

SENATE BILL No. 619

October 18, 1989, KELLY, NICHOLS, V. SMITH, VAUGHN, FAUST,
GEO. HART, HOLMES, MILLER, FESSLER, J. HART and O'BRIEN
and referred to the Committee on Judiciary.

A bill to amend sections 564, 592, and 593 of Act No. 236 of
the Public Acts of 1961, entitled as amended
"Revised judicature act of 1961,"
as added by Act No. 438 of the Public Acts of 1980, being
sections 600.564, 600.592, and 600.593 of the Michigan Compiled
Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 564, 592, and 593 of Act No. 236 of the
2 Public Acts of 1961, as added by Act No. 438 of the Public Acts
3 of 1980, being sections 600.564, 600.592, and 600.593 of the
4 Michigan Compiled Laws, are amended to read as follows:

5 Sec. 564. (1) Effective September 1, 1981, the executive
6 chief judge of the circuit court in the third judicial circuit
7 and the recorder's court of the city of Detroit, as the presiding

1 officer of the combined courts, shall have the following duties
2 and authority:

3 (a) To call and preside over meetings of the courts.

4 (b) To appoint committees of the courts.

5 (c) To formulate the courts' position on external matters
6 affecting the courts.

7 (d) To represent the courts in their relations with the
8 supreme court, ~~others~~ OTHER courts, other agencies of govern-
9 ment, the state bar, the general public, and the news media, and
10 in ceremonial functions.

11 (2) Effective September 1, 1981, the executive chief judge
12 of the circuit court in the third judicial circuit and the
13 recorder's court of the city of Detroit, as the director of the
14 administration of the combined courts, shall have administrative
15 superintending control over the coordination of those courts with
16 the following duties and authority:

17 (a) To coordinate and monitor the dockets of the courts.

18 (b) To determine the hours of the judges, with authority to
19 coordinate and determine the number of judges required to be
20 present at any 1 time to perform necessary judicial and adminis-
21 trative work of the court, and to require their presence to per-
22 form that work.

23 (c) To fix the compensation of the employees of the state
24 judicial council who serve in the circuit court in the third
25 judicial circuit and the recorder's court within appropriations
26 provided by the state, except as otherwise provided by law.

1 (d) To determine the hours of the courts, with authority to
2 coordinate and determine the number of court personnel required
3 to be present at any 1 time to perform necessary administrative
4 work of the courts.

5 (e) To supervise the finances of the courts, including
6 financial planning, the preparation and presentation of budgets,
7 and financial reporting.

8 (f) To request supreme court assignment of judges, including
9 visiting judges, to either of the courts, and to assign matters
10 to those judges.

11 (g) To effect compliance by the courts with all applicable
12 court rules and provisions of law.

13 (h) To perform any act or duty or enter any order necessar-
14 ily incidental to carrying out the purposes of this section.

15 (i) To prepare and forward to the chief justice and the
16 state court administrator monthly reports on case flow in the
17 courts.

18 (j) To contract for space, equipment, and services, except
19 as otherwise provided by law.

20 (k) To appoint employees of the state judicial council to
21 serve in the third judicial circuit and the recorder's court,
22 except for a judge's secretary and law clerk, and except as oth-
23 erwise provided by law.

24 (l) To create or merge divisions of the courts.

25 (m) To consolidate departments or functions of the courts.

1 (n) To be vested with those powers, duties, and
2 responsibilities which are vested in a chief judge of a
3 ~~multi-judge~~ MULTIJUDGE court of this state.

4 (O) TO PROVIDE COURT CLERK SERVICES, INCLUDING ANY ACTIVITY
5 RELATED TO THE PROCESSING OF OR RECORD KEEPING IN A CASE FILED IN
6 THE COURTS.

7 (3) The exercise of the duties and authority enumerated in
8 subsection (2)(c), (d), and (k) shall be subject to the personnel
9 policies and procedures established pursuant to section 9104, and
10 the employee rights, privileges, and protections specified in
11 section 593.

12 (4) The administrative superintending control conferred by
13 subsection (2) shall not be construed to authorize the executive
14 chief judge of the combined courts to direct or compel a judge of
15 the third judicial circuit to serve as a judge of the recorder's
16 court, or a judge of the recorder's court to serve as a judge of
17 the third judicial circuit.

18 (5) If this section, section 563, 592, 593, 9101, 9102,
19 9104, 9105, 9106, or 9107 or a portion of this section or section
20 563, 592, 593, 9101, 9102, 9104, 9105, 9106, or 9107 is deter-
21 mined by a court of this state in a final, nonreviewable judgment
22 to be unconstitutional or unenforceable, this section shall not
23 be effective.

24 (6) If the executive chief judge of the circuit court in the
25 third judicial circuit and the recorder's court of the city of
26 Detroit, the chief judge of the circuit court in the third
27 judicial circuit, the chief judge of the recorder's court, the

1 supreme court, or a person designated by or acting on the behalf
2 of the supreme court brings an action challenging the validity,
3 constitutionality, or enforceability of section 593 or a portion
4 of that section, or this section, section 9101, 9102, 9104, 9105,
5 9106, or 9107 or a portion of this section, or section 9101,
6 9102, 9104, 9105, 9106, or 9107 insofar as this section, section
7 9101, 9102, 9104, 9105, 9106, or 9107 or a portion of this sec-
8 tion, or section 9101, 9102, 9104, 9105, 9106, or 9107 limits the
9 authority of the executive chief judge, either chief judge, the
10 supreme court, or the judicial branch of state government with
11 respect to the employees of the state judicial council serving in
12 the circuit court in the third judicial circuit, this section
13 shall not be effective.

14 Sec. 592. (1) Except as otherwise provided by law, the
15 executive chief judge of the circuit court in the third judicial
16 circuit and the recorder's court of the city of Detroit shall
17 appoint the employees of the state judicial council serving in
18 the circuit court in the third judicial circuit except for a
19 judge's secretary, if any, or a judge's law clerk, if any.

20 (2) The executive chief judge of the circuit court in the
21 third judicial circuit and the recorder's court shall fix the
22 compensation of the employees of the state judicial council serv-
23 ing in the circuit court in the third judicial circuit within
24 appropriations provided by the state.

25 (3) Compensation of employees of the state judicial council
26 serving in the circuit court in the third judicial circuit shall
27 be paid by the state.

1 (4) Employees of the state judicial council serving in the
2 circuit court in the third judicial circuit are subject to the
3 control of the judge holding court when performing services in
4 the courtroom.

5 (5) The exercise of the duties and authority enumerated in
6 this section shall be subject to personnel policies and proce-
7 dures established by the state judicial council pursuant to sec-
8 tion 9104, and the employee rights, privileges, and protections
9 specified in section 593.

10 ~~(6) As used in subsections (7), (8), and (9), "court clerk~~
11 ~~services" means any activity related to the processing of or~~
12 ~~record keeping in a case filed in the circuit court in the third~~
13 ~~judicial circuit.~~

14 ~~(7) In the third judicial circuit, court clerk services~~
15 ~~shall be provided by employees of the county of Wayne who are~~
16 ~~under the supervision and control of the county clerk who is the~~
17 ~~clerk of the circuit court in the third judicial circuit. The~~
18 ~~county clerk and the chief judge of the circuit court in the~~
19 ~~third judicial circuit shall develop standards for the delivery~~
20 ~~of court clerk services in the third judicial circuit.~~

21 ~~(8) The state shall reimburse the county of Wayne for the~~
22 ~~court clerk services provided pursuant to subsection (7). The~~
23 ~~amount of reimbursement shall be based on rates of compensation~~
24 ~~equal to the salary and fringe benefits which would be paid by~~
25 ~~the state judicial council to employees of the council in a com-~~
26 ~~parable job classification if such employees were hired pursuant~~
27 ~~to section 9105(e). Reimbursement shall be made pursuant to a~~

1 ~~quarterly certification signed by both the chief judge and the~~
2 ~~county clerk.~~

3 ~~(9) The requirements of subsections (7) and (8) shall not~~
4 ~~abrogate, diminish, or impair existing or future collective bar-~~
5 ~~gaining agreements between the county and the employees of the~~
6 ~~county providing the court clerk services, or infringe upon the~~
7 ~~constitutional responsibility of the county clerk to supervise~~
8 ~~the employees of the county providing the court clerk services.~~

9 Sec. 593. (1) Effective September 1, 1981, each employee
10 of the circuit court in the third judicial circuit shall become
11 an employee of the state judicial council serving in the circuit
12 court in the third judicial circuit. The employees of the cir-
13 cuit court in the third judicial circuit shall include the
14 employees of the friend of the court, the court administrator of
15 the circuit court in the third judicial circuit appointed before
16 September 1, 1981, under section 567, and the judicial assistant
17 for the circuit court in the third judicial circuit appointed
18 before September 1, 1981, under section 1481. ~~However, for pur-~~
19 ~~poses of this transfer, the employees of the circuit court in the~~
20 ~~third judicial circuit do not include the employees of the county~~
21 ~~of Wayne who are under the supervision and control of the county~~
22 ~~clerk and who provide court clerk services.~~ An employee who
23 becomes an employee of the state judicial council pursuant to the
24 operation of this section shall serve in the position held by the
25 employee as an employee of the circuit court in the third judi-
26 cial circuit. Each employee who becomes an employee of the state
27 judicial council serving in the circuit court in the third

1 judicial circuit shall not receive a salary or hourly wage less
2 than the employee was being paid as an employee of the circuit
3 court in the third judicial circuit immediately before September
4 1, 1981. The salary or hourly wage and the position to which an
5 employee is entitled under this subsection may be altered by a
6 future collective bargaining agreement.

7 (2) Annual leave which an employee of the circuit court in
8 the third judicial circuit has accumulated as an employee of that
9 court, but not in excess of 160 hours, shall be transferred with
10 the employee as a result of the employee becoming an employee of
11 the state judicial council. Not later than November 1, 1981, the
12 county of Wayne shall adopt an ordinance to provide an employee
13 transferred under subsection (1) with an option to receive a cash
14 payment for the value of the employee's accumulated annual leave
15 in excess of 160 hours to be paid over a period of time not to
16 exceed 2 years, or a payment of that amount in the form of
17 deferred compensation. The ordinance shall provide that an
18 employee has 90 days after the adoption of the ordinance in which
19 to exercise his or her option.

20 (3) Seniority rights, sick leave, longevity, and any other
21 employee benefits which an employee of the circuit court in the
22 third judicial circuit has accumulated as an employee of that
23 circuit shall not be abrogated, diminished, or impaired as a
24 result of the employee becoming an employee of the state judicial
25 council. The rights and benefits protected by this subsection
26 may be altered by a future collective bargaining agreement.

1 (4) An employee of the circuit court in the third judicial
2 circuit who becomes an employee of the state judicial council
3 serving in the circuit court in the third judicial circuit shall
4 be entitled to receive insurance benefits not less than those
5 insurance benefits received as an employee of the circuit court
6 in the third judicial circuit. The insurance benefits to which
7 an employee is entitled under this subsection may be altered
8 under a future collective bargaining agreement.

9 (5) All employees of the state judicial council serving in
10 the circuit court in the third judicial circuit shall be entitled
11 to the rights and privileges provided by Act No. 336 of the
12 Public Acts of 1947, as amended, being sections 423.201 to
13 423.216 of the Michigan Compiled Laws. However, any increase in
14 rates of compensation in a collective bargaining agreement or
15 contract entered into pursuant to section 9104(1)(b) or imposed
16 by operation of law which governs the employees of the state
17 judicial council pursuant to Act No. 336 of the Public Acts of
18 1947, as amended, is subject to rejection by either house of the
19 legislature pursuant to section 9107.

20 (6) Pursuant to section 9105, the state judicial council
21 shall enter into memoranda of agreement as provided in that
22 section.

23 (7) A representative, as ~~defined~~ DESCRIBED in section 11
24 of Act No. 336 of the Public Acts of 1947, being section 423.211
25 of the Michigan Compiled Laws, of the employees or any group of
26 employees of the circuit court in the third judicial circuit who
27 represents the employees or group of employees on August 31,

1 1981, shall continue to be the representative of the employees or
2 group of employees after the employees become employees of the
3 state judicial council serving in the third judicial circuit.
4 This subsection shall not be construed to limit the right of the
5 employees, pursuant to section 12 of Act No. 336 of the Public
6 Acts of 1947, as amended, being section 423.212 of the Michigan
7 Compiled Laws, to assert that a bargaining representative pro-
8 tected by this subsection is no longer their representative.

9 (8) Subsections (3) and (4) and section 9105 shall apply
10 only until the first collective bargaining agreement between the
11 state judicial council and the employees of the council serving
12 in the circuit court in the third judicial circuit is entered
13 into pursuant to chapter 91 and becomes effective. However, an
14 increase in rates of compensation in the collective bargaining
15 agreement is subject to rejection by either house of the legisla-
16 ture pursuant to section 9107. Subsections (3) and (4) and sec-
17 tion 9105 shall not be construed to provide either protection
18 for, or limitations on, rights, benefits, or conditions contained
19 in collective bargaining agreements which become effective after
20 August 31, 1981.

21 (9) If this section, section 563, 564, 592, 9101, 9102,
22 9104, 9105, 9106, or 9107, a portion of this section or section
23 563, 564, 592, 9101, 9102, 9104, 9105, 9106, or 9107, or is
24 determined by a court of this state in a final, nonreviewable
25 judgment to be unconstitutional or unenforceable, the employees
26 of the state judicial council serving in the third judicial

1 circuit shall become employees of the circuit court in the third
2 judicial circuit governed pursuant to section 591.

3 (10) If the executive chief judge of the circuit court in
4 the third judicial circuit and the recorder's court of the city
5 of Detroit, the chief judge of the circuit court in the third
6 judicial circuit, the chief judge of the recorder's court, the
7 supreme court, or a person designated by or acting on the behalf
8 of the supreme court brings an action challenging the validity,
9 constitutionality, or enforceability of this section or a portion
10 of this section, or section 564, 9101, 9102, 9104, 9105, 9106, or
11 9107 insofar as those sections or a portion of those sections
12 limits the authority of the executive chief judge, either chief
13 judge, the supreme court, or the judicial branch of state govern-
14 ment with respect to the employees of the state judicial council
15 serving in the circuit court in the third judicial circuit, those
16 employees shall become employees of the circuit court in the
17 third judicial circuit governed by section 591.