

STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996

Introduced by Senators Van Regenmorter, Gougeon, Rogers and Geake

ENROLLED SENATE BILL No. 1052

AN ACT to amend sections 151b, 225, 504, 591, 593a, 594, 601, 821, 829, 834, 837, 841, 861, 1517, 2665, 8202, 8271, 8273, 8274, 8275, 8301, 8322, 8371, and 8703 of Act No. 236 of the Public Acts of 1961, entitled as amended "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with, or contravening any of the provisions of this act," sections 151b, 593a, 837, and 8274 as added and sections 225, 591, 594, 821, 8202, 8271, 8273, and 8275 as amended by Act No. 374 of the Public Acts of 1996, section 504 as amended by Act No. 129 of the Public Acts of 1980, section 829 as amended by Act No. 225 of the Public Acts of 1987, section 861 as amended by Act No. 318 of the Public Acts of 1982, section 1517 as added by Act No. 12 of the Public Acts of 1992, section 8322 as amended by Act No. 8 of the Public Acts of 1981, section 8371 as amended by Act No. 189 of the Public Acts of 1993, and section 8703 as added by Act No. 12 of the Public Acts of 1994, being sections 600.151b, 600.225, 600.504, 600.591, 600.593a, 600.594, 600.601, 600.821, 600.829, 600.834, 600.837, 600.841, 600.861, 600.1517, 600.2665, 600.8202, 600.8271, 600.8273, 600.8274, 600.8275, 600.8301, 600.8322, 600.8371, and 600.8703 of the Michigan Compiled Laws; to add sections 596 and 9109 and chapter 10; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Section 1. Sections 151b, 225, 504, 591, 593a, 594, 601, 821, 829, 834, 837, 841, 861, 1517, 2665, 8202, 8271, 8273, 8274, 8275, 8301, 8322, 8371, and 8703 of Act No. 236 of the Public Acts of 1961, sections 151b, 593a, 837, and 8274 as added and sections 225, 591, 594, 821, 8202, 8271, 8273, and 8275 as amended by Act No. 374 of the Public Acts of 1996, section 504 as amended by Act No. 129 of the Public Acts of 1980, section 829 as amended by Act No. 225 of the Public Acts of 1987, section 861 as amended by Act No. 318 of the Public Acts of 1982, section 1517 as added by Act No. 12 of the Public Acts of 1992, section 8322 as amended by Act No. 8 of the Public Acts of 1981, section 8371 as amended by Act No. 189 of the Public Acts of 1993, and section 8703 as added by Act No. 12 of the Public Acts of 1994, being sections 600.151b, 600.225, 600.504, 600.591, 600.593a, 600.594, 600.601, 600.821, 600.829, 600.834, 600.837, 600.841, 600.861, 600.1517, 600.2665, 600.8202, 600.8271, 600.8273, 600.8274, 600.8275, 600.8301, 600.8322, 600.8371, and 600.8703 of the Michigan Compiled Laws, are amended and sections 596 and 9109 and chapter 10 are added to read as follows:

Sec. 151b. (1) The court equity fund is created in the state treasury. For each state fiscal year beginning on or after October 1, 1996, each county shall receive funds pursuant to this section from the court equity fund, which consists of the following:

(a) The portion of the state court fund set aside for the operational expenses of trial courts under section 151a(6)(a) and (b) and (7)(a) and (b).

(b) The proceeds of the \$4.25 portion of costs assessed by the district court as provided in section 8381.

(c) Excess court fees transmitted to the state treasurer pursuant to section 304(4) of the judges retirement act of 1992, being section 38.2304 of the Michigan Compiled Laws.

(d) State general funds in an amount as follows:

(i) For the state fiscal year beginning October 1, 1996, \$24,000,000.00.

(ii) For the state fiscal year beginning October 1, 1997, \$28,000,000.00.

(iii) For the state fiscal year beginning October 1, 1998, \$32,000,000.00.

(iv) For the state fiscal year beginning October 1, 1999, \$36,000,000.00.

(v) For the state fiscal year beginning October 1, 2000, \$40,000,000.00.

(vi) For the state fiscal year beginning October 1, 2001 and each subsequent state fiscal year, \$44,000,000.00.

(2) For each state fiscal year, the state court administrative office shall do all of the following:

(a) Determine the relative caseload of each county and multiply that percentage by the total amount available for distribution from the court equity fund described in subsection (1) for that fiscal year.

(b) Determine the number of circuit, recorder's court, probate, and district judges for each county and the ratio of that sum to the total number of the circuit, recorder's court, probate, and district court judges statewide. If a judge serves more than 1 county, the county shall be credited for that judge only for the fraction of the judicial salary standardization payment the state reimburses that county.

(c) Multiply the amount determined under subdivision (a) for each county by the sum of 1 and the ratio of judges for that county determined under subdivision (b).

(d) Total the results for all counties determined under subdivision (c).

(e) Divide the amount determined under subdivision (c) for each county by the total determined under subdivision (d) and multiply the amount by the total amount available for distribution for the court equity fund described in subsection (1) for that fiscal year. This represents the funds a county shall receive from the court equity fund.

(3) A hold harmless fund is created in the state treasury through September 30, 2001 and shall consist of state general funds as follows:

(a) For the state fiscal year beginning October 1, 1996, \$20,000,000.00.

(b) For the state fiscal year beginning October 1, 1997, \$16,000,000.00.

(c) For the state fiscal year beginning October 1, 1998, \$12,000,000.00.

(d) For the state fiscal year beginning October 1, 1999, \$8,000,000.00.

(e) For the state fiscal year beginning October 1, 2000, \$4,000,000.00.

(4) The following shall receive funds from the hold harmless fund in a state fiscal year beginning on or after October 1, 1996 as provided in this subsection and subsection (5):

(a) If a county receives a smaller amount under the formula in subsection (2) in a fiscal year than the amount that it received from the state court fund for the state fiscal year beginning October 1, 1995 plus the amount it received for reimbursement of compensation paid to jurors under Act No. 149 of the Public Acts of 1995, the county shall receive the difference.

(b) If a city received an amount from the state court fund under section 9947 for the state fiscal year beginning October 1, 1995, the city shall receive that amount.

(c) The county of Wayne shall receive the difference of \$22,820,300.00 (being the amount of general fund/general purpose funds allocated to the third judicial circuit, recorder's court, and Wayne county clerk services by the supreme court for the state fiscal year beginning October 1, 1995, plus the amount of the state court fund allocated to the third judicial circuit, recorder's court, and Wayne county clerk services by the supreme court for the state fiscal year beginning October 1, 1995) the amount it received for reimbursement of compensation paid to jurors under Act No. 149 of the Public Acts of 1995, all minus the amount the county of Wayne receives under the formula in subsection (2) in that state fiscal year.

(d) The city of Detroit shall receive the difference of the amount determined under subparagraph (i) minus the amount determined under subparagraph (ii):

(i) The \$28,887,300.00 allocated by the supreme court as expenses for the district court in the thirty-sixth district for the state fiscal year beginning October 1, 1995.

(ii) The total of the following:

(A) Federal drug funds allocated by the supreme court for the state fiscal year beginning October 1, 1995 to offset operational expenses of the district court in the thirty-sixth district.

(B) \$7,150,000.00 payable by the city of Detroit to the state under section 9945.

(C) The revenue due to the state from the Detroit parking violation bureau under section 9945(8) for the state fiscal year beginning October 1, 1995, as determined by the audit of the auditor general.

(D) All court revenues received by the district court in the thirty-sixth district for the state fiscal year beginning October 1, 1995 and payable to the state under section 9945.

(E) Any funds from private sources.

(5) If the total amount payable under subsection (4) for a state fiscal year exceeds the amount available in the hold harmless fund, the amount paid to each recipient shall be reduced to a pro rata share of the funds available.

(6) If the total amount available in the hold harmless fund exceeds the amount payable under subsection (4) for a state fiscal year, the balance shall be retained in a work project account at the end of the state fiscal year to be added to the amount otherwise available in the hold harmless fund in the next state fiscal year.

(7) The formula in subsection (2) does not include, for purposes of applying the formula, the caseload of the district court in any district or any municipal court.

(8) Distributions of funds under this section from the court equity fund and the hold harmless fund shall be made every 3 months.

(9) As used in this section:

(a) "Qualifying period" means the following:

(i) For the state fiscal year beginning October 1, 1996, calendar year 1995.

(ii) For the state fiscal year beginning October 1, 1997, the last 2 calendar years for which reasonably complete trial court caseload statistics are available.

(iii) For the state fiscal year beginning October 1, 1998 and each subsequent state fiscal year, the last 3 calendar years for which reasonably complete trial court caseload statistics are available.

(b) "Relative caseload" means, for each county, the percentage derived by dividing the sum of the amounts determined under the following subparagraphs (i) and (ii) by the sum of the caseloads of all judicial circuits statewide, the caseload of the recorder's court of the city of Detroit, and the caseloads of the probate court statewide for the qualifying period:

(i) The portion of the caseload of a judicial circuit attributable to that county for the qualifying period. For the county of Wayne, that portion shall also include the caseload of the recorder's court of the city of Detroit for the qualifying period.

(ii) One of the following:

(A) The caseload of the probate court in that county for the qualifying period if only that county funds the probate court.

(B) The portion of the caseload of the probate district attributable to that county for the qualifying period if the county is in a probate district.

Sec. 225. (1) The supreme court may assign an elected judge of any court to serve as a judge in any other court in this state, except as provided in subsection (3). The assignment of a judge under this subsection shall be for a limited period or specific assignment.

(2) The authority granted by this section may be exercised by the supreme court at its discretion through its direct order, or through the court administrator. The court should particularly consider those cases where the chief judge of a court has asked that another judge be sent to that court and has properly shown any of the following:

(a) That the business of that court has increased beyond the capacity of the judge or judges to properly dispose of.

(b) That a vacancy exists in the office of the judge of the court.

(c) That a judge is unable to discharge the duties of his or her office.

(d) Any other sufficient reason.

(3) All assignments and reassignments of cases filed in any court in a county shall be made among the judges of that county, unless no trial court judge in that county is qualified and able to undertake a particular case. A judge of 1 county shall not be assigned to serve as a judge in another county unless no other trial court judge in the county needing assistance is able to render that assistance.

(4) Judges assigned pursuant to subsection (1) shall hold court and fulfill the duties of the office just as they would had they been elected in the respective court for the time they were assigned to serve.

(5) The county or district funding unit responsible for the maintenance and operation of the court shall provide suitable places where judges shall hold court.

(6) A judge who is assigned as provided in this section shall receive as salary for each day he or she serves in the court 1/250 of the amount by which the total annual salary of a judge of the court to which he or she is assigned exceeds

his or her total annual salary. The salary provided in this subsection is payable by the county or district control unit or units that have provided an additional salary for the judicial office to which the judge is assigned. In addition to that salary, a judge assigned as provided in this section shall be entitled to receive actual and necessary expenses for travel, meals, and lodging from the county or district funding unit or units that are responsible for the maintenance and operation of the trial court to which the judge is assigned. The salary and expenses shall be payable at the same time and in the same manner as provided for the judicial office to which the judge is assigned. As used in this section, "court" means the various circuits of the circuit court, the recorder's court of the city of Detroit, the various counties and probate court districts of the probate court, and the various districts of the district court.

(7) A municipal judge who is assigned as provided in this section shall be compensated as provided in section 225a.

Sec. 504. The third judicial circuit consists of the county of Wayne and has 35 judges. Pursuant to section 9931, this circuit shall have 29 additional judges effective October 1, 1997.

Sec. 591. (1) The county board of commissioners in each county shall annually appropriate, by line-item or lump-sum budget, funds for the operation of the circuit court in that county. However, before a county board of commissioners may appropriate a lump-sum budget, the chief judge of the judicial circuit shall submit to the county board of commissioners a budget request in line-item form with appropriate detail. A court that receives a line-item budget shall not exceed a line-item appropriation or transfer funds between line items without the prior approval of the county board of commissioners. A court that receives a lump-sum budget shall not exceed that budget without the prior approval of the county board of commissioners.

(2) In a single-county circuit, the county is the employer of the county-paid employees of the circuit court in that county. In a multicounty circuit, the employer of the county-paid employees of the circuit court shall be as follows:

(a) As determined pursuant to a contract entered into by the counties within the circuit under Act No. 8 of the Public Acts of the Extra Session of 1967, being sections 124.531 to 124.536 of the Michigan Compiled Laws.

(b) If the counties within the circuit do not enter into an agreement described in subdivision (a), each county is the employer of the county-paid employees who serve in that county or who are designated by agreement of the counties within the circuit as being employed by that county.

(3) The employer of county-paid employees of the circuit court designated under subsection (2), in concurrence with the chief judge of the circuit court, has the following authority:

(a) To establish personnel policies and procedures, including, but not limited to, policies and procedures relating to compensation, fringe benefits, pensions, holidays, leave, work schedules, discipline, grievances, personnel records, probation, and hiring and termination practices.

(b) To make and enter into collective bargaining agreements with representatives of the county-paid employees of the circuit court in that county or in the counties covered by a contract entered into under subsection (2)(a).

(4) If the employer of the county-paid employees of the circuit court and the chief judge of the circuit court are not able to concur on the exercise of their authority as to any matter described in subsection (3)(a), that authority shall be exercised by either the employer or the chief judge as follows:

(a) The employer has the authority to establish policies and procedures relating to compensation, fringe benefits, pensions, holidays, and leave.

(b) The chief judge has authority to establish policies and procedures relating to work schedules, discipline, grievances, personnel records, probation, hiring and termination practices, and other personnel matters not included in subdivision (a).

(5) The employer of the county-paid employees of the circuit court designated under subsection (2) and the chief judge of the circuit court each may appoint an agent for collective bargaining conducted under subsections (3) and (4).

(6) The chief judge of the circuit court in the county may elect not to participate in the collective bargaining process for county-paid employees of the circuit court.

(7) Except as otherwise provided by law, the chief judge of the circuit court in each judicial circuit shall appoint, supervise, discipline, or dismiss the employees of the circuit court in that judicial circuit in accordance with personnel policies and procedures developed pursuant to subsection (3) or (4) and any applicable collective bargaining agreement. Compensation of the employees of the circuit court in each judicial circuit shall be paid by the county or counties comprising the judicial circuit.

(8) If the implementation of the 1996 amendatory act that amended this section requires a transfer of court employees or a change of employers, all employees of the former court employer shall be transferred to, and appointed as employees of, the appropriate employer designated under subsection (2) subject to all rights and benefits they held with the former court employer. An employee who is transferred shall not, by reason of the transfer, be placed in any worse position with respect to worker's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other terms and conditions of employment that the employee enjoyed as an employee of the former

court employer. The rights and benefits protected by this subsection may be altered by a future collective bargaining agreement or, for employees not covered by collective bargaining agreements, by benefit plans as established and adopted by the the employer designated under subsection (2). An employee who is transferred shall not be made subject to any residency requirements by the employer designated under subsection (2).

(9) The employer designated under subsection (2) shall assume and be bound by any existing collective bargaining agreement held by the former court employer and, except where the existing collective bargaining agreement may otherwise permit, shall retain the employees covered by that collective bargaining agreement. A transfer of court employees shall not adversely affect any existing rights and obligations contained in the existing collective bargaining agreement.

(10) When performing services in a courtroom, employees of the circuit court are subject to the control of the judge holding court in the courtroom.

(11) Subsections (2) to (9) shall not apply to the employees serving in the circuit court in the third judicial circuit.

(12) The role of the chief judge under this section is that of the principal administrator of the officers and personnel of the court and is not that of a representative of a source of funding. The state is not a party to the contract. Except as otherwise provided by law, the state is not the employer of court officers or personnel and is not liable for claims arising out of the employment relationship of court officers or personnel or arising out of the conduct of court officers or personnel.

(13) As used in this section, "county-paid employees of the circuit court" means persons employed in the circuit court in a county who receive any compensation as a direct result of an annual budget appropriation approved by the county board of commissioners of that county, but does not include a judge of the circuit court.

Sec. 593a. (1) The county board of commissioners of the county of Wayne, by resolution, may create the Wayne county judicial council. The council shall be created not later than September 30, 1996, and, if created, shall begin exercising its powers and duties effective October 1, 1996.

(2) The Wayne county judicial council, if created, shall be a successor agency to the state judicial council and, effective October 1, 1996, shall be the employer of those employees of the former state judicial council assigned to serve in the circuit court in the third judicial circuit and the recorder's court of the city of Detroit. The composition of the Wayne county judicial council and its powers and duties shall be as prescribed by resolution of the county board of commissioners of the county of Wayne.

(3) If the Wayne county judicial council is not created pursuant to subsection (1), the employees of the former state judicial council serving in the circuit court in the third judicial circuit or in the recorder's court of the city of Detroit shall become employees of the county of Wayne, effective October 1, 1996.

(4) The employer designated under subsection (2) or (3), in concurrence with the chief judge of the appropriate court, has the following authority:

(a) To establish personnel policies and procedures, including, but not limited to, policies and procedures relating to compensation, fringe benefits, pensions, holidays, leave, work schedules, discipline, grievances, personnel records, probation, and hiring and termination practices.

(b) To make and enter into collective bargaining agreements with representatives of those employees.

(5) If the employer designated under subsection (2) or (3) and the appropriate chief judge are not able to concur on the exercise of their authority as to any matter described in subsection (4)(a), that authority shall be exercised by either the employer or the chief judge as follows:

(a) The employer has the authority to establish policies and procedures relating to compensation, fringe benefits, pensions, holidays, and leave.

(b) The chief judge has authority to establish policies and procedures relating to work schedules, discipline, grievances, personnel records, probation, hiring and termination practices, and other personnel matters not included in subdivision (a).

(6) The employer and the chief judge each may appoint an agent for collective bargaining conducted under subsections (4) and (5).

(7) The chief judge of the circuit court in the third judicial circuit or of the recorder's court may elect not to participate in the collective bargaining process for the employees in that court.

(8) Except as otherwise provided by law, the chief judge of the circuit court in the third judicial circuit or of the recorder's court shall appoint, supervise, discipline, or dismiss the employees of that court in accordance with personnel policies and procedures developed pursuant to subsection (4) or (5) and any applicable collective bargaining agreement. Compensation of the employees serving in the circuit court in the third judicial circuit and serving in the recorder's court of the city of Detroit shall be paid by the county of Wayne.

(9) The role of the chief judge under this section is that of the principal administrator of the officers and personnel of the court and is not that of a representative of a source of funding. The state is not a party to the contract. Except

as otherwise provided by law, the state is not the employer of court officers or personnel and is not liable for claims arising out of the employment relationship of court officers or personnel or arising out of the conduct of court officers or personnel.

(10) All employees of the former state judicial council serving in the circuit court in the third judicial circuit or in the recorder's court shall be transferred to, and appointed as, employees of the appropriate employer designated under subsection (2) or (3), subject to all rights and benefits they held with the former court employer. An employee who is transferred shall not, by reason of the transfer, be placed in any worse position with respect to worker's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other terms and conditions of employment that the employee enjoyed as an employee of the former court employer. The rights and benefits protected by this subsection may be altered by a future collective bargaining agreement or, for employees not covered by collective bargaining agreements, by benefit plans as established and adopted by the employer designated under subsection (2) or (3). An employee who is transferred shall not be made subject to any residency requirements by the employer designated under subsection (2) or (3).

(11) The appropriate employer designated under subsection (2) or (3) shall assume and be bound by any existing collective bargaining agreement held by the former state judicial council and, except where the existing collective bargaining agreement may otherwise permit, shall retain the employees covered by that collective bargaining agreement. A transfer of court employees shall not adversely affect any existing rights and obligations contained in the existing collective bargaining agreement.

(12) Annual leave which an employee of the circuit court in the third judicial circuit or the recorder's court of the city of Detroit has accumulated before October 1, 1996, shall be transferred with the employee as a result of the employee becoming an employee of the employer designated under subsection (2) or (3). Before January 1, 1997, the state shall pay to the county of Wayne the value of annual leave accumulated before October 1, 1996 in excess of 160 hours for each state judicial council employee who becomes an employee of the employer designated under subsection (2) or (3). The value of accumulated annual leave that is paid to the county of Wayne shall include the annual payroll factor of 23.62% for FICA and retirement for the state fiscal year beginning October 1, 1995.

(13) The appropriate employer designated under subsection (2) or (3) shall pay to the state employees' retirement system, on a quarterly basis, an amount based upon the contribution rates determined under section 38 of the state employees' retirement act, Act No. 240 of the Public Acts of 1943, being section 38.38 of the Michigan Compiled Laws, in the manner prescribed by the state employees' retirement system.

Sec. 594. An employee of the former state judicial council serving in the circuit court in the third judicial circuit who becomes an employee of the Wayne county judicial council or the county of Wayne serving in the circuit court in the third judicial circuit on October 1, 1996 shall remain a member of the state employees' retirement system created by the state employees' retirement act, Act No. 240 of the Public Acts of 1943, being sections 38.1 to 38.49 of the Michigan Compiled Laws. An employee of the former state judicial council serving in the recorder's court of the city of Detroit who becomes an employee of the Wayne county judicial council or the county of Wayne serving in the recorder's court of the city of Detroit on October 1, 1996 shall remain a member of the state employees' retirement system created by the state employees' retirement act, Act No. 240 of the Public Acts of 1943, being sections 38.1 to 38.49 of the Michigan Compiled Laws. The employer of the employees described in this section shall submit the reports and contributions required under section 44a of the state employees' retirement act, Act No. 240 of the Public Acts of 1943, being section 38.44a of the Michigan Compiled Laws.

Sec. 596. (1) The county-paid employees serving in the recorder's court of the city of Detroit as of September 30, 1997 shall become county-paid employees serving in the circuit court in the third judicial circuit on October 1, 1997.

(2) A county-paid employee serving in the recorder's court of the city of Detroit who becomes a county-paid employee serving in the circuit court in the third judicial circuit under subsection (1) shall not, by reason of the transfer, be placed in any worse position with respect to worker's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other terms and conditions of employment that the employee enjoyed as an employee of the former court employer. The rights and benefits protected by this section may be altered by a future collective bargaining agreement or, for employees not covered by collective bargaining agreements, by benefit plans as established and adopted by the employer designated under section 593a(2) or (3).

(3) The employer of county-paid employees serving in the circuit court in the third judicial circuit shall assume and be bound by any existing collective bargaining agreement held by the former employer of the employees serving in the recorder's court of the city of Detroit and, except where the existing collective bargaining agreement may otherwise permit, shall retain the employees covered by that collective bargaining agreement. A transfer of employees shall not adversely affect any existing rights and obligations contained in the existing collective bargaining agreement.

Sec. 601. (1) The circuit court has the power and jurisdiction:

(a) Possessed by courts of record at the common law, as altered by the state constitution of 1963, the laws of this state, and the rules of the supreme court.

(b) Possessed by courts and judges in chancery in England on March 1, 1847, as altered by the state constitution of 1963, the laws of this state, and the rules of the supreme court.

(c) Prescribed by the rules of the supreme court.

(2) The circuit court has exclusive jurisdiction over condemnation cases commenced under the drain code of 1956, Act No. 40 of the Public Acts of 1956, being sections 280.1 to 280.630 of the Michigan Compiled Laws.

(3) The family division of circuit court has jurisdiction as provided in chapter 10.

Sec. 821. (1) The following probate judges shall not engage in the practice of law other than as a judge and shall receive, subject to subsection (7), an annual salary provided in this section:

(a) A probate judge of a county that is not part of a proposed probate court district described in section 807.

(b) The probate judge in each probate court district in which a majority of the electors voting on the question in each county of probate court district has approved or approves creation of the district.

(c) A probate judge in a county having a population of 15,000 or more, if the county is not part of a probate court district created pursuant to law.

(2) Until the salary of a justice of the supreme court exceeds \$128,538.00, each probate judge shall receive an annual salary of \$109,257.00 determined as follows:

(a) A minimum annual salary of \$63,533.00.

(b) An additional salary of \$45,724.00 paid by the county or by the counties comprising a probate court district. If a probate judge receives a total additional salary of \$45,724.00 from the county, or from the counties comprising a probate court district, and does not receive less than or more than \$45,724.00, including any cost-of-living allowance, the state shall reimburse the county or counties the amount that the county or counties have paid to the judge.

(3) If the salary of a justice of the supreme court exceeds \$128,538.00, each probate judge shall receive an annual salary determined as follows:

(a) A minimum annual salary of the difference between 85% of the salary of a justice of the supreme court and \$45,724.00.

(b) An additional salary of \$45,724.00 paid by the county or by the counties comprising a probate court district. If a probate judge receives a total additional salary of \$45,724.00 from the county, or from the counties comprising a probate court district, and does not receive less than or more than \$45,724.00, including any cost-of-living allowance, the state shall reimburse the county or counties the amount that the county or counties have paid to the judge.

(4) Six thousand dollars of the minimum annual salary provided in subsection (2), (3), or (4) shall be paid by the county, or by the counties comprising a probate court district, and the balance of that minimum annual salary shall be paid by the state as a grant to the county or the counties comprising the probate court district. The county, or the counties comprising the probate court district, shall in turn pay that amount to the probate judge. Beginning January 1, 1997, the state shall annually reimburse the county or counties \$6,000.00 for each probate judge to offset the cost of the county or counties required by this section.

(5) The salary provided in this section shall be full compensation for all services performed by a probate judge, except as otherwise provided by law. In a probate court district, each county of the district shall contribute to the salary in the same proportion as the population of the county bears to the population of the district.

(6) An additional salary determined by the county board of commissioners may be increased during a term of office but shall not be decreased except to the extent of a general salary reduction in all other branches of government in the county. In a county where an additional salary is granted, it shall be paid at the same rate to all probate judges regularly holding court in the county.

(7) An increase in the amount of salary payable to a judge under subsection (1) caused by an increase in the salary payable to a justice of the supreme court resulting from the operation of Act No. 357 of the Public Acts of 1968, being sections 15.211 to 15.218 of the Michigan Compiled Laws, shall not be effective until February 1 of the year in which the increase in the salary of a justice of the supreme court becomes effective. If an increase in salary becomes effective on February 1 of a year in which an increase in the salary of a justice of the supreme court becomes effective, the increase shall be retroactive to January 1 of that year.

Sec. 829. (1) When a probate judge of another county or probate court district is performing duties under sections 824 or 825, he or she shall receive an additional salary and reimbursement for expenses as provided in section 225(6).

(2) The county treasurer shall pay the compensation and expenses, upon receipt of a voucher approved by the local probate judge or chief probate judge, out of the general funds of the county. If the local probate judge dies or is incapacitated to act, the voucher shall be subject to approval by the circuit judge of the county.

(3) Compensation provided pursuant to section 225(6) shall be in addition to the salary paid to the acting probate judge by the state or any county pursuant to section 821 or 822.

Sec. 834. (1) Except as provided in subsection (2), a probate register or deputy probate register is competent to exercise any of the following powers in an uncontested matter or hearing when authorized by general order of the probate judge or chief probate judge of the county in which the probate register or deputy probate register was appointed:

(a) Determine whether the petitioner or the petitioner's attorney has complied with the requirements of law and supreme court rules.

(b) Take acknowledgments.

(c) Administer oaths.

(d) Set hearings.

(e) Sign notices, citations, and subpoenas.

(f) Take testimony required by law or supreme court rules in all of the following matters:

(i) Appointment of a fiduciary of an estate of a deceased or minor.

(ii) Admission to probate of a will, codicil, or other testamentary instrument.

(iii) Determination of heirs.

(iv) Sale, mortgage, or lease of property.

(v) Assignment of residue of an estate or any part of the residue of an estate.

(vi) Setting and approval of bonds.

(vii) Removal of fiduciaries.

(viii) Issuing of a license to marry, if the issuance of the license is authorized under section 1 of Act No. 180 of the Public Acts of 1897, being section 551.201 of the Michigan Compiled Laws.

(2) A probate register or deputy probate register shall not enter a judgment. A probate register or deputy probate register shall not exercise any power provided in subsection (1) if the matter or hearing is:

(a) For a commitment to, or incarceration in, an institution or facility.

(b) For appointment of a guardian of a legally incapacitated person or the appointment of a conservator for a reason other than minority.

(c) For or involves a developmentally disabled person.

(3) An order made by a probate register or deputy probate register shall be made over the name of the probate judge for whom the order is made, and the probate register or deputy probate register shall place his or her signature under the name of the judge. An act done or order made by the probate register or deputy probate register authorized under this section shall have the same validity, force, and effect as though done or made by the judge.

(4) Upon the oral or written request of an interested party made before commencement or during the hearing of the proceeding, the proceeding shall be taken immediately before the judge for trial or hearing of the issues.

Sec. 837. (1) The county board of commissioners in each county shall annually appropriate, by line-item or lump-sum budget, funds for the operation of the probate court in that county. However, before a county board of commissioners may appropriate a lump-sum budget, the chief judge of the probate court in that county or that probate district shall submit to the county board of commissioners a budget request in line-item form with appropriate detail. A court that receives a line-item budget shall not exceed a line-item appropriation or transfer funds between line items without the prior approval of the county board of commissioners. A court that receives a lump-sum budget shall not exceed that budget without the prior approval of the county board of commissioners.

(2) In a county that is not part of a probate district, the county is the employer of the county-paid employees of the probate court in that county. In a probate district, the employer of the county-paid employees of the probate court shall be as follows:

(a) As determined pursuant to a contract entered into by the counties within the probate district under Act No. 8 of the Public Acts of the Extra Session of 1967, being sections 124.531 to 124.536 of the Michigan Compiled Laws.

(b) If the counties within the probate district do not enter into an agreement described in subdivision (a), each county is the employer of the county-paid employees of the probate court who serve in that county or who are designated by agreement of the counties within the probate district as being employed by that county.

(3) The employer of county-paid employees of the probate court designated under subsection (2), in concurrence with the chief judge of the probate court, has the following authority:

(a) To establish personnel policies and procedures, including, but not limited to, policies and procedures relating to compensation, fringe benefits, pensions, holidays, leave, work schedules, discipline, grievances, personnel records, probation, and hiring and termination practices.

(b) To make and enter into collective bargaining agreements with representatives of the county-paid employees of the probate court in that county or in the counties covered by a contract entered into under subsection (2)(a).

(4) If the employer of the county-paid employees of the probate court and the chief judge of the probate court are not able to concur on the exercise of their authority as to any matter described in subsection (3)(a), that authority shall be exercised by either the employer or the chief judge as follows:

(a) The employer has the authority to establish policies and procedures relating to compensation, fringe benefits, pensions, holidays, and leave.

(b) The chief judge has authority to establish policies and procedures relating to work schedules, discipline, grievances, personnel records, probation, hiring and termination practices, and other personnel matters not included in subdivision (a).

(5) The employer of the county-paid employees of the probate court designated under subsection (2) and the chief judge of the probate court each may appoint an agent for collective bargaining conducted under subsections (3) and (4).

(6) The chief judge of the probate court in the county may elect not to participate in the collective bargaining process for county-paid employees of the probate court.

(7) Except as otherwise provided by law, the chief judge of the probate court in a county or probate court district shall appoint, supervise, discipline, or dismiss the employees of the probate court in that county or probate court district in accordance with personnel policies and procedures developed pursuant to subsection (3) or (4) and any applicable collective bargaining agreement. Compensation of the employees of the probate court shall be paid by the county or, in the case of a probate district, by the counties comprising the probate court district.

(8) If the implementation of the 1996 amendatory act that amended this section requires a transfer of court employees or a change of employers, all employees of the former court employer shall be transferred to, and appointed as employees of, the appropriate employer designated under subsection (2) subject to all rights and benefits they held with the former court employer. An employee who is transferred shall not, by reason of the transfer, be placed in any worse position with respect to worker's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other terms and conditions of employment that the employee enjoyed as an employee of the former court employer. The rights and benefits protected by this subsection may be altered by a future collective bargaining agreement or, for employees not covered by collective bargaining agreements, by benefit plans as established and adopted by the the employer designated under subsection (2). An employee who is transferred shall not be made subject to any residency requirements by the employer designated under subsection (2).

(9) The employer designated under subsection (2) shall assume and be bound by any existing collective bargaining agreement held by the former court employer and, except where the existing collective bargaining agreement may otherwise permit, shall retain the employees covered by that collective bargaining agreement. A transfer of court employees shall not adversely affect any existing rights and obligations contained in the existing collective bargaining agreement.

(10) When performing services in a courtroom, employees of the probate court are subject to the control of the judge holding court in the courtroom.

(11) The role of the chief judge under this section is that of the principal administrator of the officers and personnel of the court and is not that of a representative of a source of funding. The state is not a party to the contract. Except as otherwise provided by law, the state is not the employer of court officers or personnel and is not liable for claims arising out of the employment relationship of court officers or personnel or arising out of the conduct of court officers or personnel.

(12) As used in this section, "county-paid employees of the probate court" means persons employed in the probate court in a county who receive any compensation as a direct result of an annual budget appropriation approved by the county board of commissioners of that county, but does not include a judge of the probate court.

Sec. 841. The probate court has jurisdiction and power as follows:

(a) As conferred upon it under the revised probate code, Act No. 642 of the Public Acts of 1978, being sections 700.1 to 700.993 of the Michigan Compiled Laws.

(b) As conferred upon it under Act No. 258 of the Public Acts of 1974, being sections 330.1001 to 330.2106 of the Michigan Compiled Laws.

(c) As conferred upon it under this act.

(d) As conferred upon it pursuant to any other law or compact.

Sec. 861. A party to a proceeding in the probate court may appeal the following orders as a matter of right to the court of appeals:

(a) A final order affecting the rights or interests of any interested person in an estate or trust.

(b) An order entered before January 1, 1998 in an adoption proceeding under chapter X of Act No. 288 of the Public Acts of 1939, being sections 710.21 to 710.70 of the Michigan Compiled Laws, and appealed in accordance with section 65 of chapter X of Act No. 288 of the Public Acts of 1939, being section 710.65 of the Michigan Compiled Laws.

(c) The following final orders entered before January 1, 1998 by the juvenile division of the probate court:

(i) An order of disposition placing a child under the supervision of the court or removing the child from his or her home.

(ii) An order terminating parental rights.

(d) A final order in a condemnation case entered before January 1, 1998 under the drain code of 1956, Act No. 40 of the Public Acts of 1956, being sections 280.1 to 280.630 of the Michigan Compiled Laws.

CHAPTER 10

Sec. 1001. The family division of circuit court is created as a division of circuit court and is organized pursuant to this chapter.

Sec. 1003. Each judicial circuit shall have a family division of circuit court.

Sec. 1005. A judge of the family division of circuit court has the same power and authority as a judge of the circuit court.

Sec. 1007. As with circuit court, the county clerk is the clerk of the court for the family division of the circuit court.

Sec. 1009. A reference to the former juvenile division of probate court in any statute of this state shall be construed to be a reference to the family division of circuit court.

Sec. 1011. (1) Not later than July 1, 1997, in each judicial circuit, the chief circuit judge and the chief probate judge or judges shall enter into an agreement that establishes a plan for how the family division will be operated in that circuit and how the services of the agencies listed in section 1043 will be coordinated in order to promote more efficient and effective services to families and individuals. In Wayne county such agreement shall be made by the chief circuit judge, chief probate judge, and the chief judge for Detroit's recorder's court.

(2) If, in any judicial circuit, the agreement required under subsection (1) is not entered into on or before July 1, 1997, the supreme court shall develop and implement the plan for that judicial circuit.

(3) A plan required under subsection (1) shall provide that the judges assigned to the family division serve in that division for the duration of their current terms unless 1 or both of the following occur:

(a) The chief judge of the probate court and the chief judge of the circuit court determine that a change in the caseload of the family division justifies a change in the number of judges assigned to that division.

(b) The number of judges assigned to the family division has been decreased upon recommendation of the trial court assessment commission pursuant to section 1013(2).

(4) A plan required under subsection (1) may provide that when a judge's assignment to the family division ends, the pending cases of that judge are to be reassigned to the other judge or judges of the family division, or are to be resolved by that judge by temporarily assigning that judge to the family division for that purpose.

(5) In addition to the assignment of judges of probate to the family division of circuit court, a plan required under subsection (1) in a multicounty circuit may provide that a judge of probate in 1 county in the circuit may be assigned temporarily to assist a judge of probate of another county in the circuit, as needed.

(6) If a probate court district includes counties that are in different judicial circuits, the chief judge of each judicial circuit that includes a county in the probate court district and the chief probate judge or judges in the circuit may enter into an agreement that establishes a plan for how the family division will be operated in the affected circuits and how the services of agencies listed in section 1043 will be coordinated under subsection (1).

(7) A plan required under subsection (1) or entered into under subsection (6) shall be reviewed and revised periodically, as necessary, by the chief circuit judge or judges and the chief probate judge or judges.

Sec. 1013. (1) In each judicial circuit, consistent with the plan established for that circuit under section 1011, the chief judge of the circuit court shall assign the judge or judges of circuit court and probate court who will serve in the family division. The total number of judges assigned to the family division shall reasonably reflect the caseload of that family division.

(2) If the caseload of the family division is not sufficient to utilize fully the time of the judge or judges assigned to the family division, the chief judge of the circuit court may assign 1 or more judges to assist with the caseload of the circuit court.

(3) The trial court assessment commission shall review the number of judges assigned to the family division of each judicial circuit to determine whether the number of judges assigned to the family division reasonably reflects the caseload of that family division, and shall make appropriate recommendations for the continuation of, or change in, the number of judges so assigned.

Sec. 1017. If a judge of the probate court who is assigned to the family division of circuit court is not licensed to practice law in this state, that judge may only be assigned matters that he or she could have heard while sitting as a probate judge before January 1, 1998, and that originated in the county in which he or she was elected as a judge of probate.

Sec. 1019. The Michigan judicial institute shall provide appropriate training for all probate judges and circuit judges who are assigned as judges of the family division.

Sec. 1021. (1) Except as otherwise provided by law, the family division of circuit court has sole and exclusive jurisdiction over the following cases commenced on or after January 1, 1998:

- (a) Cases of divorce and ancillary matters as set forth in the following statutes:
 - (i) Chapter 84 of the Revised Statutes of 1846, being sections 552.1 to 552.45 of the Michigan Compiled Laws.
 - (ii) Act No. 259 of the Public Acts of 1909, being sections 552.101 to 552.104 of the Michigan Compiled Laws.
 - (iii) Act No. 52 of the Public Acts of 1911, being sections 552.121 to 552.123 of the Michigan Compiled Laws.
 - (iv) Act No. 379 of the Public Acts of 1913, being sections 552.151 to 552.155 of the Michigan Compiled Laws.
 - (v) The friend of the court act, Act No. 294 of the Public Acts of 1982, being sections 552.501 to 552.535 of the Michigan Compiled Laws.
 - (vi) Act No. 299 of the Public Acts of 1905, being section 552.391 of the Michigan Compiled Laws.
 - (vii) Act No. 42 of the Public Acts of 1949, being sections 552.401 to 552.402 of the Michigan Compiled Laws.
 - (viii) Act No. 138 of the Public Acts of 1966, being sections 552.451 to 552.459 of the Michigan Compiled Laws.
 - (ix) The support and parenting time enforcement act, Act No. 295 of the Public Acts of 1982, being sections 552.601 to 552.650 of the Michigan Compiled Laws.
 - (x) The interstate income withholding act, Act No. 216 of the Public Acts of 1985, being sections 552.671 to 552.685 of the Michigan Compiled Laws.
- (b) Cases of adoption as provided in chapter X of Act No. 288 of the Public Acts of 1939, being sections 710.1 to 710.70 of the Michigan Compiled Laws.
- (c) Cases involving certain children incapable of adoption under Act No. 271 of the Public Acts of 1925, being sections 722.531 to 722.534 of the Michigan Compiled Laws.
- (d) Cases involving a change of name as provided in chapter XI of Act No. 288 of the Public Acts of 1939, being sections 711.1 to 711.2 of the Michigan Compiled Laws.
- (e) Cases involving juveniles as provided in chapter XIIA of Act No. 288 of the Public Acts of 1939, being sections 712A.1 to 712A.31 of the Michigan Compiled Laws.
- (f) Cases involving the status of minors and the emancipation of minors under Act No. 293 of the Public Acts of 1968, being sections 722.1 to 722.6 of the Michigan Compiled Laws.
- (g) Cases of child custody under the child custody act of 1970, Act No. 91 of the Public Acts of 1970, being sections 722.21 to 722.29 of the Michigan Compiled Laws, and child custody jurisdiction as provided in sections 651 to 673.
- (h) Cases involving paternity and child support under the paternity act, Act No. 205 of the Public Acts of 1956, being sections 722.711 to 722.730 of the Michigan Compiled Laws.
- (i) Cases involving parental consent for abortions performed on unemancipated minors under Act No. 211 of the Public Acts of 1990, being sections 722.901 to 722.909 of the Michigan Compiled Laws.
- (j) Cases involving child support under the revised uniform reciprocal enforcement of support act, Act No. 8 of the Public Acts of 1952, being sections 780.151 to 780.183 of the Michigan Compiled Laws.
- (k) Cases involving personal protection orders under sections 2950 and 2950a.

(2) The family division of circuit court has ancillary jurisdiction over the following cases commenced on or after January 1, 1998:

- (a) Cases involving guardians and conservators as provided in sections 401 to 499 of the revised probate code, Act No. 642 of the Public Acts of 1978, being sections 700.401 to 700.499 of the Michigan Compiled Laws.
- (b) Cases involving treatment of, or guardianship of, mentally ill or developmentally disabled persons under the mental health code, Act No. 258 of the Public Acts of 1974, being sections 330.1001 to 330.2106 of the Michigan Compiled Laws.

Sec. 1023. (1) When 2 or more matters within the jurisdiction of the family division of circuit court involving members of the same family are pending in the same judicial circuit, those matters, whenever practicable, shall be assigned to the judge to whom the first such case was assigned.

(2) A case that was assigned to a probate judge who subsequently is assigned as a judge of the family division, and that is within the jurisdiction of the family division under section 1021, shall be assigned to that same judge in his or her capacity as a judge of the family division of circuit court.

(3) A case that was assigned to a probate judge who subsequently is assigned to the family division, and that is not within the jurisdiction of the family division under section 1021, shall remain in probate court. The chief circuit judge may temporarily assign to probate court the probate judge to whom the case was assigned in probate court to preside over the case until the case is completed.

(4) A case commenced in probate court that is transferred to the family division of circuit court on January 1, 1998 may be reassigned to a judge of the family division, or the probate judge to whom the case was assigned may be temporarily assigned to the family division to resolve that case.

Sec. 1025. Except as otherwise provided in sections 1027 to 1031, fees payable in civil actions in circuit court apply to cases in the family division.

Sec. 1027. (1) At the time of commencing an ancillary guardianship or limited guardianship proceeding in the family division of circuit court, the party commencing the proceeding shall pay a \$50.00 filing fee to the family division of circuit court.

(2) A party is not required to pay a fee under this section if the party is the attorney general, department of treasury, family independence agency, state public administrator, or administrator of veterans affairs of the United States veterans administration, or an agency of county government.

(3) The clerk of the court, on or before the fifth day of the month following the month in which any fees are collected under this section, shall transmit to the county treasurer all fees collected under this section during the preceding month. Within 15 days after receiving the fees, the county treasurer shall transmit all fees collected to the state treasurer for deposit in the state court fund created by section 151a.

Sec. 1029. A fee shall not be charged for any of the following in the family division of circuit court:

(a) Commencing an ancillary proceeding under any provision of the mental health code, Act No. 258 of the Public Acts of 1974, being sections 330.1001 to 330.2106 of the Michigan Compiled Laws, or any provision of chapter XIIA of Act No. 288 of the Public Acts of 1939, being sections 712A.1 to 712A.31 of the Michigan Compiled Laws.

(b) Filing an acknowledgment of paternity.

(c) Filing a motion, petition, account, objection, or claim in an ancillary guardianship or limited guardianship proceeding if the moving party is the subject of the proceeding.

(d) An ancillary conservatorship proceeding if the moving party is the subject of the proceeding, or in the case of a conservatorship for a minor for a motion to release restricted funds.

Sec. 1031. In an ancillary proceeding under section 1021(2), the family division of circuit court shall make 1 certified copy or exemplification of any letter of authority or letter of guardianship and shall furnish it without charge to the fiduciary or the fiduciary's attorney or guardian or guardian's attorney on request. The court, where the order shall necessarily be entered in the administration of an estate, shall deliver to the printer or publisher a certified copy of each order for publication.

Sec. 1041. The pendency of an appeal from the family division of circuit court in a matter involving the disposition of a juvenile or, in a case where the family division has ancillary jurisdiction, from an order entered pursuant to the mental health code, Act No. 258 of the Public Acts of 1974, being sections 330.1001 to 330.2106 of the Michigan Compiled Laws, shall not suspend the order unless the court to which the appeal is taken specifically orders the suspension. An application for a delayed appeal from an order of the family division of circuit court in a matter involving the disposition of a juvenile shall be filed within 6 months after entry of the order.

Sec. 1043. All of the following shall provide assistance to the family division of circuit court in accordance with the court's jurisdiction:

(a) The office and facilities of the friend of the court.

(b) The family counseling services created under the circuit court family counseling services act, Act No. 155 of the Public Acts of 1964, being sections 551.331 to 551.344 of the Michigan Compiled Laws.

(c) The county juvenile officers and assistant county juvenile officers appointed under Act No. 22 of the Public Acts of the Extra Session of 1919, being sections 400.251 to 400.254 of the Michigan Compiled Laws.

(d) All other state and public agencies that provide assistance to families or juveniles.

Sec. 1517. (1) Subject to the approvals required under subsections (2) and (3), the chief judge of any circuit may designate 1 or more places in the county or counties in that circuit, in addition to the county seat and places otherwise designated by law, where regular terms of circuit court may be held. The designation shall be in writing and shall be delivered to the state court administrator and to the county clerk of each county in the circuit.

(2) A designation made under subsection (1) shall not take effect unless the designation is approved by the state court administrator and by the county board of commissioners of each county in the circuit. The approval by a county board of commissioners and the state court administrator may be for a specific period of time, and may require that the designation be subject to reapproval by that county board of commissioners and the state court administrator, at intervals determined by that county board of commissioners and the state court administrator.

(3) The family division of circuit court may hold sessions of court at any alternative primary location designated under section 816.

(4) If the family division has ancillary jurisdiction in the case, a judge of the family division may hold sessions of the court at the regional diagnostic and treatment center assigned to his or her court if sessions are approved by the state court administrator. The center shall provide an area for court sessions to which the public has access.

(5) Nothing in this section prohibits a judge from holding a hearing regarding an allegedly legally incapacitated person or an allegedly mentally ill person at any site considered appropriate by the court as provided by section 443 of the revised probate code, Act No. 642 of the Public Acts of 1978, being section 700.443 of the Michigan Compiled Laws, or section 456 of the mental health code, Act No. 258 of the Public Acts of 1974, being section 330.1456 of the Michigan Compiled Laws.

Sec. 2665. No practicing attorney or counselor shall become a surety or post bond for any client in criminal or civil matters. This section shall not apply to any bond of \$100.00 or less required to be filed by a fiduciary in the probate court or the family division of circuit court.

Sec. 8202. (1) Subject to subsection (3), a district judge shall receive an annual salary payable by this state as provided in this section.

(2) In addition to the salary received from this state, a district judge may receive from a district funding unit in which the judge regularly holds court an additional salary as determined by the governing legislative body of the district funding unit as provided in this section. Supplemental salaries paid by a district funding unit shall be uniform as to all judges who regularly hold court in the district funding unit. However, the total annual additional salary paid to a district court judge by the district funding units in which the judge regularly holds court shall not cause the district judge's total annual salary received from state and district funding unit funds to exceed the maximum total salary allowed under this section.

(3) An increase in the amount of salary payable to a judge under subsection (1) caused by an increase in the salary payable to a justice of the supreme court resulting from the operation of Act No. 357 of the Public Acts of 1968, being sections 15.211 to 15.218 of the Michigan Compiled Laws, shall not be effective until February 1 of the year in which the increase in the salary of a justice of the supreme court becomes effective. If an increase in salary becomes effective on February 1 of a year in which an increase in the salary of a justice of the supreme court becomes effective, the increase shall be retroactive to January 1 of that year.

(4) Until the salary of a justice of a supreme court exceeds \$124,413.00, each district judge shall receive an annual salary of \$104,507.00 determined as follows:

(a) An annual salary of \$58,783.00 payable by the state.

(b) An additional salary of \$45,724.00 payable by the district funding unit or units as provided in subsection (2). If a district judge receives a total additional salary of \$45,724.00 from the district funding unit or units and does not receive less than or more than \$45,724.00, including any cost-of-living allowance, the state shall reimburse the district funding unit or units the amount that the unit or units have paid to the judge.

(5) If the salary of a justice of the supreme court exceeds \$124,413.00, each district judge shall receive an annual salary determined as follows:

(a) A minimum annual salary of the difference between 84% of the salary of a justice of the supreme court and \$45,724.00.

(b) An additional salary of \$45,724.00 from the district funding unit or units as provided in subsection (2). If a district judge receives a total additional salary of \$45,724.00 from the district funding unit or units and does not receive less than or more than \$45,724.00, including any cost-of-living allowance, the state shall reimburse the district funding unit or units the amount that the unit or units have paid to the judge.

(6) A district judge who holds court in a county other than the county of the judge's residence shall be reimbursed for his or her actual and necessary expenses incurred in holding court upon certification and approval by the state court

administrator. Upon certification of the judge's expenses, the sum shall be paid out of the state treasury pursuant to the accounting laws of this state.

(7) Salaries of a district court judge may be increased but shall not be decreased during a term of office except and only to the extent of a general salary reduction in all other branches of government.

(8) A judge of the district court is eligible to be a member of the Michigan judges retirement system created by the judges retirement act of 1992, Act No. 234 of the Public Acts of 1992, being sections 38.2101 to 38.2608 of the Michigan Compiled Laws.

(9) The district court in a district may hold evening and Saturday sessions.

Sec. 8271. (1) The governing body of each district funding unit shall annually appropriate, by line-item or lump-sum budget, funds for the operation of the district court in that district. However, before a governing body of a district funding unit may appropriate a lump-sum budget, the chief judge of the judicial district shall submit to the governing body of the district funding unit a budget request in line-item form with appropriate detail. A court that receives a line-item budget shall not exceed a line-item appropriation or transfer funds between line items without the prior approval of the governing body. A court that receives a lump-sum budget shall not exceed that budget without the prior approval of the governing body.

(2) The district funding unit is the employer of the locally-funded employees of the district court in that district, except as provided in subsections (3) and (4).

(3) In a multicounty district, the employer shall be as follows:

(a) As determined pursuant to a contract entered into by the counties in the district under Act No. 8 of the Public Acts of the Extra Session of 1967, being sections 124.531 to 124.536 of the Michigan Compiled Laws.

(b) If the counties in the district do not enter into an agreement described in subdivision (a), each county is the employer of the locally-funded employees of the district court who serve in that county or who are designated by agreement of the member counties as being employed by that county.

(4) In a district of the third class consisting of 2 or more municipalities, the employer of the employees appointed under subsection (1) is 1 of the following, as applicable:

(a) The employer provided by an agreement entered into by the municipalities for that purpose under Act No. 8 of the Public Acts of the Extra Session of 1967.

(b) If the municipalities do not enter into an agreement under subdivision (a), the employer is the district funding unit.

(5) The employer of locally-funded employees of the district court, in concurrence with the chief judge of the district court, has the following authority:

(a) To establish personnel policies and procedures, including, but not limited to, policies and procedures relating to compensation, fringe benefits, pensions, holidays, leave, work schedules, discipline, grievances, personnel records, probation, and hiring and termination practices.

(b) To make and enter into collective bargaining agreements with representatives of the locally-funded employees of the district court.

(6) If the employer of the locally-funded employees of the district court and the chief judge of the district court are not able to concur on the exercise of their authority as to any matter described in subsection (5)(a), that authority shall be exercised by either the employer or the chief judge as follows:

(a) The employer has the authority to establish policies and procedures relating to compensation, fringe benefits, pensions, holidays, and leave.

(b) The chief judge has authority to establish policies and procedures relating to work schedules, discipline, grievances, personnel records, probation, hiring and termination practices, and other personnel matters not included in subdivision (a).

(7) The employer of the locally-funded employees of the district court and the chief judge of the district court each may appoint an agent for collective bargaining conducted under subsection (5) or (6).

(8) The chief judge of the district court may elect not to participate in the collective bargaining process for locally-funded employees of the district court.

(9) Except as otherwise provided, the chief judge of the district court district shall appoint, supervise, discipline, or dismiss the employees of the district court in accordance with personnel policies and procedures developed pursuant to subsection (5) or (6) and any applicable collective bargaining agreement. Compensation of employees of the district court shall be paid by each district funding unit, except as otherwise provided in this act.

(10) If the implementation of the 1996 amendatory act that amended this section requires a transfer of court employees or a change of employers, all employees of the former court employer shall be transferred to, and appointed as employees of, the appropriate employer designated under this section subject to all rights and benefits they held with

the former court employer. An employee who is transferred shall not, by reason of the transfer, be placed in any worse position with respect to worker's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other terms and conditions of employment that the employee enjoyed as an employee of the former court employer. The rights and benefits protected by this subsection may be altered by a future collective bargaining agreement or, for employees not covered by collective bargaining agreements, by benefit plans as established and adopted by the employer designated under this section. An employee who is transferred shall not be made subject to any residency requirements by the employer designated under this section.

(11) The employer designated under this section shall assume and be bound by any existing collective bargaining agreement held by the former court employer and, except where the existing collective bargaining agreement may otherwise permit, shall retain the employees covered by that collective bargaining agreement. A transfer of court employees shall not adversely affect any existing rights and obligations contained in the existing collective bargaining agreement.

(12) District court employees when performing services in the courtroom are subject to control of the judge holding court in the courtroom.

(13) Subsections (2) to (11) shall not apply to employees serving in the district court in the thirty-sixth district.

(14) Except as provided in section 8273, full-time employees of abolished municipal courts in districts of the third class are transferred to the district court for the city in which they were previously employed and all other full-time employees of abolished courts shall have preferential employment rights in the district court.

(15) Except as provided in section 8273, seniority rights, annual leave, sick leave, and longevity pay and retirement benefits to which employees of abolished courts are now entitled shall be preserved and continued in their positions in the district court in a manner not inferior to their prior status.

(16) Except as provided in section 8275, the obligations of municipalities or other agencies of government for retirement benefits to employees and personnel of abolished courts for their accrued service in such courts shall not be transferred from their present system. Any retirement system available to district court personnel shall provide retirement benefits to employees of abolished courts not inferior to those provided therefor under their prior status.

(17) The role of the chief judge under this section is that of the principal administrator of the officers and personnel of the court and is not that of a representative of a source of funding. The state is not a party to the contract. Except as otherwise provided by law, the state is not the employer of court officers or personnel and is not liable for claims arising out of the employment relationship of court officers or personnel or arising out of the conduct of court officers or personnel.

(18) As used in this section, "locally-funded employees of the district court" means persons employed in the district court in a district who receive any compensation as a direct result of an annual budget appropriation approved by the governing body of 1 or more district funding units of that district, but does not include a judge of the district court.

Sec. 8273. Effective October 1, 1996, each employee of the former state judicial council serving in the district court in the thirty-sixth district shall become an employee of the Detroit judicial council if that council is created pursuant to section 8274 or, if that council is not created, shall become an employee of the city of Detroit.

Sec. 8274. (1) The city council of the city of Detroit, by resolution, may create the Detroit judicial council. The council shall be created not later than September 30, 1996, and, if created, shall begin exercising its powers and duties effective October 1, 1996.

(2) The Detroit judicial council, if created, shall be a successor agency to the state judicial council and, effective October 1, 1996, shall be the employer of the employees of the former state judicial council assigned to serve in the district court in the thirty-sixth district. The composition of the Detroit judicial council and its powers and duties shall be as prescribed by resolution of the city of Detroit.

(3) If the Detroit judicial council is not created pursuant to subsection (1), the employees of the former state judicial council serving in the thirty-sixth district of the district court shall become employees of the city of Detroit, effective October 1, 1996.

(4) The employer designated under subsection (2) or (3), in concurrence with the chief judge of the district court in the thirty-sixth district, has the following authority:

(a) To establish personnel policies and procedures, including, but not limited to, policies and procedures relating to compensation, fringe benefits, pensions, holidays, leave, work schedules, discipline, grievances, personnel records, probation, and hiring and termination practices.

(b) To make and enter into collective bargaining agreements with representatives of those employees.

(5) If the employer designated under subsection (2) or (3) and the chief judge of the district court in the thirty-sixth district are not able to concur on the exercise of their authority as to any matter described in subsection (4)(a), that authority shall be exercised by either the employer or the chief judge as follows:

(a) The employer has the authority to establish policies and procedures relating to compensation, fringe benefits, pensions, holidays, and leave.

(b) The chief judge has authority to establish policies and procedures relating to work schedules, discipline, grievances, personnel records, probation, hiring and termination practices, and other personnel matters not included in subdivision (a).

(6) The employer and the chief judge each may appoint an agent for collective bargaining conducted under subsections (4) and (5).

(7) The chief judge of the district court in the thirty-sixth district may elect not to participate in the collective bargaining process for the employees in that court.

(8) Except as otherwise provided by law, the chief judge of the district court in the thirty-sixth district shall appoint, supervise, discipline, or dismiss the employees of that court in accordance with personnel policies and procedures developed pursuant to subsection (4) or (5) and any applicable collective bargaining agreement. Compensation of the employees serving in the district court in the thirty-sixth district shall be paid by the city of Detroit, except as otherwise provided by this act.

(9) The role of the chief judge under this section is that of the principal administrator of the officers and personnel of the court and is not that of a representative of a source of funding. The state is not a party to the contract. Except as otherwise provided by law, the state is not the employer of court officers or personnel and is not liable for claims arising out of the employment relationship of court officers or personnel or arising out of the conduct of court officers or personnel.

(10) All employees of the former state judicial council serving in the district court in the thirty-sixth district shall be transferred to, and appointed as, employees of the appropriate employer designated under subsection (2) or (3), subject to all rights and benefits they held with the former court employer. An employee who is transferred shall not, by reason of the transfer, be placed in any worse position with respect to worker's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other terms and conditions of employment that the employee enjoyed as an employee of the former court employer. The rights and benefits protected by this subsection may be altered by a future collective bargaining agreement or, for employees not covered by collective bargaining agreements, by benefit plans as established and adopted by the employer designated under subsection (2) or (3). An employee who is transferred shall not be made subject to any residency requirement by the employer designated under subsection (2) or (3).

(11) The appropriate employer designated under subsection (2) or (3) shall assume and be bound by any existing collective bargaining agreement held by the former state judicial council and, except where the existing collective bargaining agreement may otherwise permit, shall retain the employees covered by that collective bargaining agreement. A transfer of court employees shall not adversely affect any existing rights and obligations contained in the existing collective bargaining agreement.

(12) Annual leave which an employee of the district court in the thirty-sixth district has accumulated before October 1, 1996, shall be transferred with the employee as a result of the employee becoming an employee of the employer designated under subsection (2) or (3). Before January 1, 1997, the state shall pay to the city of Detroit the value of annual leave accumulated before October 1, 1996 in excess of 160 hours for each state judicial council employee who becomes an employee of the employer designated under subsection (2) or (3). The value of annual leave accumulated that is paid to the city of Detroit shall include the annual payroll factor of 23.62% for FICA and retirement for the state fiscal year beginning October 1, 1995.

(13) The appropriate employer designated under subsection (2) or (3) shall pay to the state employees' retirement system, on a quarterly basis, an amount based upon the contribution rates determined under section 38 of the state employees' retirement act, Act No. 240 of the Public Acts of 1943, being section 38.38 of the Michigan Compiled Laws, in the manner prescribed by the state employees' retirement system.

Sec. 8275. An employee of the state judicial council serving in the district court in the thirty-sixth district who becomes an employee of the Detroit judicial council or the city of Detroit serving in the district court in the thirty-sixth district on October 1, 1996, shall remain a member of the state employees' retirement system created by Act No. 240 of the Public Acts of 1943, being sections 38.1 to 38.47 of the Michigan Compiled Laws. The employer of the employees described in this section shall submit the reports and contributions required under section 44a of the state employees retirement act, Act No. 240 of the Public Acts of 1943, being section 38.44a of the Michigan Compiled Laws.

Sec. 8301. (1) The district court has exclusive jurisdiction in civil actions when the amount in controversy does not exceed \$25,000.00.

(2) The district court has jurisdiction over civil infraction actions.

Sec. 8322. (1) A person serving as a bailiff of the common pleas court of Detroit on August 31, 1981, pursuant to an appointment under section 23 of former Act No. 260 of the Public Acts of 1929, shall become a bailiff of the district court in the thirty-sixth district on September 1, 1981. A bailiff shall be considered a court officer under section 8321(1) for the exclusive purpose of serving civil process in a civil action commenced in the district court in the thirty-sixth district, except for process issued in a summary proceeding under chapter 57. All process issued by the district court in civil actions shall be rotated among the bailiffs pursuant to rules adopted by the court. A bailiff shall file with the clerk of the court a surety bond in the amount of \$100,000.00 with a surety company. The premium on the surety bond shall be paid by the district control unit. A bailiff shall possess only the powers necessary to serve process issued by the court. A bailiff governed pursuant to this subsection may bear arms while in office and in the exercise of his or her duties as bailiff. A bailiff shall hold office until death, retirement, resignation, or removal from office by the court for misfeasance or malfeasance in office. A vacancy in the office of bailiff as established pursuant to this subsection shall not be filled.

(2) A person serving as a bailiff of the common pleas court on August 31, 1981, pursuant to an appointment under section 31 of former Act No. 260 of the Public Acts of 1929, shall become a bailiff of the district court in the thirty-sixth district on September 1, 1981. A bailiff shall be considered a court officer under section 8321(1) for the exclusive purpose of serving civil process in summary proceedings commenced under chapter 57 in the district court in the thirty-sixth district. All process issued by the district court in summary proceedings shall be rotated among the bailiffs pursuant to rules adopted by the court, except that a writ of restitution shall be issued to the bailiff to whom the summons was issued in the particular proceeding. A bailiff shall file with the clerk of the court a surety bond in an amount of \$100,000.00 with a surety company. The premium on the surety bond shall be paid by the district control unit. A bailiff governed pursuant to this subsection shall be considered a peace officer only for the purpose of receiving compensation provided by Act No. 329 of the Public Acts of 1937, being sections 419.101 to 419.104 of the Michigan Compiled Laws. A bailiff shall hold office until death, retirement, resignation, or removal from office by the court for misfeasance or malfeasance in office. A vacancy in the office of bailiff established pursuant to this subsection shall not be filled.

(3) A bailiff governed pursuant to this section shall keep a written record of the date, amount, and nature of each financial transaction conducted by the bailiff in the course of his or her service as bailiff. An audit of each bailiff's financial transactions shall be conducted annually by the district control unit and reported immediately to the judges of the district. If the audit prescribed by this subsection is not conducted by the district control unit before June 30 of any year, the judges of the court shall contract with a certified public accountant to perform the audit. If a certified public accountant is required to perform the audit, the cost of the audit shall be paid by the district control unit.

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

(5) A bailiff serving civil process pursuant to subsection (1) or (2) shall be compensated by salary and the fees and mileage prescribed in section 8326. A full-time bailiff, as defined by the employer designated under section 8274(2) or (3), shall receive from the city of Detroit a \$20,000.00 annual salary. For each part-time bailiff, as defined by the employer designated under section 8274(2) or (3), the employer designated under section 8274(2) or (3) shall establish a salary which is a pro rata portion of \$20,000.00 based on that portion of a full-time bailiff's workload to be assigned to the bailiff. A bailiff covered by this subsection shall not be entitled to any compensation from the city of Detroit other than that specifically authorized in this subsection.

(6) A bailiff serving civil process pursuant to subsection (1) or (2) shall not become a member of the state employees' retirement system created by Act No. 240 of the Public Acts of 1943, being sections 38.1 to 38.47 of the Michigan Compiled Laws. Beginning September 1, 1981, the city of Detroit shall contribute to the retirement system in which the bailiff is a member on August 31, 1981, an amount equal to the amount which the state would have contributed to the state employees' retirement system pursuant to Act No. 240 of the Public Acts of 1943, if the bailiff had become a member of the state employees' retirement system, based on the salary paid by the city of Detroit pursuant to subsection (5). Beginning September 1, 1981, each bailiff shall continue to contribute to the retirement system in which the bailiff is a member on August 31, 1981, as required by ordinance, based on salary and fees received pursuant to subsection (5), except mileage.

(7) From each filing fee collected under section 8371, the clerk of the court shall pay to the Wayne county retirement system the sum of \$1.00, to be credited to the retirement fund of the bailiffs of the district court in the thirty-sixth district serving civil process pursuant to subsection (1). The county of Wayne shall annually review the retirement fund and shall ensure that the fund is maintained in an actuarially sound condition. Copies of the actuarial reports shall be provided to the employer designated under section 8274(2) or (3) and to the state court administrator.

(8) From each filing fee collected for filing a summary proceeding under section 5756, the clerk of the court shall pay to the Wayne county retirement system the sum of \$1.00 for each defendant served in the proceeding, to be credited to the retirement fund of the bailiffs of the district court in the thirty-sixth district serving civil process pursuant to subsection (2). However, the amount credited to the retirement fund under this subsection shall not exceed 1/2 of the fee collected in a proceeding. The county of Wayne shall annually review the retirement fund and shall ensure that the fund is maintained in an actuarially sound condition. Copies of the actuarial reports shall be provided to the employer designated under section 8274(2) or (3) and to the state court administrator.

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

(2) Before a civil action is commenced in the district court, the party commencing the action shall pay to the clerk the sum of \$100.00 if the amount in controversy exceeds \$10,000.00. For each fee collected under this subsection, the clerk shall transmit \$2.00 to the state treasurer to be credited to the community dispute resolution fund created by the community dispute resolution act, Act No. 260 of the Public Acts of 1988, being sections 691.1551 to 691.1564 of the Michigan Compiled Laws; \$13.50 to the executive secretary of the judges retirement system; \$21.50 to the treasurer of the district control unit in which the action was commenced; and shall transmit the balance to the state treasurer for deposit in the state court fund created by section 151a.

(3) Before a civil action is commenced in the district court, the party commencing the action shall pay to the clerk the sum of \$52.00 if the amount in controversy exceeds \$1,750.00 but does not exceed \$10,000.00. For each fee collected under this subsection, the clerk shall transmit \$2.00 to the state treasurer to be credited to the community dispute resolution fund created by the community dispute resolution act, Act No. 260 of the Public Acts of 1988, being sections 691.1551 to 691.1564 of the Michigan Compiled Laws; \$13.50 to the executive secretary of the judges retirement system; \$16.50 to the treasurer of the district control unit in which the action was commenced; and shall transmit the balance to the state treasurer for deposit in the state court fund created by section 151a.

(4) Before a civil action is commenced in the district court, the party commencing the action shall pay to the clerk the sum of \$32.00 if the amount in controversy exceeds \$600.00 but does not exceed \$1,750.00. For each fee collected under this subsection, the clerk shall transmit \$2.00 to the state treasurer to be credited to the community dispute resolution fund created by the community dispute resolution act, Act No. 260 of the Public Acts of 1988, being sections 691.1551 to 691.1564 of the Michigan Compiled Laws; \$9.00 to the executive secretary of the judges retirement system; \$11.00 to the treasurer of the district control unit in which the action was commenced; and shall transmit the balance to the state treasurer for deposit in the state court fund created by section 151a.

(5) Before a civil action is commenced in the district court, the party commencing the action shall pay to the clerk the sum of \$17.00 if the amount in controversy does not exceed \$600.00. For each fee collected under this subsection, the clerk shall transmit \$2.00 to the state treasurer to be credited to the community dispute resolution fund created by the community dispute resolution act, Act No. 260 of the Public Acts of 1988, being sections 691.1551 to 691.1564 of the Michigan Compiled Laws; \$4.50 to the executive secretary of the judges retirement system; \$5.50 to the treasurer of the district control unit in which the action was commenced; and shall transmit the balance to the state treasurer for deposit in the state court fund created by section 151a.

(6) The judge shall order payment of any statutory fees waived or suspended, in whole or in part, upon a showing by affidavit of indigency or inability to pay.

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

(8) Except for civil actions filed for relief under chapter 43, 57, or 84, if a civil action is filed for relief other than money damages, the filing fee shall be equal to the filing fee in actions for money damages in excess of \$1,750.00 but not in excess of \$10,000.00 as provided in subsection (3), and shall be transmitted in the same manner as a fee under subsection (3) is transmitted.

(9) If a trial by jury is demanded, the party making the demand at the time shall pay the sum of \$40.00. Failure to pay the fee within the time provided in the court rules constitutes a waiver of the right to a jury trial. The sum shall be taxed in favor of the party paying the fee, in case the party recovers a judgment for costs.

(10) If the amount in controversy in a civil action exceeds \$10,000.00, a sum of \$20.00 shall be assessed for all motions filed in that civil action. For each fee collected under this subsection, the clerk shall transmit \$10.00 to the state treasurer for deposit in the state court fund created in section 151a and the balance shall be transmitted to the treasurer of the district control unit for the district court in the district in which the action was commenced.

(11) The clerk of the district court shall prepare and submit a court filing fee report to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992, Act No. 234 of the Public Acts of 1992, being sections 38.2101 to 38.2608 of the Michigan Compiled Laws, at the same time the clerk of the district court transmits the portion of the fees collected under this section to the executive secretary.

Sec. 8703. (1) A municipal civil infraction action is commenced upon the issuance of a citation as provided in section 8707. The plaintiff in a municipal civil infraction action is the political subdivision whose ordinance has been violated.

(2) The district court and any municipal court have jurisdiction over municipal civil infraction actions.

(3) The time specified in a citation for appearance shall be within a reasonable time after the citation is issued.

(4) The place specified in the citation for appearance shall be the court referred to in subsection (2) that has territorial jurisdiction of the place where the municipal civil infraction occurred. Venue in the district court is governed by section 8312.

Sec. 9109. Notwithstanding the employer status of the county-paid employees serving in the circuit court in the third judicial circuit, or serving in the recorder's court of the city of Detroit, or of the city-paid employees serving in the district court in the thirty-sixth district as of October 1, 1996, as established in sections 593a and 8274, the state may, upon request of the new employer, continue to provide payroll services to those employees. These payroll services may continue for a transition period not to extend beyond January 31, 1997. If the state provides payroll services upon request of an employer, the requesting employer shall reimburse the state for its actual expenses in providing the payroll services. At the discretion of the department of management and budget, these expenses may be offset by payments from the court equity fund and hold harmless fund to which the county of Wayne or the city of Detroit otherwise would be entitled under section 151b.

Section 2. Enacting section 2 of Act No. 138 of the Public Acts of 1994 is repealed.

Section 3. (1) Sections 151b, 225, 591, 593a, 594, 829, 837, 1011, 8271, 8273, 8274, 8275, 8322, and 9109 of Act No. 236 of the Public Acts of 1961, as added or amended by this amendatory act, shall take effect October 1, 1996.

(2) Sections 504 and 596 of Act No. 236 of the Public Acts of 1961, as added or amended by this amendatory act, shall take effect October 1, 1997.

(3) Sections 601, 821, 834, 841, 861, 1001, 1003, 1005, 1007, 1009, 1013, 1017, 1019, 1021, 1023, 1025, 1027, 1029, 1031, 1041, 1043, 1517, 2665, 8202, 8301, 8371, and 8703 of Act No. 236 of the Public Acts of 1961, as added or amended by this amendatory act, shall take effect January 1, 1998.

This act is ordered to take immediate effect.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved _____

Governor.