

HOUSE BILL No. 4808

May 10, 1989, Introduced by Reps. Richard A. Young, Murphy, Palamara, Gubow, Wallace, Runco and Johnson and referred to the Committee on Judiciary.

A bill to amend sections 2528, 2529, 2530a, 8371, and 8381 of Act No. 236 of the Public Acts of 1961, entitled as amended "Revised judicature act of 1961," sections 2528, 2529, and 8371 as amended by Act No. 310 of the Public Acts of 1988 and section 2530a as amended by Act No. 278 of the Public Acts of 1984, being sections 600.2528, 600.2529, 600.2530a, 600.8371, and 600.8381 of the Michigan Compiled Laws; and to add section 2530b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2528, 2529, 2530a, 8371, and 8381 of
2 Act No. 236 of the Public Acts of 1961, sections 2528, 2529, and
3 8371 as amended by Act No. 310 of the Public Acts of 1988 and
4 section 2530a as amended by Act No. 278 of the Public Acts of
5 1984, being sections 600.2528, 600.2529, 600.2530a, 600.8371, and

1 600.8381 of the Michigan Compiled Laws, are amended and
2 section 2530b is added to read 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 ~~\$42.00~~ \$62.00.
10 The clerk shall transmit, at the end of each month, for each
11 ~~\$42.00~~ \$62.00 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 THE MICHIGAN LEGISLATIVE RETIREMENT
16 SYSTEM ACT, Act No. 261 of the Public Acts of 1957, as amended,
17 being sections 38.1001 to 38.1060 of the Michigan Compiled Laws;
18 \$5.25 to the state treasurer for deposit in the general fund;
19 \$20.00 TO THE STATE TREASURER FOR DEPOSIT IN THE DUE PROCESS
20 COSTS FUND CREATED BY SECTION 2530B; \$2.00 to the state treasurer
21 to be credited to the community dispute resolution fund created
22 by the community dispute resolution act, ACT NO. 260 OF THE
23 PUBLIC ACTS OF 1988, BEING SECTIONS 691.1551 TO 691.1564 OF THE
24 MICHIGAN COMPILED LAWS; and the balance of the filing fee to the
25 county treasurer.

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

4 (c) For each trial before a court of record, with or without
5 a jury, the plaintiff shall pay the sum of \$10.00. The clerk
6 shall pay \$5.00 of each trial fee to the state treasurer, to
7 apply to the credit of the general fund, and \$5.00 of each trial
8 fee into the county treasury, to apply to the credit of the gen-
9 eral fund.

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

19 (e) Before the entry of any final judgment in an action
20 ~~wherein~~ WHERE trial has been had, or where a jury is called to
21 render a verdict upon default in pleading, the sum of \$10.00.
22 The clerk shall pay \$5.00 of each judgment fee to the state trea-
23 surer, to apply to the credit of the general fund.

24 (f) Beginning July 1, 1983, in addition to the judgment fee
25 provided in subdivision (d) or (e), before entry of a final judg-
26 ment in an action for divorce or separate maintenance where minor
27 children are involved, or the entry of a final judgment in a

1 child custody dispute submitted to the circuit court as an
2 original action, 1 of the following sums, which shall be depos-
3 ited by the county treasurer as provided in section 2530:

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

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

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

12 (g) 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. The clerk shall pay \$5.00 of each judg-
15 ment fee to the state treasurer, to apply to the credit of the
16 general fund.

17 (h) For any and all services relative to the receipt, safe-
18 keeping, or ~~putting out~~ EXPENDING of money, or the purchasing,
19 taking, or transferring of ~~any security therefor,~~ or the col-
20 lecting of interest ~~thereon~~ ON A SECURITY, under the direction
21 of the court, not specifically provided for in this section, the
22 clerk shall receive ~~such~~ THE allowance and compensation ~~, and~~
23 from ~~such of~~ the parties as the court may consider just and
24 shall direct ~~, by an~~ COURT order, ~~for that purpose,~~ after
25 notice to the parties to be charged.

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

1 (J) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, UPON THE
2 FILING OF A MOTION, THE SUM OF \$20.00. BEGINNING OCTOBER 1,
3 1989, AT THE END OF EACH MONTH THE CLERK SHALL TRANSMIT \$10.00
4 FROM EACH FEE COLLECTED UNDER THIS SUBDIVISION TO THE EXECUTIVE
5 SECRETARY OF THE JUDGES' RETIREMENT SYSTEM FOR REMITTAL PURSUANT
6 TO SECTION 2530A, AND THE BALANCE OF THE FEE TO THE COUNTY
7 TREASURER.

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

13 (3) In counties where the county clerk receives the fees of
14 his or her office, all or in part, instead of a salary, all or in
15 part, the clerk shall pay over to the county treasurer the sum of
16 \$5.00 on each civil action that is commenced in the circuit
17 court.

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

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

26 (6) After January 1, 1993 the filing fee shall be ~~\$40.00~~
27 \$60.00 and the state treasurer shall not credit \$2.00 to the

1 community dispute resolution fund CREATED BY ACT NO. 260 OF THE
2 PUBLIC ACTS OF 1988.

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

6 (a) Before a civil action is commenced, or before the filing
7 of an application for superintending control or for an extraordi-
8 nary writ, except the writ of habeas corpus, the moving party
9 shall pay the sum of ~~-\$42.00-~~ \$62.00. The clerk at the end of
10 each month shall transmit for each ~~-\$42.00-~~ \$62.00 collected
11 within the month, \$18.75 to the executive secretary of the
12 judges' retirement system for remittal pursuant to section 2530a;
13 \$5.00 to the secretary of the legislative retirement system for
14 deposit with the state treasurer in the retirement fund created
15 by THE MICHIGAN LEGISLATIVE RETIREMENT SYSTEM ACT, Act No. 261 of
16 the Public Acts of 1957, as amended, being sections 38.1001 to
17 38.1060 of the Michigan Compiled Laws; \$5.25 to the state trea-
18 surer for deposit in the general fund; \$20.00 TO THE STATE TREA-
19 SURER FOR DEPOSIT IN THE DUE PROCESS COSTS FUND CREATED BY SEC-
20 TION 2530B; \$2.00 to the state treasurer to be credited to the
21 community dispute resolution fund created by the community dis-
22 pute resolution act, ACT NO. 260 OF THE PUBLIC ACTS OF 1988,
23 BEING SECTIONS 691.1551 TO 691.1564 OF THE MICHIGAN COMPILED
24 LAWS; and the balance of the filing fee to the county treasurer.
25 (b) Before the filing and entering of a transcript, claim of
26 appeal, or motion for leave to appeal from the district court or
27 a municipal court, the sum of \$5.00.

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

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

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

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

24 (i) If the matter was contested or uncontested and was not
25 submitted to domestic relations mediation or investigation by the
26 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) ~~Upon~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,
7 UPON the filing of a motion, the sum of ~~\$10.00~~ \$20.00.
8 BEGINNING OCTOBER 1, 1989, AT THE END OF EACH MONTH THE CLERK
9 SHALL TRANSMIT \$10.00 FROM EACH FEE COLLECTED UNDER THIS SUBDIVI-
10 SION TO THE EXECUTIVE SECRETARY OF THE JUDGES' RETIREMENT SYSTEM
11 FOR REMITTAL PURSUANT TO SECTION 2530A, AND THE BALANCE OF THE
12 FEE TO THE COUNTY TREASURER.

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

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

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

25 (2) The sums paid as provided in this section shall be held
26 to be in full for all clerk, entry, and judgment fees in an
27 action from the commencement of the action to and including the

1 issuance and return of the execution or other final process, and
2 are taxable as costs.

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

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

9 (5) After January 1, 1993 the filing fee shall be ~~-\$40.00-~~
10 \$60.00 and the state treasurer shall not credit \$2.00 to the com-
11 munity dispute resolution fund CREATED BY ACT NO. 260 OF THE
12 PUBLIC ACTS OF 1988.

13 Sec. 2530a. Revenue received by the executive secretary of
14 the judges' retirement system during any fiscal year pursuant to
15 sections 2528(1)(a) AND (J), 2529(1)(a) AND (G), 5756(3),
16 8371(2), and ~~8420(1)~~ 8420(2) shall ~~first~~ be remitted to the
17 state treasurer, for deposit in the annuity reserve fund created
18 by THE JUDGES' RETIREMENT ACT, Act No. 198 of the Public Acts of
19 1951, being sections 38.801 to 38.831 of the Michigan Compiled
20 Laws. ~~, in the amount needed in addition to other publicly~~
21 ~~financed contributions to sustain the required level of publicly~~
22 ~~financed contributions, as determined by the most recent actuar-~~
23 ~~ial valuation available at the beginning of the applicable fiscal~~
24 ~~year, and shall then be remitted to the extent of any residual~~
25 ~~balance to the state treasurer for expenditure for state financed~~
26 ~~trial courts. The amount to be remitted to the judges'~~
27 ~~retirement system between January 1, 1983, and September 30,~~

1 ~~1983, shall be based upon the total of state paid salaries of~~
2 ~~members of the judges' retirement system for that 9 month~~
3 ~~period.~~

4 SEC. 2530B. (1) THE DUE PROCESS COSTS FUND IS CREATED IN
5 THE STATE TREASURY.

6 (2) THE STATE TREASURER SHALL CREDIT THE DUE PROCESS COSTS
7 FUND WITH DEPOSITS OF PROCEEDS FROM THE COLLECTION OF REVENUE
8 FROM COURT FEES AS PROVIDED FOR IN SECTIONS 2528(1)(A),
9 2529(1)(A), AND 8371(2).

10 (3) THE STATE COURT ADMINISTRATOR OF THE SUPREME COURT, UPON
11 CONFIRMATION OF THE AMOUNT BY THE STATE TREASURER, SHALL DISTRIB-
12 UTE FROM THE DUE PROCESS COSTS FUND THE TOTAL AMOUNT AVAILABLE IN
13 A FISCAL YEAR TO EACH COURT OF THIS STATE AS PROVIDED IN THIS
14 SECTION. EACH JUDICIAL CIRCUIT, RECORDER'S COURT, JUDICIAL DIS-
15 TRICT, OR COUNTY PROBATE COURT OF THIS STATE SHALL REPORT TO THE
16 STATE COURT ADMINISTRATOR, ACCORDING TO GUIDELINES ESTABLISHED BY
17 THE STATE COURT ADMINISTRATOR, EXPENDITURES INCURRED DURING THE
18 IMMEDIATELY PRECEDING FISCAL YEAR FOR ANY OF THE FOLLOWING
19 COSTS:

20 (A) FEES AND REIMBURSEMENT COSTS PAID TO JURORS.

21 (B) FEES PAID PER PAGE OF TRANSCRIPT, NOT INCLUDING SALARIES
22 OR EXPENSES OF COURT REPORTERS.

23 (C) FEES PAID TO ATTORNEYS FOR REPRESENTING INDIGENT
24 DEFENDANTS AT THE APPELLATE LEVEL.

25 (D) SALARIES AND EXPENSES PAID TO JUDGES TEMPORARILY
26 ASSIGNED TO SIT IN PLACE OF A REGULARLY SITTING JUDGE.

1 (4) THE STATE COURT ADMINISTRATOR SHALL DISTRIBUTE THE
2 BALANCE OF THE DUE PROCESS COSTS FUND ANNUALLY TO EACH JUDICIAL
3 CIRCUIT, RECORDER'S COURT, JUDICIAL DISTRICT, OR COUNTY PROBATE
4 COURT THAT INCURS AND REPORTS THE EXPENDITURE OF FUNDS FOR ANY OF
5 THE PURPOSES DESCRIBED IN SUBSECTION (3) IN AN AMOUNT DETERMINED
6 BY MULTIPLYING THE AMOUNT AVAILABLE FOR DISTRIBUTION BY A FRAC-
7 TION, THE NUMERATOR OF WHICH IS THE TOTAL EXPENDITURES BY THAT
8 COURT FOR ANY OF THE COSTS DESCRIBED IN SUBSECTION (3) AND THE
9 DENOMINATOR OF WHICH IS THE TOTAL EXPENDITURES BY ALL OF SUCH
10 COURTS IN THIS STATE FOR THE COSTS DESCRIBED IN SUBSECTION (3).
11 THE STATE COURT ADMINISTRATOR SHALL BE REIMBURSED ANNUALLY FROM
12 THE DUE PROCESS COSTS FUND FOR ALL COSTS ASSOCIATED WITH THE
13 ADMINISTRATION OF THIS SECTION.

14 Sec. 8371. (1) Before a civil action is commenced in the
15 district court, the moving party shall pay to the clerk the sum
16 of ~~-\$32.00-~~ \$47.00 if the amount in controversy exceeds
17 \$3,000.00, the sum of ~~-\$22.00-~~ \$32.00 if the amount in contro-
18 versy exceeds \$600.00 but does not exceed \$3,000.00, or the sum
19 of ~~-\$12.00-~~ \$17.00 if the amount in controversy does not exceed
20 \$600.00.

21 (2) Of each filing fee collected within the month, at the
22 end of each month, the clerk shall transmit \$2.00 OF EACH FILING
23 FEE to the state treasurer to be credited to the community dis-
24 pute resolution fund created by the community dispute resolution
25 act, ACT NO. 260 OF THE PUBLIC ACTS OF 1988, BEING SECTIONS
26 691.1551 TO 691.1564 OF THE MICHIGAN COMPILED LAWS; ~~-45%~~ 30% of
27 ~~the remaining~~ EACH filing fee to the executive secretary of the

1 JUDGES' retirement system for remittal pursuant to section 2530a;
2 ~~and the balance~~ 36% of each filing fee to the treasurer of the
3 district control unit in which the action was commenced; AND THE
4 BALANCE OF EACH FILING FEE TO THE STATE TREASURER FOR DEPOSIT IN
5 THE DUE PROCESS COSTS FUND CREATED BY SECTION 2530B.

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

9 (4) Neither the state nor a political subdivision of the
10 state shall be required to pay a filing fee in a civil infraction
11 action.

12 (5) Except for civil actions filed for relief under chapter
13 43, 57, or 84, if a civil action is filed for relief other than
14 money damages, the filing fee shall be equal to the filing fee in
15 actions for money damages in excess of \$3,000.00 as provided in
16 subsection (1).

17 (6) After January 1, 1993 the filing fee shall be ~~\$30.00~~
18 \$45.00 if the amount in controversy exceeds \$3,000.00, ~~\$20.00~~
19 \$30.00 if the amount in controversy exceeds \$600.00, and ~~\$10.00~~
20 \$15.00 if the amount does not exceed \$600.00 and the state trea-
21 surer shall not credit \$2.00 to the community dispute resolution
22 fund CREATED BY ACT NO. 260 OF THE PUBLIC ACTS OF 1988.

23 Sec. 8381. When fines and costs are assessed by a magis-
24 trate, a traffic bureau, or a judge of the district court, not
25 less than ~~\$5.00~~ \$8.00 shall be assessed as costs and collected
26 for each conviction or civil infraction determination and each
27 guilty plea or civil infraction admission except for parking

1 violations. Of the costs assessed and collected, for each
 2 conviction or civil infraction determination and each guilty plea
 3 or civil infraction admission, ~~-\$5.00-~~ \$8.00 shall be paid to the
 4 clerk of the district court who, on or before the fifteenth of
 5 each month, shall transmit it to the state treasurer. ~~The~~
 6 BEGINNING OCTOBER 1, 1989, THE state treasurer shall deposit ~~6%~~
 7 5% of the costs collected to the legislative retirement fund cre-
 8 ated by THE MICHIGAN LEGISLATIVE RETIREMENT SYSTEM ACT, Act
 9 No. 261 of the Public Acts of 1957, as amended, being sections
 10 38.1001 to 38.1060 of the Michigan Compiled Laws; ~~9%~~ 28% of the
 11 costs collected to the EXECUTIVE SECRETARY OF THE judges' retire-
 12 ment ~~fund~~ SYSTEM created by THE JUDGES' RETIREMENT ACT, Act
 13 No. 198 of the Public Acts of 1951, as amended, BEING SECTIONS
 14 38.801 TO 38.831 OF THE MICHIGAN COMPILED LAWS; and shall deposit
 15 the balance of the costs collected in the general fund.

16 Section 2. This amendatory act shall take effect October 1,
 17 1989.

18 Section 3. This amendatory act shall not take effect unless
 19 all of the following bills of the 85th Legislature are enacted
 20 into law:

21 (a) Senate Bill No. _____ or House Bill No. _____ (request
 22 no. 01779'89).

23 (b) Senate Bill No. _____ or House Bill No. 4809 (request
 24 no. 01779'89 a).