

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4064

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 2137 and 8344 (MCL 600.2137 and 600.8344),
section 2137 as amended by 2009 PA 239 and section 8344 as amended
by 2005 PA 326, and by adding section 1428; and to repeal acts and
parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 SEC. 1428. (1) THE STATE COURT ADMINISTRATIVE OFFICE SHALL
2 ESTABLISH AND MAINTAIN RECORDS MANAGEMENT POLICIES AND PROCEDURES
3 FOR THE COURTS, INCLUDING A RECORDS RETENTION AND DISPOSAL
4 SCHEDULE, IN ACCORDANCE WITH SUPREME COURT RULES. THE RECORD
5 RETENTION AND DISPOSAL SCHEDULE SHALL BE DEVELOPED AND MAINTAINED
6 AS PRESCRIBED IN SECTION 5 OF 1913 PA 271, MCL 399.5.
7 (2) SUBJECT TO THE RECORDS REPRODUCTION ACT, 1992 PA 116, MCL

1 24.401 TO 24.406, A COURT MAY DISPOSE OF ANY RECORD AS PRESCRIBED
2 IN SUBSECTION (1).

3 (3) A RECORD, REGARDLESS OF ITS MEDIUM, SHALL NOT BE DISPOSED
4 OF UNTIL THE RECORD HAS BEEN IN THE CUSTODY OF THE COURT FOR THE
5 RETENTION PERIOD ESTABLISHED UNDER SUBSECTION (1).

6 (4) AS USED IN THIS SECTION, "RECORD" MEANS INFORMATION OF ANY
7 KIND THAT IS RECORDED IN ANY MANNER AND THAT HAS BEEN CREATED BY A
8 COURT OR FILED WITH A COURT IN ACCORDANCE WITH SUPREME COURT RULES.

9 Sec. 2137. ~~(1) If a public officer reproduces court records~~
10 ~~kept by him or her pursuant to the records reproduction act, 1992~~
11 ~~PA 116, MCL 24.401 to 24.406, the officer may offer the original~~
12 ~~records to the department or state agency responsible for~~
13 ~~maintaining the state archives for placement in the state archives.~~
14 ~~If the department or state agency responsible for maintaining the~~
15 ~~state archives accepts the offer within 30 days, the court shall~~
16 ~~transfer the records to that department or state agency. If the~~
17 ~~department or state agency responsible for maintaining the state~~
18 ~~archives does not accept the offer within 30 days, the court may~~
19 ~~dispose of or destroy the records in the manner provided for state~~
20 ~~agencies under sections 285 and 287 of the management and budget~~
21 ~~act, 1984 PA 431, MCL 18.1285 and 18.1287, and section 5 of 1913 PA~~
22 ~~271, MCL 399.5. The record of a court shall not be disposed of or~~
23 ~~destroyed until the record has been in the custody of the court for~~
24 ~~not less than 6 years.~~

25 ~~—— (2) In a county or probate court district in which the county~~
26 ~~board or boards of commissioners pass a resolution or resolutions~~
27 ~~for reproducing records pursuant to the records reproduction act,~~

1 ~~1992 PA 116, MCL 24.401 to 24.406, the judge of probate may have~~
2 ~~the records of the probate court reproduced in accordance with the~~
3 ~~resolution or resolutions. The judge of probate shall have a copy~~
4 ~~or a duplicate kept in a building outside of the probate office and~~
5 ~~shall keep a copy available in the probate office with any suitable~~
6 ~~equipment necessary for displaying the record at not less than its~~
7 ~~original size or for preparing copies for persons entitled to~~
8 ~~copies. The judge of probate then may order a record destroyed. A~~
9 ~~reproduction in a medium pursuant to **UNDER** the records reproduction~~
10 ~~act, 1992 PA 116, MCL 24.401 to 24.406, or a reproduction~~
11 ~~consisting of a printout or other output readable by sight from~~
12 ~~such a medium is admissible as evidence before a court, commission,~~
13 ~~or administrative body the same as the original . The original file~~
14 ~~of an estate proceeding shall not be destroyed until 6 years after~~
15 ~~the date the discharge of the fiduciary is filed or 10 years after~~
16 ~~the last document is filed, whichever occurs first.~~

17 ~~—— (3) A court of record other than the district court may order~~
18 ~~the destruction of a court reporter or recorder note, tape, or~~
19 ~~recording 15 years after the date that the note, tape, or recording~~
20 ~~was made for a felony case and 10 years after the date that the~~
21 ~~note, tape, or recording was made for any other case. One year~~
22 ~~after a transcript of a note, tape, or recording is filed with the~~
23 ~~court, the court may order the destruction of the note, tape, or~~
24 ~~recording. If a transcript of a trial or other proceeding in a~~
25 ~~court of record other than the district court is ordered other than~~
26 ~~for filing in the case file, the court reporter or recorder also~~
27 ~~shall prepare and shall file a certified copy of the transcript in~~

~~1 the case file at the expense of the person ordering the transcript
2 unless a copy has been filed with the court or unless the chief
3 judge of the court orders otherwise in an order filed in the case
4 file. As used in this subsection, "felony case" does not include
5 proceedings in a case that occur before arraignment on information
6 or indictment or proceedings in a case in which the defendant is
7 not convicted of a felony.~~

~~8 — (4) Except as provided in subsection (3), a judicial circuit
9 of the circuit court may order the destruction of its files and
10 records in a case in which action has not been taken during the 25
11 years immediately preceding the order of destruction. All of the
12 following procedures shall be followed before the issuance of an
13 order of destruction of circuit court files and records:~~

~~14 — (a) The judgment or decree, if any, shall be reproduced
15 pursuant to the records reproduction act, 1992 PA 116, MCL 24.401
16 to 24.406, or separated and retained, and the original or
17 reproduction shall be made available for public inspection.~~

~~18 — (b) The circuit court shall offer the files and records,
19 subject to the order of destruction, to the Michigan historical
20 commission established by section 1 of 1913 PA 271, MCL 399.1, or a
21 historical commission created under section 2 of 1957 PA 213, MCL
22 399.172. If the historical commission accepts the offer within 30
23 days, the circuit court shall transfer the files and records to the
24 historical commission. If the historical commission does not accept
25 the offer within 30 days, the circuit court shall issue an order of
26 destruction.~~

~~27 — (5) A reproduction of a record in a medium pursuant to the~~

1 ~~records reproduction act, 1992 PA 116, MCL 24.401 to 24.406, or a~~
2 ~~reproduction consisting of a printout or other output readable by~~
3 ~~sight from such a medium, made as provided by law, AND has the same~~
4 force and effect as the original would have had and shall be
5 treated as an original for the purpose of admissibility in
6 evidence. A ~~duly-certified or authenticated copy of the~~
7 reproduction shall be admitted into evidence equally with the
8 original reproduction.

9 ~~— (6) Except for records described in subsection (3), this~~ **THIS**
10 section only applies to records filed with the court and maintained
11 by the court clerk or register.

12 Sec. 8344. ~~Except as provided in this section, not less than 6~~
13 ~~years after the entry of a judgment in a civil action, including a~~
14 ~~summary proceeding, or in an ordinance violation case or a criminal~~
15 ~~case in the district court, the court may dispose of documents,~~
16 ~~records, recordings, and notes related to that action, except the~~
17 ~~register of actions pursuant to a schedule adopted by the state~~
18 ~~administrative board. The court may order the destruction of~~
19 ~~documents, records, recordings, and notes related to a civil~~
20 ~~infraction action not less than 3 years after the entry of a~~
21 ~~finding in the action. The court may order the destruction of~~
22 ~~notes, tapes, and recordings that have been transcribed and filed~~
23 ~~with the court 1 year after the date of the filing of the~~
24 ~~transcript. The register of actions shall be in a form adequate to~~
25 ~~reveal, in summary fashion, the general nature of the action and~~
26 ~~judgment. After the disposal of the documents, records, recordings,~~
27 ~~and notes, the register of actions or a certified reproduction of~~

1 ~~the register of actions pursuant to the records media act is the~~
2 ~~official record of the action and judgment.~~ The validity and
3 enforceability of a judgment are not affected by the destruction of
4 the piece of paper upon which the judgment is entered, but the
5 register of actions itself, or a certified reproduction of the
6 register of actions ~~pursuant to~~ **UNDER** the records reproduction act,
7 1992 PA 116, MCL 24.401 to 24.406, is a complete replacement of the
8 judgment and the records of the action. This section applies to
9 ~~judgments~~ **ALL OF THE FOLLOWING:**

10 (A) **JUDGMENTS** of municipal and common pleas courts abolished
11 after January 1, 1969, if the judgment was entered or the action
12 disposed of after January 1, 1969. ~~This section applies to actions~~

13 (B) **ACTIONS** entered in the small claims division of the
14 district court, except that a register of actions ~~need~~ **IS** not
15 **REQUIRED TO** be preserved or maintained after destruction of the
16 file.

17 Enacting section 1. 1949 PA 66, MCL 780.221 to 780.225, is
18 repealed.

19 Enacting section 2. This amendatory act does not take effect
20 unless House Bill No. 4532 of the 97th Legislature is enacted into
21 law.