

# HOUSE BILL No. 5037

September 20, 1989, Introduced by Rep. Murphy and referred to the Committee on Judiciary.

A bill to amend section 8322 of Act No. 236 of the Public Acts of 1961, entitled as amended "Revised judicature act of 1961," as amended by Act No. 8 of the Public Acts of 1981, being section 600.8322 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 8322 of Act No. 236 of the Public Acts  
2 of 1961, as amended by Act No. 8 of the Public Acts of 1981,  
3 being section 600.8322 of the Michigan Compiled Laws, is amended  
4 to read as follows:

5 Sec. 8322. (1) A person serving as a bailiff of the common  
6 pleas court of Detroit on August 31, 1981, pursuant to an  
7 appointment under section 23 of former Act No. 260 of the Public  
8 Acts of 1929, shall become a bailiff of the district court in the  
9 thirty-sixth district on September 1, 1981. A bailiff shall be

1 considered a court officer under section 8321(1) for the  
2 exclusive purpose of serving civil process in a civil action com-  
3 menced in the district court in the thirty-sixth district, except  
4 for process issued in a summary proceeding under chapter 57. All  
5 process issued by the district court in civil actions shall be  
6 rotated among the bailiffs pursuant to rules adopted by the  
7 court. A bailiff shall file with the clerk of the court a surety  
8 bond in the amount of \$100,000.00 with a surety company. The  
9 premium on the surety bond shall be paid by the district control  
10 unit. A bailiff shall possess only the powers necessary to serve  
11 process issued by the court. A bailiff governed pursuant to this  
12 subsection may bear arms while in office and in the exercise of  
13 his or her duties as bailiff. A bailiff shall hold office until  
14 death, retirement, resignation, or removal from office by the  
15 court for misfeasance or malfeasance in office. A vacancy in the  
16 office of bailiff as established pursuant to this subsection  
17 shall not be filled.

18 (2) A person serving as a bailiff of the common pleas court  
19 on August 31, 1981, pursuant to an appointment under section 31  
20 of former Act No. 260 of the Public Acts of 1929, shall become a  
21 bailiff of the district court in the thirty-sixth district on  
22 September 1, 1981. A bailiff shall be considered a court officer  
23 under section 8321(1) for the exclusive purpose of serving civil  
24 process in summary proceedings commenced under chapter 57 in the  
25 district court in the thirty-sixth district. All process issued  
26 by the district court in summary proceedings shall be rotated  
27 among the bailiffs pursuant to rules adopted by the court, except

1 that a writ of restitution shall be issued to the bailiff to whom  
2 the summons was issued in the particular proceeding. A bailiff  
3 shall file with the clerk of the court a surety bond in an amount  
4 of \$100,000.00 with a surety company. The premium on the surety  
5 bond shall be paid by the district control unit. A bailiff gov-  
6 erned pursuant to this subsection shall be considered a peace  
7 officer only for the purpose of receiving compensation provided  
8 by Act No. 329 of the Public Acts of 1937, as amended, being sec-  
9 tions 419.101 to 419.104 of the Michigan Compiled Laws. A bai-  
10 liff shall hold office until death, retirement, resignation, or  
11 removal from office by the court for misfeasance or malfeasance  
12 in office. A vacancy in the office of bailiff established pursu-  
13 ant to this subsection shall not be filled.

14 (3) A bailiff governed pursuant to this section shall keep a  
15 written record of the date, amount, and nature of each financial  
16 transaction conducted by the bailiff in the course of his or her  
17 service as bailiff. An audit of each bailiff's financial trans-  
18 actions shall be conducted annually by the district control unit  
19 and reported immediately to the judges of the district. If the  
20 audit prescribed by this subsection is not conducted by the dis-  
21 trict control unit before June 30 of any year, the judges of the  
22 court shall contract with a certified public accountant to per-  
23 form the audit. If a certified public accountant is required to  
24 perform the audit, the cost of the audit shall be paid by the  
25 district control unit.

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

4 ~~(5) A court officer appointed pursuant to subsection (4) to~~  
5 ~~serve civil process in the thirty sixth district shall be an~~  
6 ~~employee of the state judicial council. The compensation of a~~  
7 ~~court officer shall be paid by the state and shall be fixed as~~  
8 ~~provided in sections 592 and 9104. Fees prescribed in section~~  
9 ~~8326, except mileage, shall be payable to the district control~~  
10 ~~unit and shall not be payable to a court officer appointed under~~  
11 ~~this subsection. A court officer shall be entitled to mileage~~  
12 ~~pursuant to section 8326.~~

13 (5) ~~(6)~~ A bailiff serving civil process pursuant to sub-  
14 section (1) or (2) shall be compensated by salary and the fees  
15 and mileage prescribed in section 8326. A full-time bailiff, as  
16 defined by the state judicial council, shall receive from the  
17 state a \$20,000.00 annual salary. For each part-time bailiff, as  
18 defined by the state judicial council, the council shall estab-  
19 lish a salary which is a pro rata portion of \$20,000.00 based on  
20 that portion of a full-time bailiff's workload to be assigned to  
21 the bailiff. A bailiff covered by this subsection shall not be  
22 entitled to any compensation from the state other than that spe-  
23 cifically authorized in this subsection.

24 (6) ~~(7)~~ A bailiff serving civil process pursuant to sub-  
25 section (1) or (2) shall not become a member of the state  
26 employees' retirement system created by THE STATE EMPLOYEES'  
27 RETIREMENT ACT, Act No. 240 of the Public Acts of 1943, as

1 amended, being sections 38.1 to 38.47 of the Michigan Compiled  
2 Laws. Beginning September 1, 1981, the state shall contribute to  
3 the retirement system in which the bailiff is a member on August  
4 31, 1981, an amount equal to the amount which the state would  
5 have contributed to the state employees' retirement system pursu-  
6 ant to Act No. 240 of the Public Acts of 1943, as amended, if the  
7 bailiff had become a member of the state employees' retirement  
8 system, based on the salary paid by the state pursuant to subsec-  
9 tion ~~(6)~~ (5). Beginning September 1, 1981, each bailiff shall  
10 continue to contribute to the retirement system in which the bai-  
11 liff is a member on August 31, 1981, as required by ordinance,  
12 based on salary and fees received pursuant to subsection ~~(6)~~  
13 (5), except mileage.

14 (7) ~~(8)~~ From each filing fee collected under section 8371,  
15 the clerk of the court shall pay to the Wayne county retirement  
16 system the sum of \$1.00, to be credited to the retirement fund of  
17 the bailiffs of the district court in the thirty-sixth district  
18 serving civil process pursuant to subsection (1). The county of  
19 Wayne shall annually review the retirement fund and shall ensure  
20 that the fund is maintained in an actuarially sound condition.  
21 Copies of the actuarial reports shall be provided to the ~~joint~~  
22 ~~legislative committee created under section 9946 and to the~~  
23 state judicial council created in chapter 91.

24 (8) ~~(9)~~ From each filing fee collected for filing a sum-  
25 mary proceeding under section 5756, the clerk of the court shall  
26 pay to the Wayne county retirement system the sum of \$1.00 for  
27 each defendant served in the proceeding, to be credited to the

1 retirement fund of the bailiffs of the district court in the  
2 thirty-sixth district serving civil process pursuant to subsec-  
3 tion (2). However, the amount credited to the retirement fund  
4 under this subsection shall not exceed 1/2 of the fee collected  
5 in a proceeding. The county of Wayne shall annually review the  
6 retirement fund and shall ensure that the fund is maintained in  
7 an actuarially sound condition. Copies of the actuarial reports  
8 shall be provided to the ~~joint legislative committee created~~  
9 ~~under section 9946 and to the~~ state judicial council created in  
10 chapter 91.