

**SUBSTITUTE FOR
HOUSE BILL NO. 5238**

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 8371 (MCL 600.8371), as amended by 2005 PA 151,
and by adding section 5755.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **Sec. 5755. (1) On the commencement of summary proceedings**
2 **under this chapter or chapter 57a, the court shall maintain a**
3 **nonpublic record until a judgment for possession is entered for the**
4 **plaintiff.**

5 **(2) Subject to subsection (4), after a judgment for possession**
6 **is entered for the plaintiff in summary proceedings under this**
7 **chapter or chapter 57a, on motion of a defendant or on the court's**
8 **own motion, the court may order that the records of the summary**



1 proceeding be maintained as a nonpublic record if either of the
2 following applies:

3 (a) Judgment was entered in the summary proceedings and the
4 moving party has fulfilled the terms of the judgment.

5 (b) A writ of restitution or eviction has not been issued in
6 the summary proceedings and 1 or both of the following apply:

7 (i) 1 year has passed since the summary proceedings were
8 commenced.

9 (ii) The tenancy has ended.

10 (3) Subject to subsection (4), on the motion of a tenant,
11 manufactured home park resident, or landlord, or on the court's own
12 motion, a court may order that the records of summary proceedings
13 under this chapter or chapter 57a be maintained as a nonpublic
14 record if 1 or more of the following apply:

15 (a) The premises was sold under the foreclosure of a mortgage
16 or land contract, the tenancy was terminated because the defendant
17 continued in possession of the premises after the time limited by
18 law for redemption of the premises, and either of the following
19 applies:

20 (i) The defendant vacated the premises before the summary
21 proceedings were filed.

22 (ii) The defendant did not receive a written demand for
23 possession 90 days or more before the summary proceedings were
24 filed.

25 (b) The summary proceedings were filed during the state of
26 emergency declared under Executive Order No. 2020-4 or any
27 extension of that order, including an order issued under section
28 2253 of the public health code, 1978 PA 368, MCL 333.2253.

29 (4) Except as provided in subsection (5), a court shall not



1 order that records be maintained as a nonpublic record under this
2 section if 1 or more of the following apply:

3 (a) A writ of restitution or eviction was issued in the
4 summary proceedings and the writ was 1 of 3 or more writs of
5 restitution or eviction issued against the defendant within a 3-
6 year period.

7 (b) The basis for judgment entered in the summary proceedings
8 was 1 or more of the following:

9 (i) Illegal controlled substance activity, under section
10 5714(1) (b) .

11 (ii) A serious and continuing health hazard or injury to the
12 premises under section 5714(1) (d) .

13 (iii) Causing or threatening physical injury to another person
14 on the premises under section 5714(1) (e) .

15 (iv) Taking or holding possession by force or trespass under
16 section 5714(1) (f) .

17 (5) On motion of the defendant, the court may order records
18 described in subsection (4) to be maintained as a nonpublic record
19 under this section if both of the following apply:

20 (a) Ten years or more have passed since the judgment for
21 possession entered in the summary proceedings became final.

22 (b) The court determines that maintaining the records as a
23 nonpublic record is clearly in the interests of justice and those
24 interests are not outweighed by the public's interest in knowing
25 about the records.

26 (6) Unless the records are records described in subsection
27 (4) , the court shall automatically order the records in summary
28 proceedings under this chapter or chapter 57a in which a judgment
29 for possession has been entered to be maintained as a nonpublic



1 record 7 years after the judgment becomes final.

2 (7) If a court enters an order to maintain the record as a
3 nonpublic record under this section, the court shall enter an
4 appropriate order that the official records of the action
5 pertaining to the moving party be made nonpublic.

6 (8) The court may release records ordered to be maintained as
7 a nonpublic record under this section for scholarly, educational,
8 journalistic, or governmental purposes on a balancing of the
9 interests of the tenant for nondisclosure against the interests of
10 the requesting party. However, the tenant's name may not be
11 disclosed, and other personally identifiable information about the
12 tenant, such as the tenant's address, may not be disclosed unless
13 all of the following apply:

14 (a) The researcher submits a written request to the court.

15 (b) The court approves, and the researcher executes a written
16 data use agreement that describes the research project and that
17 complies with subsection (9).

18 (c) The court is provided documented procedures of the
19 researcher to protect the confidentiality and security of the
20 information.

21 (d) The court is provided documented procedures of the
22 researcher for data storage and the data destruction method to be
23 used for the information provided.

24 (9) An agreement under which personally identifiable
25 information contained in a court record is disclosed must do all of
26 the following:

27 (a) Comply with Michigan court rules.

28 (b) Prohibit the rerelease of any personally identifiable
29 information without explicit permission from the court.



1 (c) Require that the information be used solely for research
2 or administrative purposes.

3 (d) Require that the information be used only for the project
4 described in the agreement unless the recipient submits a written
5 request with the description of another research project for which
6 the information will be used and the court approves the request.

7 (e) Prohibit the use of the information as a basis for legal,
8 administrative, or other action that directly affects any
9 individual or institution identifiable from the information.

10 (f) State the payment, if any, to be provided by the
11 researcher to the court for the specified research project.

12 (g) Require that ownership of information provided under the
13 agreement will remain with the court, not the researcher or the
14 research project.

15 (10) The clerk of a court that enters an order that a record
16 be maintained as a nonpublic record under this section shall
17 provide a copy of the order to the defendant, with a form developed
18 by the state court administrative office, under the direction and
19 supervision of the Michigan supreme court, to provide tenants with
20 information that includes, but is not limited to, the status of the
21 court record and options to contact credit reporting bureaus.

22 (11) As used in this section, "official records" means all
23 records relating to the summary proceedings that are maintained by
24 the court under applicable Michigan court rules, including, but not
25 limited to, the complaint, any other pleadings, a proof of service,
26 findings of the court, and all other papers, records, documents,
27 and evidence, including exhibits and transcripts of testimony.

28 Sec. 8371. (1) In the district court, the fees prescribed in
29 this section ~~shall~~ **must** be paid to the clerk of the court.



1 (2) Before a civil action is commenced in the district court,
2 the party commencing the action shall pay to the clerk ~~the sum of~~
3 \$150.00 if the amount in controversy exceeds \$10,000.00. For each
4 fee collected under this subsection, the clerk shall transmit
5 \$31.00 to the treasurer of the district funding unit in which the
6 action was commenced, and shall transmit the balance to the state
7 treasurer for deposit in the civil filing fee fund created by
8 section 171.

9 (3) Before a civil action is commenced in the district court,
10 the party commencing the action shall pay to the clerk ~~the sum of~~
11 \$65.00 if the amount in controversy exceeds \$1,750.00 but does not
12 exceed \$10,000.00. For each fee collected under this subsection,
13 the clerk shall transmit \$23.00 to the treasurer of the district
14 funding unit in which the action was commenced, of which not less
15 than \$5.00 ~~shall~~**must** be used by the district funding unit to fund
16 a drug treatment court if one is planned, established, or operated
17 in that judicial district. If the entire amount attributable to the
18 \$5.00 portion is not needed for the operation of a drug treatment
19 court, the balance that is not needed for that purpose ~~shall~~**must**
20 be used for the operation of the district court. If a drug
21 treatment court is not planned, established, or operated in that
22 judicial district, all \$23.00 ~~shall~~**must** be used for the operation
23 of the district court. The clerk of the district court shall
24 transmit the balance of the filing fee to the state treasurer for
25 deposit in the civil filing fee fund created by section 171.

26 (4) Before a civil action is commenced in the district court,
27 the party commencing the action shall pay to the clerk ~~the sum of~~
28 \$45.00 if the amount in controversy exceeds \$600.00 but does not
29 exceed \$1,750.00. For each fee collected under this subsection, the



1 clerk shall transmit \$17.00 to the treasurer of the district
2 funding unit in which the action was commenced, of which not less
3 than \$5.00 ~~shall~~**must** be used by the district funding unit to fund
4 a drug treatment court if one is planned, established, or operated
5 in that judicial district. If the entire amount attributable to the
6 \$5.00 portion is not needed for the operation of a drug treatment
7 court, the balance that is not needed for that purpose ~~shall~~**must**
8 be used for the operation of the district court. If a drug
9 treatment court is not planned, established, or operated in that
10 judicial district, all \$17.00 ~~shall~~**must** be used for the operation
11 of the district court. The clerk of the district court shall
12 transmit the balance of the filing fee to the state treasurer for
13 deposit in the civil filing fee fund created by section 171.

14 (5) Before a civil action is commenced in the district court,
15 the party commencing the action shall pay to the clerk ~~the sum of~~
16 \$25.00 if the amount in controversy does not exceed \$600.00. For
17 each fee collected under this subsection, the clerk shall transmit
18 \$11.00 to the treasurer of the district funding unit in which the
19 action was commenced, of which not less than \$5.00 ~~shall~~**must** be
20 used by the district funding unit to fund a drug treatment court if
21 one is planned, established, or operated in that judicial district.
22 If the entire amount attributable to the \$5.00 portion is not
23 needed for the operation of a drug treatment court, the balance
24 that is not needed for that purpose ~~shall~~**must** be used for the
25 operation of the district court. If a drug treatment court is not
26 planned, established, or operated in that judicial district, all
27 \$11.00 ~~shall~~**must** be used for the operation of the district court.
28 The clerk of the district court shall transmit the balance of the
29 filing fee to the state treasurer for deposit in the civil filing



1 fee fund created by section 171.

2 (6) The judge shall order payment of any statutory fees waived
3 or suspended if the person subject to the fee is receiving public
4 assistance or is determined by the court to be indigent.

5 (7) Neither this state nor a political subdivision of this
6 state ~~shall be~~ **is** required to pay a filing fee in a civil
7 infraction action.

8 (8) Except for civil actions filed for relief under chapter
9 43, 57, or 84, if a civil action is filed for relief other than
10 money damages, the filing fee ~~shall~~ **must** be equal to the filing fee
11 in actions for money damages in excess of \$1,750.00 but not in
12 excess of \$10,000.00 as provided in subsection (3) and ~~shall~~ **must**
13 be transmitted in the same manner as a fee under subsection (3) is
14 transmitted. If a claim for money damages is joined with a claim
15 for relief other than money damages, the plaintiff shall pay a
16 supplemental filing fee in the same amount as required under
17 subsections (2) to (5).

18 (9) If a trial by jury is demanded, the party making the
19 demand at the time shall pay ~~the sum of~~ \$50.00. Failure to pay the
20 fee at the time the demand is made constitutes a waiver of the
21 right to a jury trial. The ~~sum shall~~ **amount paid must** be taxed in
22 favor of the party paying the fee, ~~in case if~~ the party recovers a
23 judgment for costs. For each fee collected under this subsection,
24 the clerk shall transmit \$10.00 to the state treasurer for deposit
25 in the juror compensation reimbursement fund created in section
26 151d.

27 (10) A ~~sum~~ **fee** of \$20.00 ~~shall~~ **must** be assessed for all
28 motions filed in a civil action. A motion fee ~~shall~~ **must** not be
29 assessed in a civil infraction action **or for a motion under section**



1 **5755.** For each fee collected under this subsection, the clerk shall
2 transmit \$10.00 to the state treasurer for deposit in the state
3 court fund created in section 151a and **shall transmit** the balance
4 ~~shall be transmitted~~ to the treasurer of the district funding unit
5 for the district court in the district in which the action was
6 commenced.

