of this 1969 amendatory act.

(9) The city clerk of cities adopting resolutions under subsection (8) shall file copies of the resolutions with the court administrator and with the elections division of the department of state within 30 days after the adoption of the resolutions.

History: Add. 1969, Act 344, Imd. Eff. Jan. 3, 1970.

600.9931 Detroit recorder's court; abolishment; merger; incumbent judges; transfer of files, records, and pending cases; jurisdiction; appropriation by Wayne county; appointment, supervision, discipline, or dismissal of employees; personal property of court; reimbursement.

Sec. 9931. (1) The recorder's court of the city of Detroit is abolished and merged with the third judicial circuit of the circuit court effective October 1, 1997. The incumbent judges of the recorder's court of the city of Detroit on September 30, 1997 shall become judges of the third judicial circuit of the circuit court on October 1, 1997, and shall serve as circuit judges until January 1 of the year in which their terms as judges of the recorder's court of the city of Detroit would normally have expired. Effective October 1, 1997, each incumbent judge of the recorder's court of the city of Detroit who was appointed to that office by the governor after the filing deadline for the August primary preceding the general election of 1996 shall become a judge of the third circuit of the circuit court and shall serve as a circuit judge until January 1 next succeeding the first general election held after the vacancy to which he or she was appointed occurs, at which election a successor shall be elected for the remainder of the unexpired term which the predecessor incumbent of the recorder's court would have served had that incumbent remained in office until his or her term would normally have expired. In seeking election to the third circuit of the circuit court after October 1, 1997, a judge of the recorder's court becoming a judge of the third circuit of the circuit court pursuant to this subsection may file an affidavit of candidacy in like manner as other incumbent judges of the circuit court, and shall be entitled to designation on the ballot as a judge of the circuit court.

(2) Effective October 1, 1997, all files, records, and pending cases of the recorder's court shall be transferred to the third judicial circuit of the circuit court in accordance with rules prescribed by the supreme court, and the circuit court shall exercise all powers in regard to those files, records, and cases as provided by rules of the supreme court. The third judicial circuit of the circuit court shall have jurisdiction to hear and determine all cases transferred under this section, and shall exercise all authority with regard to those cases as though the cases had been commenced in that court. All orders and judgments of the recorder's court shall be appealable in like manner and to the same courts as applicable before that date.

(3) The county of Wayne shall appropriate, by line-item or by lump-sum budget, funds for operating and maintaining the recorder's court of the city of Detroit for the period of October 1, 1996 to September 30, 1997. However, before the county may appropriate a lump-sum budget, the chief judge of the recorder's court shall submit to the county a budget request in line-item form with appropriate detail. If the court receives a line-item budget, it shall not exceed a line-item appropriation or transfer funds between line items without the prior approval of the county of Wayne. If the court receives a lump-sum budget, it shall not exceed that budget without the prior approval of the county board of commissioners.

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

(5) All personal property, including equipment and furniture, that was owned by the recorder's court on the effective date of the 1996 amendatory act that added this section or that was owned and furnished by the state to the recorder's court on the effective date of the 1996 amendatory act that added this section and all personal property subsequently purchased by or furnished to that court shall remain with that 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 recorder's court. The state shall reimburse the county of Wayne for any property furnished by the state to that court that is removed from the court between June 27, 1996 and October 1, 1996.

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History: Add. 1996, Act 374, Eff. Oct. 1, 1996.

600.9932 Judge of municipal court of record; chief judge; recorder; salary; additional salary; increase; cost-of-living allowance or other cash.

Sec. 9932. (1) The salary of each judge of a municipal court of record, including the chief judge and recorder, shall be determined as provided in this section.

(2) Subject to subsection (4), each judge of the municipal court of record, including the chief judge and the recorder, shall receive an annual salary from the county in which the court is located in the same amount as paid by the state to circuit judges. The state shall reimburse to the county an amount equal to the annual salary paid by the county to a judge of the municipal court of record under this subsection.

(3) As an additional salary, the city in which the court is located shall pay to each judge of the municipal court of record an amount determined as follows:

(a) Until the salary of a justice of the supreme court exceeds $128,538.00, each judge shall receive an additional salary of $43,943.00. If the city pays each judge $43,943.00 and not less than or more than $43,943.00, including any cost-of-living allowance, the state shall reimburse the city, for each judge of the municipal court of record, an amount equal to the additional salary paid by the city to a judge of the municipal court of record under this subdivision.

(b) If the salary of a justice of the supreme court exceeds $128,538.00 but is not more than $130,633.00, each judge shall receive an additional salary that is the difference between 85% of the salary of a justice of the supreme court and $65,314.00. If the city pays each judge the difference between 85% of the salary of a justice of the supreme court and $65,314.00, the state shall reimburse to the city that amount. If the city pays any judge an additional salary, including any cost-of-living allowance, that exceeds that amount, the city is not entitled to reimbursement from the state under this subdivision.

(c) If the salary of a justice of the supreme court exceeds $130,633.00, each judge shall receive an additional salary of $45,724.00. If the city pays each judge $45,724.00, the state shall reimburse to the city that amount. If the city pays any judge an additional salary, including any cost-of-living allowance, that exceeds $45,724.00, the city is not entitled to reimbursement from the state under this subdivision.

(4) An increase in the amount of salary payable to a judge under subsection (2) caused by an increase in the salary payable to a justice of the supreme court resulting from the operation of Act No. 357 of the Public Acts of 1968, being sections 15.211 to 15.218 of the Michigan Compiled Laws, shall not be effective until February 1 of the year in which the increase in the salary of a justice of the supreme court becomes effective. If an increase in salary becomes effective on February 1 of a year in which an increase in the salary of a justice of the supreme court becomes effective, the increase shall be retroactive to January 1 of that year.

(5) Neither the county nor the city shall pay a cost-of-living allowance or any other cash compensation, other than the salaries authorized by subsections (2) to (3), to a judge of the municipal court of record.

History: Add. 1996, Act 374, Eff. Jan. 1, 1997.

600.9934 Commencement of district court function in forty-fifth-a and forty-fifth-b districts; abolition of municipal courts; judges of forty-fifth-a and forty-fifth-b districts; terms; affidavit of candidacy; designation of judge on ballot.

Sec. 9934. (1) The district court shall commence to function in the forty-fifth-a and forty-fifth-b districts as of January 1, 1975 and as of that date all municipal courts within the district shall be abolished.

(2) Effective January 1, 1975, the elected incumbent attorney municipal judge of the city of Berkley shall become the judge of the district court within the forty-fifth-a district and shall serve as a district judge until 12 noon of January 1 of the odd numbered year next following the date on which his term as municipal judge would normally have expired. In seeking election to the district court after January 1, 1975, the municipal judge becoming a judge of the district court pursuant to this subsection may file an affidavit of candidacy in like manner as other incumbent judges of the district court and shall be entitled to designation on the ballot as a judge of the district court.

(3) Effective January 1, 1975, the elected incumbent attorney municipal judge and associate municipal judge of the city of Oak Park shall become judges of the district court within the forty-fifth-b district and each shall serve as a district judge until 12 noon of January 1 of the odd numbered year next following the date on which his term as municipal judge would normally have expired. In seeking election to the district court after January 1, 1975, a municipal or associate municipal judge becoming a judge of the district court pursuant to this subsection may file an affidavit of candidacy in like manner as other incumbent judges of the district court and shall be entitled to designation on the ballot as a judge of the district court.

History: Add. 1974, Act 145, Imd. Eff. June 7, 1974.

Constitutionality: The legislature, in enacting this section, has not overstepped the boundaries specified in Const 1963, art VI, § 23.

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Schwartz v Secretary of State, 393 Mich 42; 222 NW2d 517 (1974).

Compiler's note: Sections 2 to 7 of Act 145 of 1974 provide:

"Effective date of changes.

"Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

"Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating petitions; incumbent judges.

"Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

"Nominating petitions.

"Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

"Nomination, election, and terms of candidates for new circuit judgeships.

"Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10 years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

"Terms of additional circuit judges.

"Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

"Terms of additional district judges in certain districts.

"Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years."

600.9935 Twenty-fourth, twenty-fifth, and twenty-seventh districts; commencement of district courts and abolition of municipal courts; municipal or associate municipal judges as judges of district courts; election to district court; affidavit of candidacy; designation on ballot; terms of district judges; certain elections canceled or rendered null and void.

Sec. 9935. (1) Effective December 1, 1977, the district court shall commence to function in the twenty-fourth, twenty-fifth and twenty-seventh districts and as of that date, all municipal courts within those districts shall be abolished.

(2) Effective December 1, 1977, the elected incumbent attorney municipal judges of the cities of Allen Park, Lincoln Park, Melvindale, Riverview, and Wyandotte and the elected incumbent attorney associate municipal judge of the city of Lincoln Park shall become judges of the district court within the districts and election divisions provided in section 8121 and shall serve as district judges until 12 noon of January 1 of the odd numbered year next following the date on which their terms as municipal or associate municipal judges would normally have expired. In seeking election to the district court after December 1, 1977, a municipal or associate municipal judge becoming a judge of the district court pursuant to this subsection may file an affidavit of candidacy in like manner as other incumbent judges of the district court and shall be entitled to designation on the ballot as a judge of the district court. Where the terms of any 2 district judges in such a district or election division expire at the same time, the candidate receiving the highest number of votes in the general election to fill those offices shall serve a term of 6 years and the candidate receiving the next highest number of votes shall serve a term of 4 years.

(3) Due to the abolishing of municipal courts in the district court districts listed in subsection (1) as of December 1, 1977, any election scheduled for November of 1977 for the office of municipal or associate municipal judge for a municipal court which is abolished under subsection (1) is hereby canceled and any filing, primary election, or general election for such an office which may occur before this section is enacted into law is hereby rendered null and void.

History: Add. 1977, Act 129, Imd. Eff. Oct. 21, 1977.

600.9936 Fortieth district and fourth division of fifty-second district; commencement of district courts and abolition of municipal courts; municipal or associate municipal judges

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as judges of district court; election to district court; affidavit of candidacy; designation on ballot; terms of district judges.

Sec. 9936. (1) Effective November 1, 1978, the district court shall commence to function in the fortieth district and in the fourth division of the fifty-second district and as of that date, all municipal courts within that district and that election division shall be abolished.

(2) Effective November 1, 1978, the elected incumbent attorney municipal judges of the cities of Saint Clair Shores, Clawson, and Troy and the elected incumbent attorney associate municipal judges of the cities of Saint Clair Shores and Troy shall become judges of the district court within the fortieth district and fourth election division of the fifty-second district as provided in sections 8122 and 8123 respectively and shall serve as district judges until 12 noon of January 1 of the odd numbered year next following the date on which their terms as municipal or associate municipal judges would normally have expired. In seeking election to the district court after November 1, 1978, a municipal or associate municipal judge becoming a judge of the district court pursuant to this subsection may file an affidavit of candidacy in like manner as other incumbent judges of the district court and shall be entitled to designation on the ballot as a judge of the district court. When the terms of any 2 district judges in such a district or election division expire at the same time, the candidate receiving the highest number of votes in the general election to fill those offices shall serve a term of 8 years and the candidate receiving the next highest number of votes shall serve a term of 6 years.

History: Add. 1977, Act 129, Imd. Eff. Oct. 21, 1977.

600.9937 Twenty-sixth, twenty-eighth, thirtieth, thirty-first, thirty-second-a, and sixty-second-b districts; commencement of district courts and abolition of municipal courts; municipal judge as district court judge; reduction of district judges by 1; election to district court; affidavit of candidacy; designation on ballot; election and terms of district judges.

Sec. 9937. (1) Effective January 1, 1979, the district court shall commence to function in the twenty-sixth, twenty-eighth, thirtieth, thirty-first, thirty-second-a, sixty-second-a and sixty-second-b districts and as of that date, all municipal courts within those districts shall be abolished.

(2) Effective January 1, 1979, the elected incumbent attorney municipal judge of the city of Highland Park shall become a judge of the district court within the thirtieth district as provided in section 8121(15) and shall serve as a district judge until 12 noon of January 1 of the odd numbered year next following the date on which his term as municipal judge would normally have expired. The number of district judges to be elected under subsection (3) in 1978 in the thirtieth district shall accordingly be reduced by 1. In seeking election to the district court after January 1, 1979, the municipal judge becoming a judge of the district court pursuant to this subsection may file an affidavit of candidacy in like manner as other incumbent judges of the district court and shall be entitled to designation on the ballot as a judge of the district court.

(3) In the twenty-sixth, twenty-eighth, thirtieth, thirty-first, thirty-second-a, sixty-second-a and sixty-second-b districts in which municipal courts are abolished pursuant to subsection (1), district judges shall be elected in 1978 as provided in chapter 21A of Act No. 116 of the Public Acts of 1954, as amended, being sections 168.467 to 168.467m of the Michigan Compiled Laws. Except as otherwise provided in subsection (2), the number of district judges to be elected in each district or election division shall be as provided in sections 8121 and 8130. If only 1 judge is to be elected in a district or election division at the 1978 general election, the judge shall serve a term of 6 years. If 2 judges are to be elected in a district or election division at the 1978 general election, the candidate receiving the highest number of votes in the general election to fill those offices shall serve a term of 6 years and the candidate receiving the next highest number of votes shall serve a term of 4 years.

History: Add. 1977, Act 129, Imd. Eff. Oct. 21, 1977.

600.9938 Twenty-third and fifty-ninth districts; commencement of district courts and abolition of municipal courts; municipal judges as district court judges; election to district court; affidavit of candidacy; designation on ballot; terms of district judges; election and term of district judge in fifty-ninth district.

Sec. 9938. (1) Effective January 1, 1980, the district court shall commence to function in the twenty-third district and as of that date, the municipal court within that district shall be abolished. Effective January 1, 1981, the district court shall commence to function in the fifty-ninth district and as of that date, the municipal courts within that district shall be abolished.

(2) Effective January 1, 1980, the elected incumbent attorney municipal judges of the city of Taylor shall become judges of the district court within the twenty-third district as provided in section 8121(8) and shall

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serve as district judges until 12 noon of January 1 of the odd numbered year next following the date on which their terms as municipal judges would normally have expired. In seeking election to the district court after January 1, 1980, each municipal judge becoming a judge of the district court pursuant to this subsection may file an affidavit of candidacy in like manner as other incumbent judges of the district court and shall be entitled to designation on the ballot as a judge of the district court. In the first election of district judges in the twenty-third district to be held in the even numbered year preceding the expiration of the incumbents' terms as provided in this subsection, the candidate receiving the highest number of votes in the general election to fill those offices shall serve a term of 6 years and the candidate receiving the next highest number of votes shall serve a term of 4 years.

(3) In the fifty-ninth district, the district judge provided in section 8128a shall be elected in 1980 as provided in chapter 21A of Act No. 116 of the Public Acts of 1954, as amended, for a term of 6 years.

History: Add. 1977, Act 129, Imd. Eff. Oct. 21, 1977.

600.9938a Thirty-eighth district; function and establishment of district court.

Sec. 9938a. (1) Effective January 1, 2004, the district court shall commence to function in the thirty-eighth district and, as of that date, the municipal court within that district is abolished. The terms of the incumbent municipal judges in Eastpointe shall expire at 12 midnight on December 31, 2003. The judgeship in the thirty-eighth district of the district court, as authorized under section 8122(2), shall be filled in a special election held in November 2003, in conjunction with the November 2003 Eastpointe municipal election, in the manner provided by law. For purposes of the November 2003 special election only, the term of the candidate for district judge in the thirty-eighth district who receives the highest number of votes shall be 5 years.

(2) All causes of action transferred to the thirty-eighth district court pursuant to section 9924(1) shall be as valid and subsisting as they were in the municipal court from which they were transferred. All orders and judgments entered before January 1, 2004 in the municipal court abolished pursuant to subsection (1) are appealable in like manner and to the same courts as applicable before that date.

(3) Subsections (1) and (2) do not apply, and any district judgeship proposed for the thirty-eighth district is not authorized or filled by election, unless the city of Eastpointe, by resolution adopted by its governing body, approves the establishment of the district court in the thirty-eighth district and the district judgeship proposed for the thirty-eighth district and unless the clerk of the city of Eastpointe files a copy of the resolution with the secretary of state not earlier than the effective date of this section and not later than 4 p.m. April 12, 2003. Upon receiving a copy of the resolution, the secretary of state shall immediately notify the state court administrator with respect to the establishment of the district court in the thirty-eighth district and the district judgeship authorized for the thirty-eighth district.

(4) By enacting this section, the legislature is not mandating that the district court function in the thirty-eighth district and is not mandating any judgeship in the district. If the city of Eastpointe, acting through its governing body, approves the establishment of the district court in the thirty-eighth district and any district judgeship proposed by law for that district, that approval constitutes an exercise of that city's option to provide a new activity or service or to increase the level of activity or service offered in the city beyond that required by existing law, as the elements of that option are defined by 1979 PA 101, MCL 21.231 to 21.244, and a voluntary acceptance by the city of all expenses and capital improvements which may result from the establishment of the district court in the thirty-eighth district and any judgeship. However, the exercise of the option does not affect the state's obligation to pay a portion of any district judge's salary as provided by law, or to appropriate and disburse funds to the city or incorporated village for the necessary costs of state requirements established by a state law that becomes effective on or after December 23, 1978.

History: Add. 2002, Act 681, Imd. Eff. Dec. 30, 2002.

600.9939 Causes of action transferred to district court valid and subsisting; orders and judgments appealable; rights and privileges applicable to employees of abolished municipal courts.

Sec. 9939. (1) All causes of action transferred to the district court pursuant to section 9924 (1) shall be as valid and subsisting as they were in the court from which they were transferred. All orders and judgments entered before the respective dates on which municipal courts are abolished pursuant to section 9935, 9936, 9937, or 9938 shall be appealable in like manner and to the same courts as applicable before those respective dates.

(2) The rights and privileges accorded under section 8271 (4) and (5) to employees of courts abolished by section 9921 shall apply to employees of the municipal courts abolished by sections 9935, 9936, 9937, or 9938 to the same extent and effect.

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History: Add. 1977, Act 129, Imd. Eff. Oct. 21, 1977.

600.9940 District court; commencement in thirty-second-b district; abolition of municipal courts; expiration of terms of incumbent municipal judges; election and term of district court judge; causes of action, orders, and judgments; rights and privileges of employees of abolished municipal courts; resolution approving establishment of district court and district judgeship; adoption and filing; notice to state court administrator; second district court judgeship; effect of approval; expenses and capital improvements; obligation of state.

Sec. 9940. (1) Subject to subsection (5), the district court shall commence to function as of January 1, 1983 in the thirty-second-b district and as of that date, all municipal courts within that district shall be abolished. The term of the incumbent municipal judges in each city which will compromise the thirty-second-b district on January 1, 1983, shall expire at 12 p.m. on December 31, 1982.

(2) In the first election of a district court judge for the thirty-second-b district, the candidate receiving the highest number of votes in the general election to fill that office shall serve a term of 6 years. The election of the district court judge for the thirty-second-b district shall take place pursuant to chapter XXIA of Act No. 116 of the Public Acts of 1954, as amended, being sections 168.467 to 168.467n of the Michigan Compiled Laws.

(3) All causes of action transferred to the district court pursuant to section 9924(1) shall be as valid and subsisting as they were in the court from which they were transferred. All orders and judgments entered before January 1, 1983, in the municipal courts which are abolished pursuant to subsection (1) shall be appealable in like manner and to the same courts as applicable before that date.

(4) The rights and privileges accorded under section 8271(4), (5), and (6) to employees of courts abolished by section 9921 shall apply to employees of the municipal courts abolished by subsection (1) to the same extent and effect.

(5) Subsections (1) to (4) shall not apply nor shall any district judgeship proposed for the thirty-second-b district be authorized or filled by election unless each city and incorporated village in the thirty-second-b district, by resolution adopted by its governing body, approves the establishment of the district court in the thirty-second-b district and the district judgeship proposed for that district and unless the clerk of each city and incorporated village adopting such a resolution files a copy of the resolution with the secretary of state not later than 4 p.m. of May 11, 1982. The secretary of state shall immediately notify the state court administrator with respect to the establishment of the district court in the thirty-second-b district and the district judgeship authorized for that district.

(6) If each district control unit authorizes a second district court judgeship pursuant to section 8121(18) and this subsection for 1985, a district judge shall be elected in 1984 for a term of 6 years. If each district control unit authorizes a second district court judgeship pursuant to section 8121(18) and this subsection for 1987, a district judge shall be elected in 1986 for a term of 6 years. The second district judgeship proposed for the thirty-second-b district shall not be authorized to be filled by election unless each district control unit of the district, by resolution of the governing body of the district control unit, approves the creation of that judgeship and unless the clerk of each district control unit adopting such a resolution files a copy of the resolution with the secretary of state not later than 4 p.m. of the twelfth Tuesday preceding the August primary to be held in 1984 or 1986. The secretary of state shall immediately notify the state court administrator with respect to the second district judgeship authorized for the thirty-second-b district. The election of the second district judge for the thirty-second-b district shall take place pursuant to chapter XXIA of Act No. 116 of the Public Acts of 1954, as amended, being sections 168.467 to 168.467n of the Michigan Compiled Laws.

(7) By enacting this section, the legislature is not mandating that the district court function in the thirty-second-b district nor any judgeship in the district. If a city or incorporated village, acting through its governing body, approves the establishment of the district court in the thirty-second-b district and any district judgeship proposed by law for that district, that approval constitutes an exercise of that city's or village's option to provide a new activity or service or to increase the level of activity or service offered in the city or village 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 or incorporated village of all expenses and capital improvements which may result from the establishment of the district court in the thirty-second-b district and any judgeship. However, the exercise of the option does not affect the state's obligation to pay a portion of any district judge's salary as provided by law, or to appropriate and disburse funds to the city or incorporated village for the necessary costs of state requirements established by a state law which becomes effective on or after December 23, 1978.

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History: Add. 1980, Act 127, Imd. Eff. May 22, 1980;—Am. 1982, Act 40, Imd. Eff. Mar. 16, 1982.

Compiler's note: In the second sentence of subsection (1), "compromise" evidently should read "comprise".

600.9941 District court in thirty-sixth district; commencement; abolition of common pleas court and traffic and ordinance division of recorder's court; election of district judges; incumbent judge of common pleas court as judge of district court; affidavit of candidacy; elections to fill new district judgeships; terms.

Sec. 9941. (1) Effective September 1, 1981, the district court shall commence to function in the thirty-sixth district and as of that date the common pleas court of the city of Detroit and the traffic and ordinance division of the recorder's court of the city of Detroit are abolished.

(2) In the thirty-sixth district, district judges shall be elected as provided in this section, section 8121a, and chapter 21a of Act No. 116 of the Public Acts of 1954, as amended, being sections 168.467 to 168.467n of the Michigan Compiled Laws.

(3) Effective September 1, 1981, each elected incumbent judge of the common pleas court of the city of Detroit shall become a judge of the district court within the thirty-sixth district and shall serve as a district judge until January 1 of the year in which his or her term as a judge of the common pleas court would normally have expired. Effective September 1, 1981, each incumbent judge of the common pleas court of the city of Detroit who has been appointed to that office by the governor after January 1, 1981, shall become a judge of the district court within the thirty-sixth district and shall serve as a district judge until January 1 next succeeding the first general election held after the vacancy to which he or she was appointed occurs, at which election a successor shall be elected for the remainder of the unexpired term which the predecessor incumbent of the common pleas court serving on December 30, 1980, would have served had that incumbent remained in office until his or her term would normally have expired. In seeking election to the district court after September 1, 1981, a judge of the common pleas court becoming a judge of the district court pursuant to this subsection may file an affidavit of candidacy in like manner as other incumbent judges of the district court, and shall be entitled to designation on the ballot as a judge of the district court.

(4) Pursuant to the authority granted by section 23 of article 6 of the constitution of 1963, a special primary election shall be held on September 15, 1981, and a special general election shall be held on November 3, 1981, to fill the 7 new offices of district judge created pursuant to section 8121a(3) in the thirty-sixth district of the district court. The 2 candidates receiving the highest number of votes in this special general election in 1981 shall be elected for a term of 9 years, the candidates receiving the third and fourth highest number of votes shall be elected for a term of 7 years, and the candidates receiving the fifth, sixth, and seventh highest number of votes shall be elected for a term of 5 years.

(5) Seven district judgeships created pursuant to section 8121a(4) for the thirty-sixth district shall be filled by election in 1982. The 2 candidates receiving the highest number of votes in the 1982 general election shall be elected for a term of 8 years, the candidates receiving the third, fourth, and fifth highest number of votes shall be elected for a term of 6 years, and the candidates receiving the sixth and seventh highest number of votes shall be elected for a term of 4 years.

(6) Two district judgeships created pursuant to section 8121a(5) for the thirty-sixth district shall be filled by election in 1984. The 2 candidates receiving the highest number of votes in the 1984 general election shall be elected for a term of 6 years.

History: Add. 1980, Act 438, Eff. May 1, 1981;—Am. 1981, Act 3, Eff. Apr. 30, 1981;—Am. 1981, Act 146, Imd. Eff. Nov. 10, 1981.

Compiler's note: Sections 2 and 3 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

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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."

Sections 2, 3, and 4 of Act 146 of 1981 provide:

"Repeal of MCL 600.8286, 600.8287, and 600.8288; effective date of repeal; exception.

"Section 2. Except as provided in enacting section 4, sections 8286, 8287, and 8288 of Act No. 236 of the Public Acts of 1961, being sections 600.8286, 600.8287, and 600.8288 of the Compiled Laws of 1970, are repealed effective January 1, 1983.

"Effective date of MCL 600.8286, 600.8287, 600.8288, and 600.8501; exception.

"Section 3. Except as provided in enacting section 4, sections 8286, 8287, 8288, and 8501 shall take effect December 1, 1981.

"Conditional effective date of MCL 600.8286, 600.8287, 600.8288, and 600.8501, and of enacting Section 2; adoption and filing of resolution by city of Detroit; effect of assuming responsibility for expenses.

"Section 4. (1) Sections 8286, 8287, 8288, and 8501 and enacting section 2 shall not take effect unless the city of Detroit, by resolution adopted not later than November 30, 1981, by the governing body of the city, agrees to assume responsibility for any expenses required of the city by this amendatory act and an authenticated copy is filed with the secretary of state not later than 4 p.m. November 30, 1981.

"(2)If the city of Detroit, acting through its governing body, agrees to assume responsibility for any expenses required of the city by this amendatory act, that action constitutes an exercise of the city's option to provide a new activity or service or to increase the level of activity or service offered in the city of Detroit 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 of all expenses and capital improvements which may result from establishment of the office of district court referee in the thirty-sixth district of the district court."

The resolution referred to in Section 4 was adopted by the city council of the city of Detroit on November 25, 1981, and an authenticated copy was filed with the secretary of state at 3:30 p.m. on November 30, 1981.

600.9943 District court in thirty-sixth district; administrative duties and powers; facilities.

Sec. 9943. (1) Commencing on the effective date of this section and until September 1, 1981, the judges of the common pleas court of the city of Detroit shall carry out the administrative duties and shall exercise the administrative powers of the district court for the thirty-sixth district as though the district court were functioning in that district during that time. In performing the administrative duties of the district court for the thirty-sixth district, the judges of the common pleas court of the city of Detroit may perform any act, issue any order, or make any appointment, contract, or agreement, except a collective bargaining agreement, on behalf of the district court for the thirty-sixth district which is reasonably necessary to provide for the district court's full, regular, and effective operation in the thirty-sixth district commencing September 1, 1981, and which is within the authority of district judges under chapters 81 to 86 and 99. However, any appointment made under this subsection shall not supplant employees of the common pleas court of the city of Detroit or of the traffic and ordinance division of the city of Detroit who are governed by section 8273.

(2) Commencing on the effective date of this section, and in cooperation with the judges of the common pleas court of the city of Detroit, the governing body of the district control unit which will be responsible for financing and maintaining the district court in the thirty-sixth district beginning September 1, 1981, may make any arrangement for the provision of facilities for the court and magistrates which is reasonably necessary to provide for the district court's full, regular, and effective operation in the thirty-sixth district on September 1, 1981.

History: Add. 1980, Act 438, Eff. May 1, 1981.

Compiler's note: Sections 2 and 3 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."

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600.9944 Repealed. 1996, Act 374, Eff. Oct. 1, 1996.

Compiler's note: The repealed section pertained to judicial assistants in district court in thirty-sixth district.

600.9945 District court in thirty-sixth district; definitions; ownership and use of personal property; reimbursement of state for property removed and for compensation of employees; payments to state in quarterly installments; appropriation of funds for operating and maintaining court; cost of new facilities; revenue generated by parking violation bureau; audits; applicability of subsections (1) and (3) through (9).

Sec. 9945. (1) As used in this section:

(a) "Base personnel expense" means the total cost of compensation of employees of the state judicial council serving in the district court in the thirty-sixth district paid by the state pursuant to section 8272 between October 1, 1981, and December 31, 1981, plus the amount paid by the state to the state employees' retirement system created by Act No. 240 of the Public Acts of 1943, as amended, being sections 38.1 to 38.47 of the Michigan Compiled Laws, or to the Wayne county employees' retirement system, or the city of Detroit employees' retirement system pursuant to section 8275, for these same employees between October 1, 1981, and December 31, 1981.

(b) "Base incidental court expense" means the total direct cost incurred by the city of Detroit as the district control unit for the thirty-sixth district between October 1, 1981, and December 31, 1981, except expenses for the following:

(*i*) Facilities provided for the thirty-sixth district under sections 8261, 8262, and 8263.

(*ii*) Utilities, including telephones.

(*iii*) Maintaining courtroom security pursuant to section 8283.

(*iv*) Assigned counsel provided for indigents accused of criminal offenses or ordinance violations, whether before or after conviction.

(*v*) Base personnel expense as defined in subdivision (a).

(*vi*) The additional salary paid to a district judge pursuant to section 8202.

(c) "Fixed city obligation" means the difference between the sum of the base incidental court expense and the base personnel expense, and the thirty-sixth district revenue produced between October 1, 1981, and December 31, 1981.

(d) "Thirty-sixth district revenue" means all fees, fines, costs, and other receipts which are received by the district court in the thirty-sixth district and which are paid to the city of Detroit as the district control unit of that district, except for the following:

(*i*) Any reimbursement for assigned counsel which is received from a defendant who has been provided counsel at the expense of the city of Detroit.

(*ii*) Any reimbursement by the joint city-county building authority for rent or for repairs or remodeling paid by the city of Detroit for court or district court magistrate facilities.

(2) All personal property, including equipment and furniture, that was owned by the district court in the thirty-sixth district on the effective date of the 1996 amendatory act that amended this section or that was owned and furnished by the state to the district court in the thirty-sixth district, 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 city of Detroit, and shall continue to be used to the benefit of the district court in the thirty-sixth district. The state shall reimburse the city for any property furnished by the state which is removed from the court between June 27, 1996, and the effective date of the 1996 amendatory act that amended this section.

(3) Between September 1, 1981, and September 30, 1982, the city of Detroit shall reimburse the state for the total cost of compensation of employees of the state judicial council serving in the district court in the thirty-sixth district paid by the state pursuant to section 8272, plus the amount paid by the state to the state employees' retirement system created by Act No. 240 of the Public Acts of 1943, as amended, being sections 38.1 to 38.47 of the Michigan Compiled Laws, or to the Wayne county employees' retirement system, or the city of Detroit employees retirement system pursuant to section 8275, for these same employees.

(4) In each fiscal year beginning after September 30, 1982, the city shall pay to the state, in quarterly installments, the following:

(a) Four times the amount of the fixed city obligation.

(b) All thirty-sixth district revenue in excess of 4 times the amount of the base incidental court expense, up to an amount which equals the difference between the following:

(*i*) The sum of the state's appropriation under subsection (6) and the state's appropriation to pay personnel

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costs under sections 8272 and 8275.

(*ii*) Four times the fixed city obligation.

(5) In any fiscal year beginning after September 30, 1982, in which the payment to the state under subsection (4)(b) reaches the maximum amount allowed under subsection (4)(b), the city shall pay to the state 1/2 of all thirty-sixth district revenue in excess of that amount.

(6) For each fiscal year beginning after September 30, 1982, the city of Detroit as district control unit of the district court in the thirty-sixth district shall appropriate funds for operating and maintaining the district court in that district, excluding the expenses excepted in subsection (1)(b), in excess of the product of 4 and the base incidental court expense only to the extent that the state appropriates funds to reimburse the city of Detroit for that purpose.

(7) The cost of any new facilities provided for the district court in the thirty-sixth district after September 30, 1982, shall be paid by the state.

(8) If the city of Detroit establishes a parking violation bureau under section 8395, 1/2 of the revenue generated by the bureau after September 30, 1982, in excess of the expense of operating the bureau shall be paid to the state.

(9) For purposes of establishing future city and state financial obligations under the provisions of subsection (4), the auditor general shall conduct an audit of all financial records of expenditures and revenues described in subsection (1) for the periods specified in subsection (1).

(10) To ensure compliance with subsections (4), (5), and (8), the auditor general shall conduct biennial audits of all pertinent financial records.

(11) Subsections (1) and (3) through (9) do not apply after September 30, 1996.

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

Compiler's note: Sections 2 and 3 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."

600.9946 Expired. 1981, Act 2, Eff. June 30, 1985.

Compiler's note: The expired section provided for a joint legislative committee on state assumption of trial court operation.

600.9947 Appropriation of funds; purpose; applicability of section; trial court operational expenses; monitor of ratio of court operational expenses to court revenues; report; offset to funds to which county or district funding unit entitled under subsection (1); "court revenues" defined; receipt of funds by county or political subdivision.

Sec. 9947. (1) Except as otherwise provided in this act, the legislature shall appropriate sufficient funds in order to fund at least 31.5% of all net trial court operational expenses, subject to the offset provisions of subsection (6), beginning with the state fiscal year that begins October 1, 1993. It is the intent of the legislature that the state will fund the highest percentage of trial court operational expenses, offset by an equivalent percentage of court revenues collected by counties or district control units, as available funds will allow, as determined by the legislature. Except as provided in section 151b(4)(a) and (b), this section shall not apply after September 30, 1996.

(2) As used in this section, "trial court operational expenses" means, for each trial court of record other than a court in a county in which a court receives state appropriations to implement section 563, 564, 592, 593, 594, 595, 8272, 8273, 8275, 9104, or 9943, the sum of the following expenses for the 1990-91 fiscal

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year, as reported to the state court administrative office, excluding expenses reimbursed by federal friend of the court reimbursement:

(a) Employee compensation, including compensation for county clerk services to the circuit court, other than compensation for courtroom security.

(b) Operational and maintenance expenses other than expenses for facilities, utilities, telephones, and courtroom security.

(c) Assigned counsel provided for indigents accused of criminal offenses or ordinance violations, whether before or after conviction.

(d) Guardians ad litem for indigent persons.

(e) Compensation paid to jurors.

(f) Fees for transcripts that are prepared pursuant to court order.

(g) Expenses incurred as a result of the operating of a probation department.

(3) For purposes of subsection (2)(c), trial courts shall establish minimum standards which must be met by all attorneys serving as assigned counsel. Minimum standards shall be developed in consultation with a local or county bar association.

(4) If a trial court has not reported information on each of the items described in subsection (2) for the 1990-91 fiscal year, as required under subsection (2), the state court administrative office shall calculate the trial court operational expenses for that court based on the information received. A local funding unit may report additional 1990-91 fiscal year trial court operational expenses if the information on the expenses that has already been reported to the state court administrative office is incomplete or incorrect and the additional information is confirmed by an independent audit, paid for by the local funding unit and approved by the state court administrator. Information confirmed by an independent audit shall be included by the state court administrative office in its calculation of trial court operational expenses under this subsection.

(5) The state court administrative office shall monitor the trends in the ratio of trial court operational expenses to court revenues for each county and district funding unit. In analyzing differences in the ratio of court operational expenses to court revenues for a county or district funding unit from the ratio of expenses to court revenues based on expense data reported by that county or district funding unit for 1990-91 and court revenue data reported by that county or district funding unit for 1990-91, the state court administrator shall consider changes in fees impacting revenue generation, changes in court responsibilities impacting workload, statewide trends in expenses to revenue ratios, and increases in expenses due to inflation. Upon determining that the ratio of expenses to court revenues for a county and district funding unit differs significantly from statewide trends, the state court administrator shall conduct a review of the budget and court management of the court or courts funded by that county or district funding unit. The state court administrator shall then submit a report to the senate and house appropriations subcommittees on general government. In the following state fiscal year, the legislature may authorize adjustments to the funding from the state court fund created in section 151a for which those counties or district funding units would otherwise be entitled pursuant to this section.

(6) The funds to which a county or district funding unit is entitled under subsection (1) shall be offset by the sum of court revenues collected by that county or district funding unit in the 1990-91 state fiscal year and any state funding in the 1990-91 fiscal year received by the county or district funding unit for trial court operational expenses, including judges' salaries, Michigan friend of the court funds, and child care funds. The amount of the offset of court revenues shall be equal to the percentage of trial court operational expenses funded for that county, or, in the case of a district of the third class, that district funding unit. However, an offset under this subsection shall not reduce the funding to which the county or district control unit is entitled to less than zero.

(7) As used in this section, “court revenues” means all fees, fines, and court costs, except the following:

(a) Penal fines.

(b) Revenue dedicated to the state general fund.

(c) Revenue dedicated to a restricted state fund or state purpose.

(d) Revenue dedicated to a friend of the court fund.

(8) A county or political subdivision shall receive funds under this section based on the trial court operational expenses of the courts in the county for which the county or a political subdivision of the county is responsible, offset by the portion of court revenues from those courts to which the county or political subdivision is entitled.

History: Add. 1980, Act 438, Eff. Sept. 1, 1981;—Am. 1993, Act 189, Imd. Eff. Oct. 8, 1993;—Am. 1996, Act 374, Eff. Oct. 1, 1996.

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.

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"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."

600.9948 Repealed. 2002, Act 92, Eff. Mar. 31, 2003.

Compiler's note: The repealed section pertained to election districts.

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