

HOUSE BILL No. 4824

June 16, 1987, Introduced by Reps. Bandstra, Perry Bullard, Gubow, Stabenow, Bender, Fitzgerald, DeBeaussaert, Miller, Trim, Law, Willis Bullard, Honigman, Van Regermorter, Kosteva, DeLange, Sikkema, Krause, Randall, Giese, Hoekman, Martin, Emmons, Munsell, Bankes, Middaugh, Stacey and Hillegonds and referred to the Committee on Judiciary.

A bill to amend sections 2528, 2529, 5756, 8371, and 8420 of Act No. 236 of the Public Acts of 1961, entitled as amended "Revised judicature act of 1961," sections 2528 and 2529 as amended by Act No. 511 of the Public Acts of 1982 and sections 5756, 8371, and 8420 as amended by Act No. 278 of the Public Acts of 1984, being sections 600.2528, 600.2529, 600.5756, 600.8371, and 600.8420 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2528, 2529, 5756, 8371, and 8420 of Act
2 No. 236 of the Public Acts of 1961, sections 2528 and 2529 as
3 amended by Act No. 511 of the Public Acts of 1982 and sections
4 5756, 8371, and 8420 as amended by Act No. 278 of the Public Acts
5 of 1984, being sections 600.2528, 600.2529, 600.5756, 600.8371,

1 and 600.8420 of the Michigan Compiled Laws, are amended to read
2 as follows:

3 Sec. 2528. (1) In the circuit court in a county having a
4 population of less than 100,000 the following fees shall be paid
5 to the clerk of the court:

6 (a) Before any civil action is commenced in any circuit
7 court, or before the filing of any application for superintending
8 control or for an extraordinary writ, except the writ of habeas
9 corpus, the moving party shall pay the sum of ~~\$40.00~~ \$42.00.
10 The clerk shall transmit, at the end of each month, for each
11 ~~\$40.00~~ \$42.00 collected within the month, \$18.75 to the execu-
12 tive secretary of the judges' retirement system for remittal pur-
13 suant to section 2530a; \$5.00 to the secretary of the legislative
14 retirement system for deposit with the state treasurer in the
15 retirement fund created by Act No. 261 of the Public Acts of
16 1957, as amended, being sections 38.1001 to 38.1060 of the
17 Michigan Compiled Laws; \$5.25 to the state treasurer for deposit
18 in the general fund; \$2.00 TO THE STATE TREASURER TO BE CREDITED
19 TO THE COMMUNITY DISPUTE RESOLUTION FUND CREATED BY THE COMMUNITY
20 DISPUTE RESOLUTION ACT; and the balance of the filing fee to the
21 county treasurer.

22 (b) Before the filing and entering of any transcript, claim
23 of appeal, or motion for leave to appeal from the district court,
24 the sum of \$5.00.

25 (c) For each trial before a court of record, with or without
26 a jury, the plaintiff shall pay the sum of \$10.00. The clerk
27 shall pay \$5.00 of each trial fee to the state treasurer, to

1 apply to the credit of the general fund, and \$5.00 of each trial
2 fee into the county treasury, to apply to the credit of the gen-
3 eral fund.

4 (d) Before the entry of any final judgment by default in
5 pleading in an action without a jury or by consent without trial,
6 or the entry of a judgment against a garnishee defendant upon a
7 district court transcript, or upon the entry of a judgment on an
8 award from any board or referee upon whose award the law permits
9 the entry of judgment, and in all other cases finally disposed of
10 by court order except those described in subdivision (e), the sum
11 of \$10.00. The clerk shall pay \$5.00 of each judgment fee to the
12 state treasurer, to apply to the credit of the general fund.

13 (e) Before the entry of any final judgment in an action
14 wherein trial has been had, or where a jury is called to render a
15 verdict upon default in pleading, the sum of \$10.00. The clerk
16 shall pay \$5.00 of each judgment fee to the state treasurer, to
17 apply to the credit of the general fund.

18 (f) Beginning July 1, 1983, in addition to the judgment fee
19 provided in subdivision (d) or (e), before entry of a final judg-
20 ment in an action for divorce or separate maintenance where minor
21 children are involved, or the entry of a final judgment in a
22 child custody dispute submitted to the circuit court as an origi-
23 nal action, 1 of the following sums, which shall be deposited by
24 the county treasurer as provided in section 2530:

25 (i) If the matter was contested or uncontested and was not
26 submitted to domestic relations mediation or investigation by the
27 office of the friend of the court, \$30.00.

1 (ii) If the matter was contested or uncontested and was
2 submitted to domestic relations mediation, \$50.00.

3 (iii) If the matter was contested or uncontested and the
4 office of the friend of the court conducted an investigation and
5 made a recommendation to the court, \$70.00.

6 (g) If causes of action are consolidated or tried simulta-
7 neously and separate judgments rendered, the sum of \$10.00 on the
8 entry of each judgment. The clerk shall pay \$5.00 of each judg-
9 ment fee to the state treasurer, to apply to the credit of the
10 general fund.

11 (h) For any and all services relative to the receipt, safe-
12 keeping, or putting out of money, or the purchasing, taking, or
13 transferring of any security therefor, or the collecting of
14 interest thereon, under the direction of the court, not specifi-
15 cally provided for in this section, the clerk shall receive such
16 allowance and compensation, and from such of the parties as the
17 court may consider just and shall direct, by an order for that
18 purpose, after notice to the parties to be charged.

19 (i) Upon appeal to the supreme court, the sum of \$10.00.

20 (2) The sum or sums paid under this section shall be held to
21 be in full for all clerk, entry, and judgment fees in any action
22 from the commencement of the action to and including the issuance
23 and return of the execution or other final process, and are tax-
24 able as costs.

25 (3) In counties where the county clerk receives the fees of
26 his or her office, all or in part, instead of a salary, all or in
27 part, the clerk shall pay over to the county treasurer the sum of

1 \$5.00 on each civil action that is commenced in the circuit

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3 (4) In counties where the county clerk is paid a salary
4 instead of fees collected by the county clerk, pursuant to this
5 chapter, all fees shall be paid over to the county treasurer as
6 required by law, except as otherwise provided in this section.

7 (5) The court may order any of the fees prescribed in this
8 section waived or suspended until the conclusion of the litiga-
9 tion, upon a showing by affidavit of indigency or inability to
10 pay.

11 Sec. 2529. (1) In the circuit court in a county having a
12 population of 100,000 or more the following fees shall be paid to
13 the clerk of the court:

14 (a) Before a civil action is commenced, or before the filing
15 of an application for superintending control or for an extraordi-
16 nary writ, except the writ of habeas corpus, the moving party
17 shall pay the sum of ~~\$40.00~~ \$42.00. The clerk at the end of
18 each month shall transmit for each ~~\$40.00~~ \$42.00 collected
19 within the month, \$18.75 to the executive secretary of the
20 judges' retirement system for remittal pursuant to section 2530a;
21 \$5.00 to the secretary of the legislative retirement system for
22 deposit with the state treasurer in the retirement fund created
23 by Act No. 261 of the Public Acts of 1957, as amended, being
24 sections 38.1001 to 38.1060 of the Michigan Compiled Laws; \$5.25
25 to the state treasurer for deposit in the general fund; \$2.00 TO
26 THE STATE TREASURER TO BE CREDITED TO THE COMMUNITY DISPUTE

1 RESOLUTION FUND CREATED BY THE COMMUNITY DISPUTE RESOLUTION ACT;
2 and the balance of the filing fee to the county treasurer.

3 (b) Before the filing and entering of a transcript, claim of
4 appeal, or motion for leave to appeal from the district court or
5 a municipal court, the sum of \$5.00.

6 (c) For each trial without a jury, the plaintiff shall pay
7 the sum of \$15.00. Where a trial by jury is demanded, the party
8 making the demand at the time shall pay the sum of \$30.00.
9 Failure to pay the fee within the time provided in the court
10 rules constitutes a waiver of the right to a jury trial. The sum
11 shall be taxed in favor of the party paying the fee, in case the
12 party recovers a judgment for costs.

13 (d) Before entry of a final judgment by default in pleading
14 in an action without a jury or by consent without trial, or the
15 entry of a judgment against a garnishee defendant upon a district
16 or municipal court transcript, or the entry of a judgment on an
17 award from a board or referee upon whose award the law permits
18 the entry of judgment, the sum of \$10.00.

19 (e) Before entry of a final judgment in an action where
20 trial has been had, or where a jury is called to render a verdict
21 upon default in pleading, the sum of \$10.00.

22 (f) ~~Beginning July 1, 1983, in~~ IN addition to the judgment
23 fee provided in subdivision (d) or (e), before entry of a final
24 judgment in an action for divorce or separate maintenance where
25 minor children are involved, or the entry of a final judgment in
26 a child custody dispute submitted to the circuit court as an

1 original action, 1 of the following sums, which shall be
2 deposited by the county treasurer as provided in section 2530:

3 (i) If the matter was contested or uncontested and was not
4 submitted to domestic relations mediation or investigation by the
5 friend of the court, \$30.00.

6 (ii) If the matter was contested or uncontested and was sub-
7 mitted to domestic relations mediation, \$50.00.

8 (iii) If the matter was contested or uncontested and the
9 office of the friend of the court conducted an investigation and
10 made a recommendation to the court, \$70.00.

11 (g) Upon the filing of a motion, the sum of \$10.00.

12 (h) If causes of action are consolidated or tried simulta-
13 neously and separate judgments rendered, the sum of \$10.00 on the
14 entry of each judgment.

15 (i) For services relative to the receipt, safekeeping, or
16 putting out of money, or the purchasing, taking, or transferring
17 of a security, or the collecting of interest on a security, under
18 the direction of the court, not specifically provided in this
19 section, the clerk shall receive the allowance and compensation,
20 from the parties as the court may consider just and shall direct
21 by an order, after notice to the parties to be charged.

22 (j) Upon appeal to the supreme court, the sum of \$20.00.

23 (2) The sums paid as provided in this section shall be held
24 to be in full for all clerk, entry, and judgment fees in an
25 action from the commencement of the action to and including the
26 issuance and return of the execution or other final process, and
27 are taxable as costs.

1 (3) Except as otherwise provided in this section, the fees
2 shall be paid over to the county treasurer as required by law.

3 (4) The court may order any of the fees prescribed in this
4 section waived or suspended until the conclusion of the litiga-
5 tion, upon a showing by affidavit of indigency or inability to
6 pay.

7 Sec. 5756. (1) If the complaint is for the recovery of pos-
8 session of premises only, the fee for filing a proceeding under
9 this chapter shall be ~~-\$20.00-~~ \$21.00.

10 (2) If a claim for a money judgment is joined with a claim
11 for the recovery of possession of premises, the plaintiff shall
12 pay a supplemental filing fee in the same amount as established
13 by law for the filing of a claim for a money judgment in the same
14 court.

15 (3) At the end of each month, the clerk of the district
16 court shall transmit 45% of each filing fee and supplemental
17 filing fee collected pursuant to this section within the month to
18 the executive secretary of the judges' retirement system for
19 remittal pursuant to section 2530a; ~~—~~ \$1.00 TO THE STATE TREA-
20 SURER TO BE CREDITED TO THE COMMUNITY DISPUTE RESOLUTION FUND
21 CREATED BY THE COMMUNITY DISPUTE RESOLUTION ACT; and the balance
22 to the treasurer of the district control unit in which the action
23 was commenced.

24 Sec. 8371. (1) Before a civil action is commenced in the
25 district court, the moving party shall pay to the clerk the sum
26 of ~~-\$30.00-~~ \$31.00 if the amount in controversy exceeds
27 \$3,000.00, the sum of ~~-\$20.00-~~ \$21.00 if the amount in

1 controversy exceeds \$600.00 but does not exceed \$3,000.00, or the
2 sum of ~~-\$10.00~~ \$11.00 if the amount in controversy does not
3 exceed \$600.00.

4 (2) At the end of each month, the clerk shall transmit 45%
5 of each filing fee collected within the month to the executive
6 secretary of the retirement system for remittal pursuant to sec-
7 tion 2530a; \$1.00 TO THE STATE TREASURER TO BE CREDITED TO THE
8 COMMUNITY DISPUTE RESOLUTION FUND CREATED BY THE COMMUNITY DIS-
9 PUTES RESOLUTION ACT; and the balance of each filing fee to the
10 treasurer of the district control unit in which the action was
11 commenced.

12 (3) The judge may order payment of any statutory fees waived
13 or suspended until the conclusion of the litigation, upon a show-
14 ing by affidavit of indigency or inability to pay.

15 (4) Neither the state nor a political subdivision of the
16 state shall be required to pay a filing fee in a civil infraction
17 action.

18 (5) Except for civil actions filed for relief under chapter
19 43, 57, or 84, if a civil action is filed for relief other than
20 money damages, the filing fee shall be equal to the filing fee in
21 actions for money damages in excess of \$3,000.00 as provided in
22 subsection (1).

23 Sec. 8420. (1) A fee of ~~-\$10.00~~ \$11.00 shall be charged
24 and collected for the filing of the affidavit for the commence-
25 ment of any action in which the amount in controversy does not
26 exceed \$600.00, and a fee of ~~-\$20.00~~ \$21.00 shall be charged and
27 collected in any action in which the amount in controversy

1 exceeds \$600.00. A fee in an amount equal to the prevailing
2 postal rate for the service provided shall be charged and col-
3 lected for each defendant to whom a copy of the affidavit is
4 mailed by the clerk. A fee of \$5.00 shall be charged and col-
5 lected for the issuance of a writ of execution, attachment, or
6 garnishment, and for the issuance of a judgment debtor discovery
7 subpoena. Except as otherwise provided in this chapter, a fee or
8 charge shall not be collected by any officer for any service
9 rendered under this chapter or for the taking of affidavits for
10 use in connection with any action commenced under this chapter.
11 ~~All fees shall be deposited in the general fund of the district~~
12 ~~control unit, except that 45% of the fees collected for the~~
13 ~~filing of an affidavit for the commencement of an action shall be~~
14 ~~transmitted by the clerk at the end of each month to the execu-~~
15 ~~tive secretary of the retirement system for remittal pursuant to~~
16 ~~section 2530a.~~

17 (2) AT THE END OF EACH MONTH, THE CLERK SHALL TRANSMIT 45%
18 OF EACH FEE COLLECTED WITHIN THE MONTH TO THE EXECUTIVE SECRETARY
19 OF THE JUDGES' RETIREMENT SYSTEM FOR REMITTAL PURSUANT TO SECTION
20 2530A; \$1.00 TO THE STATE TREASURER TO BE CREDITED TO THE COMMU-
21 NITY DISPUTE RESOLUTION FUND CREATED BY THE COMMUNITY DISPUTE
22 RESOLUTION ACT; AND THE BALANCE OF EACH FILING FEE TO THE TREA-
23 SURER OF THE DISTRICT CONTROL UNIT IN WHICH THE ACTION WAS
24 COMMENCED.

25 (3) ~~-(2)-~~ If the affidavit and notice to appear and answer
26 are served by personal service, the person serving the process

1 shall be entitled to the same fee and mileage as for the service
2 of a summons and complaint out of the district court.

3 Section 2. This amendatory act shall not take effect unless
4 Senate Bill No. _____ or House Bill No. 4823 (request
5 no. 01799'87 *) of the 84th Legislature is enacted into law.