

SUBSTITUTE FOR
HOUSE BILL NO. 4532

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 832, 859, and 1427 (MCL 600.832, 600.859, and
600.1427), section 859 as amended by 2005 PA 326, and by adding
sections 1426 and 1428.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 832. ~~(1) The probate judge or chief probate judge~~ **CLERK**
2 **OF THE PROBATE COURT** shall have possession of the seal, records,
3 books, files, and papers belonging to the probate court in the
4 respective county or probate court district ~~. Each judge shall keep~~
5 ~~a true and correct record of each order, sentence, and decree of~~
6 ~~the court, and of all other official acts made or done by him, and~~
7 ~~of all wills proved therein with the probate thereof, of all~~
8 ~~letters of authority and of all other things proper to be recorded~~

~~in the court.~~ **AND, IN ACCORDANCE WITH SUPREME COURT RULES, SHALL
MAINTAIN EVERY RECORD CREATED BY OR FILED WITH THE PROBATE COURT.**

~~—— (2) The records, except as otherwise provided by law, may be
inspected without charge by all persons interested.~~

~~—— (3) The probate court shall maintain an alphabetical index to
the records of probate court proceedings in each county.~~

Sec. 859. (1) The following testimony before a probate judge
shall be recorded:

(a) Testimony in contested matters.

(b) Testimony in matters pertaining to the admission to a
hospital or other facility for mentally ill or developmentally
disabled persons.

(c) Testimony in matters pertaining to persons having a
contagious disease.

(d) Testimony in other matters if requested by an interested
party.

(e) Testimony and other proceedings required by supreme court
rule.

(2) In matters not governed by subsection (1), testimony
before a probate judge, probate register, or deputy probate
register may be given orally without a record being made of the
testimony.

(3) The court shall keep sufficient index of the testimony and
the court shall keep the index and the original notes ~~for at least
10 years~~ **AS PRESCRIBED BY SUPREME COURT RULES.** ~~The reporter or
recorder need not transcribe the testimony unless a transcript is
ordered by the court or a party. Except in those cases in which the~~

~~testimony is transcribed and filed with the record of the case,
notes pertaining to a hearing for the admission of any person to a
hospital or other place of detention as a mentally ill or
developmentally disabled person or as a person with a contagious
disease shall be destroyed only after the discharge of the person
from the hospital or facility.~~

~~—— (4) Notes may not be destroyed until after 10 years after the
date of the hearing or as provided in subsection (3), whichever is
longer.~~

SEC. 1426. (1) A COURT MAY CHARGE A REASONABLE FEE, AS
ESTABLISHED BY THE SUPREME COURT, FOR PROVIDING ENHANCED ACCESS.

(2) A COURT MAY PROVIDE ENHANCED ACCESS TO ANOTHER COURT OR TO
A PUBLIC AGENCY IN ACCORDANCE WITH A WRITTEN AGREEMENT. IF ENHANCED
ACCESS IS PROVIDED TO ANOTHER COURT OR TO A PUBLIC AGENCY UNDER
THIS SUBSECTION, NO FEES MAY BE CHARGED. A WRITTEN AGREEMENT UNDER
THIS SUBSECTION SHALL CONTAIN ALL OF THE FOLLOWING:

(A) A STATEMENT SPECIFYING THAT THE COURT OR PUBLIC AGENCY
RECEIVING ACCESS TO OR OUTPUT FROM THE SYSTEM WITHOUT CHARGE IS
PROHIBITED FROM SELLING OR PROVIDING ACCESS TO THE SYSTEM'S OUTPUT
TO A THIRD PARTY, EXCEPT IN ACCORDANCE WITH THE WRITTEN AGREEMENT.

(B) A STATEMENT SPECIFYING THE PUBLIC PURPOSE FOR WHICH ACCESS
TO OR OUTPUT FROM THE SYSTEM IS BEING PROVIDED.

(C) PROVISIONS REGARDING THE RETURN OF OUTPUT FROM THE SYSTEM.

(D) THE DURATION OF THE AGREEMENT AND THE METHOD BY WHICH THE
AGREEMENT MAY BE RESCINDED OR TERMINATED BY EITHER PARTY BEFORE THE
STATED DATE OF TERMINATION.

(3) BEFORE PROVIDING ENHANCED ACCESS, A COURT SHALL ADOPT AN

1 ENHANCED ACCESS POLICY UNDER THE REQUIREMENTS PRESCRIBED BY THE
2 SUPREME COURT.

3 (4) THIS SECTION DOES NOT REQUIRE A COURT TO PROVIDE ENHANCED
4 ACCESS.

5 (5) IF THE SUPREME COURT AMENDS OR ADJUSTS THE FEE ESTABLISHED
6 FOR PROVIDING ENHANCED ACCESS UNDER THIS SECTION, THE STATE COURT
7 ADMINISTRATIVE OFFICE SHALL NOTIFY THE CHAIRPERSONS OF THE SENATE
8 AND HOUSE OF REPRESENTATIVES APPROPRIATIONS SUBCOMMITTEES ON THE
9 JUDICIARY OF THE CHANGE NOT MORE THAN 30 DAYS AFTER IT TAKES
10 EFFECT.

11 (6) AS USED IN THIS SECTION:

12 (A) "ENHANCED ACCESS" MEANS ACCESS TO A COURT THROUGH
13 ELECTRONIC MEANS FOR PLEADINGS, PRACTICE, AND PROCEDURE, INCLUDING,
14 BUT NOT LIMITED TO, ACCESS TO ITS CASE RECORDS AS PRESCRIBED BY
15 SUPREME COURT RULES.

16 (B) "OPERATING EXPENSE" INCLUDES, BUT IS NOT LIMITED TO, A
17 COURT'S DIRECT COST OF CREATING, MAINTAINING, PROCESSING, AND
18 UPGRADING ACCESS TO THE COURT THROUGH ELECTRONIC MEANS, INCLUDING
19 THE COST OF COMPUTER HARDWARE AND SOFTWARE, SYSTEM DEVELOPMENT,
20 EMPLOYEE TIME, AND THE ACTUAL COST OF PROVIDING THE ACCESS.

21 (C) "REASONABLE FEE" MEANS A CHARGE CALCULATED TO ENABLE A
22 COURT TO RECOVER OVER TIME THOSE OPERATING EXPENSES DIRECTLY
23 RELATED TO THE COURT'S PROVISION OF ENHANCED ACCESS.

24 Sec. 1427. All writs, process, proceedings and records in any
25 court within this state —shall be in the English language, +
26 except that the proper and known names of process, and technical
27 words, may be expressed in the language heretofore and now commonly

1 used, ~~), and shall be made out on paper, in a fair, legible~~
2 ~~character, in words at length, and not abbreviated, but such~~
3 ~~abbreviations as are now commonly used in the English language may~~
4 ~~be used, and numbers may be expressed by Arabic figures, or Roman~~
5 ~~numerals, in the customary manner.~~ IN THE MANNER AND ON ANY MEDIUM
6 AUTHORIZED BY SUPREME COURT RULES. IF A SIGNATURE IS REQUIRED ON
7 ANY DOCUMENT FILED WITH OR CREATED BY A COURT, THAT REQUIREMENT IS
8 SATISFIED BY AN ELECTRONIC SIGNATURE AS PRESCRIBED BY SUPREME COURT
9 RULES.

10 SEC. 1428. (1) THE STATE COURT ADMINISTRATIVE OFFICE SHALL
11 ESTABLISH AND MAINTAIN RECORDS MANAGEMENT POLICIES AND PROCEDURES
12 FOR THE COURTS, INCLUDING A RECORDS RETENTION AND DISPOSAL
13 SCHEDULE, IN ACCORDANCE WITH SUPREME COURT RULES. THE RECORD
14 RETENTION AND DISPOSAL SCHEDULE SHALL BE DEVELOPED AND MAINTAINED
15 AS PRESCRIBED IN SECTION 5 OF 1913 PA 271, MCL 399.5.

16 (2) SUBJECT TO THE RECORDS REPRODUCTION ACT, 1992 PA 116, MCL
17 24.401 TO 24.406, A COURT MAY DISPOSE OF ANY RECORD AS PRESCRIBED
18 IN SUBSECTION (1).

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

22 (4) A COURT MAY ASSESS A REASONABLE FEE ASSOCIATED WITH THE
23 CREATION, REPRODUCTION, RETRIEVAL, AND RETENTION OF ITS RECORDS
24 ONLY AS PRESCRIBED BY THE SUPREME COURT, BUT A COURT SHALL NOT
25 CHARGE A FEE TO RETRIEVE AND INSPECT A RECORD ON SITE.

26 (5) IF THE SUPREME COURT AMENDS OR ADJUSTS THE RECORDS
27 RETENTION AND DISPOSAL SCHEDULE ESTABLISHED UNDER THIS SECTION, THE

1 STATE COURT ADMINISTRATIVE OFFICE SHALL NOTIFY THE CHAIRPERSONS OF
2 THE SENATE AND HOUSE OF REPRESENTATIVES APPROPRIATIONS
3 SUBCOMMITTEES ON THE JUDICIARY OF THE CHANGE NOT MORE THAN 30 DAYS
4 AFTER IT TAKES EFFECT.

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