

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961
Chapter 82
DISTRICT JUDGES

600.8201 District judges; qualifications.

Sec. 8201.

A candidate for and a judge of the district court shall be licensed to practice law in this state and shall be a registered elector of the district and election division in which he seeks and holds office. Except in any district or election division in which there is a vacancy and in which a registered elector qualified to practice law in this state has not filed nominating petitions by the filing deadline for the primary election, a registered elector of an adjoining district or election division within the district who is qualified to practice law in this state shall be eligible for the office of district judge by filing nominating petitions signed by the required number of qualified electors of the district or election division in which he seeks election within 5 days after such deadline.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968

600.8202 District judge; annual salary; additional salary; compensation and expenses; increase or decrease in salary; Michigan judges retirement system; evening and Saturday sessions.

Sec. 8202.

(1) A district judge must receive an annual salary payable by this state as calculated under this section.

(2) In addition to the salary received from this state under subsection (1), 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 must 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 must 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) Until September 30, 2022, a district judge must receive an annual salary calculated as follows:

(a) A minimum annual salary payable by the state that is equal to the difference between 84% of the salary of a justice of the supreme court as of December 31, 2015 and \$45,724.00.

(b) In addition to the amount calculated under subdivision (a), a 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 receives neither less than nor 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.

(c) In addition to the amounts under subdivisions (a) and (b), an amount payable by the state that is equal to the amounts calculated under subdivisions (a) and (b) multiplied by the compounded aggregate percentage pay increases, excluding lump-sum payments, paid to civil service nonexclusively represented employees classified as executives and administrators on or after January 1, 2016. The additional salary under this subdivision takes effect on the same date as the effective date of the pay increase paid to civil service nonexclusively represented employees classified as executives and administrators. The additional salary under this subdivision must not be based on a pay increase paid to civil service nonexclusively represented employees classified as executives and administrators if the effective date of the increase was before January 1, 2016.

(4) Beginning October 1, 2022, a district judge must receive an annual salary that is equal to the annual salary of a probate judge calculated under section 821(2).

(5) A district judge who holds court in a county other than the county of the judge's residence must 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 must be paid out of the state treasury under the accounting laws of this state.

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

(7) A judge of the district court is eligible to be a member of the Michigan judges retirement system created

under the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670.

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

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968 ;-- Am. 1970, Act 248, Eff. July 1, 1971 ;-- Am. 1975, Act 324, Imd. Eff. Jan. 2, 1976 ;-- Am. 1978, Act 150, Imd. Eff. May 18, 1978 ;-- Am. 1980, Act 438, Eff. Sept. 1, 1981 ;-- Am. 1992, Act 233, Eff. Mar. 31, 1993 ;-- Am. 1995, Act 259, Imd. Eff. Jan. 5, 1996 ;-- Am. 1996, Act 374, Eff. Jan. 1, 1997 ;-- Am. 1996, Act 388, Eff. Jan. 1, 1998 ;-- Am. 2016, Act 31, Imd. Eff. Mar. 8, 2016 ;-- Am. 2022, Act 177, Imd. Eff. July 21, 2022

Compiler's Notes: Sections 2 and 4 of Act 438 of 1980 provide: "Conditional effective date; action constituting exercise of option; effect of exercising option." "Section 2. (1) This amendatory act shall not take effect unless the city of Detroit and the county of Wayne, by resolutions adopted not later than May 1, 1981, by the governing bodies of the city and the county, respectively, agree to assume responsibility for any expenses required of the city or the county by this amendatory act, and the bills listed in enacting section 7 which are enacted and take effect." "(2) If the city of Detroit and the county of Wayne, acting through their governing bodies, agree to assume responsibility for any expenses required of the city and the county by this amendatory act, and the bills listed in enacting section 7 which are enacted and take effect, that action constitutes an exercise of the city's and the county's option to provide a new activity or service or to increase the level of activity or service offered in the city of Detroit and the county of Wayne beyond that required by existing law, as the elements of that option are defined by Act No. 101 of the Public Acts of 1979, being sections 21.231 to 21.244 of the Michigan Compiled Laws, and a voluntary acceptance by the city and the county of all expenses and capital improvements which may result from establishment of the district court in the thirty-sixth district and the reorganization of the circuit court in the third judicial circuit and the recorder's court of the city of Detroit. However, the exercise of the option does not affect the state's obligation to pay the same portion of each district or circuit judge's salary which is paid by the state to the other district or circuit judges, or to appropriate and disburse funds to the district control units, city, or county, for the necessary costs of state requirements established by a state law, other than this amendatory act or the bills listed in enacting section 7 which becomes effective on or after December 23, 1978." "The resolutions referred to in Section 2 were adopted by the city council of the city of Detroit on April 29, 1981, and by the board of commissioners of the county of Wayne on April 30, 1981." "Effective date of certain sections." "Section 4. Sections 304, 555, 563, 564, 567, 591, 592, 593, 594, 595, 641, 821, 1114, 1123, 1168, 1302, 1303, 1306, 1417, 1471, 1481, 5706, 8202, 8271, 8272, 8273, 8275, 8281, 8283, 8302, 8314, 8322, 8501, 8521, 8525, 8535, 8621, 9924, 9944, and 9947 shall take effect September 1, 1981."

600.8203 District judges; practice of law prohibited.

Sec. 8203.

Upon taking office, a district judge shall not engage in the practice of law other than as a judge.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968

600.8204 District judges; nonpartisan election.

Sec. 8204.

Judges of the district court shall be nominated and elected on nonpartisan judicial ballots in the manner provided by law.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968

600.8212 Temporary service as district judge in adjoining district.

Sec. 8212.

The chief judge of any district upon the request of the chief judge of an adjoining district may direct a district judge within the district to serve temporarily as a district judge in the adjoining district from which the request was made.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968 ;-- Am. 1972, Act 303, Eff. Jan. 1, 1973 ;-- Am. 1976, Act 326, Imd. Eff. Dec. 8, 1976 ;-- Am. 1990, Act 185, Eff. Oct. 1, 1990

600.8221 Presiding judge; election; term; vacancies; authority.

Sec. 8221.

The judges in each district shall meet and by a majority vote of all the judges serving in the district elect a presiding judge to hold office for 1 year. Vacancies in the office of presiding judge shall be filled in like manner. The presiding judge shall have full authority and control, subject to supervision of the supreme court, over all matters of administration. In any district having only 1 judge, such judge shall be the presiding judge. In districts having only 2 judges, the judge receiving the higher number of votes shall be the presiding judge for the year 1969 and thereafter the position of presiding judge shall be alternated.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968

600.8222 District judges; meetings.

Sec. 8222.

All district judges of a district shall meet on call of the presiding judge to discuss problems pertinent to the operations of the court.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968

600.8231 Statewide and regional meetings; purpose; expenses.

Sec. 8231.

(1) The court administrator, under the supervision and direction of the supreme court, shall call an annual statewide meeting of the judges of the district court and such additional statewide and regional meetings of such judges as the supreme court directs, for the purpose of studying the organization, rules, methods of procedure and practice of the judicial system of the state, the problems of administration confronting the courts and the judicial system in general and making recommendations for the modification or amelioration of existing conditions, for harmonizing and improving laws or for amendments to the rules and statutes relating to practice and procedure in the judicial system of the state.

(2) The chief justice of the supreme court or such person as he designates shall preside over such meetings and the court administrator of the supreme court or his deputy shall act as secretary therefor.

(3) District judges shall attend such meetings when and as directed by the court administrator. District judges shall be reimbursed by the state for their actual and necessary expenses incurred in attending such meetings.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968 ;-- Am. 1970, Act 238, Eff. Jan. 1, 1971

600.8251 Places of sitting of district court; "population" defined.

Sec. 8251.

(1) In districts of the first class, the court shall sit at each county seat. In districts of the first class consisting of 1 county having a population of 130,000 or more, the court shall also sit at each city having a population of 6,500 or more, except the court is not required to sit at any city that is contiguous to the county seat or is contiguous to a city having a greater population. The court shall also sit at other places as the judges of the district determine. The court shall sit not less than once each week in each county of a multicounty district.

(2) In districts of the second class, except as provided in subsection (3), the court shall sit at any county seat within the district, and at each city and incorporated village within the district having a population of 3,250 or more, except that if 2 or more cities or incorporated villages are contiguous the court need sit only in the city having the greater population. The court is not required to sit in any political subdivision if the governing body of that subdivision by resolution and the court agree that the court shall not sit in the political subdivision. If the district does not contain a county seat and does not contain any city or incorporated village having a population of 3,250 or more, the court shall sit at a place or places within the district as the judges of the district determine. In addition to the place or places where the court is required to sit, the court may upon agreement of a majority of the judges of the district and upon approval by resolution of the board of commissioners also sit at the county seat of its district control unit situated outside the district, but the court shall sit not less than once each week within the district. If the district does not contain any city, the foregoing provisions of this subsection do not apply to the district, and the court shall sit at the county seat of its district control unit situated outside the district. In addition to the place or places where the court is required to sit pursuant to the provisions of this subsection, the court may sit at a place or places within the district as the judges of the district determine. If the court sits at a county seat situated outside the district pursuant to this subsection, it has the same powers, jurisdiction, and venue as if sitting within the district.

(3) In districts of the second class in a county having a population between 575,000 and 700,000, the court shall sit at any county seat within the district, and may sit at each city and incorporated village within the district having a population of 10,000 or more, except that if 2 or more cities or incorporated villages are contiguous the court need sit only in the city having the greater population. The court is not required to sit in any political subdivision if the governing body of that subdivision by resolution and the presiding judge of the court agree that the court shall not sit in the political subdivision. If the district does not contain a county seat and does not contain any city or incorporated village having a population of 10,000 or more, the court shall sit at a place or places within the district as the presiding judge of the district determines. In addition to the place or places where the court is required to sit, the court may, upon the assent of the presiding judge and approval by resolution of the board of commissioners, also sit at the county seat of its district control unit situated outside the district, but the court shall sit not less than once each week within the district. If the district does not contain any city, the foregoing provisions of this subsection do not apply to the district, and the court shall sit at the county seat of its district control unit situated outside the district. In addition to the place or places where the court is required to sit pursuant to the provisions of this subsection, the court may sit at a place or places within the district as the presiding judge of the district determines. If the court sits at a county seat situated outside the district pursuant to this subsection, it has the same powers, jurisdiction, and venue as if sitting within the district.

(4) In districts of the third class, the court shall sit at each city having a population of 3,250 or more and within each township having a population of 12,000 or more and at other places as the judges of the district determine. The court is not required to sit in any political subdivision if the governing body of that subdivision by resolution and the court agree that the court shall not sit in the political subdivision.

(5) Each judge of the district shall sit at places within the district as the presiding judge designates.

(6) A district judge or district court magistrate may sit at a place outside the district under a multiple district plan pursuant to section 8320.

(7) As used in this section, "population" means population according to the most recent federal decennial census, except that the most recent census shall not apply until the expiration of 18 months from the date on which the census is taken.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968 ;-- Am. 1969, Act 6, Imd. Eff. Apr. 19, 1969 ;-- Am. 1970, Act 238, Eff. Jan. 1, 1971 ;-- Am. 1988, Act 135, Imd. Eff. May 27, 1988 ;-- Am. 1994, Act 5, Imd. Eff. Feb. 24, 1994 ;-- Am. 2003, Act 7, Imd. Eff. May 20, 2003 ;-- Am. 2010, Act 309, Imd. Eff. Dec. 17, 2010

Compiler's Notes: Section 2 of Act 135 of 1988 provides: "Any additional district judgeship to be added by election in 1988 shall not be authorized to be filled by election unless each district control unit of the district, by resolution adopted by the governing body of the district control unit, approves the creation of that judgeship and unless the clerk of each district control unit adopting such a resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the tenth Tuesday preceding the August primary for the election to fill the additional district judgeship."

600.8261 Court facilities.

Sec. 8261.

Court facilities shall be provided at those places where the court sits. In districts of the first and second class they shall be provided by the county and in districts of the third class they shall be provided by each political subdivision where the court sits.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968

600.8262 Magistrates' facilities.

Sec. 8262.

Facilities for magistrates shall be provided by the district control unit.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968

600.8263 Rental of facilities; contracts.

Sec. 8263.

Rental of court or magistrate facilities constitutes the providing of such facilities and those units of government responsible for providing same may contract with the state, its political subdivisions, corporations or persons for the rental thereof.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968

600.8271 Operation of district court; appropriation; employer; authority; collective bargaining; appointment, supervision, discipline, or dismissal of employees; transfer of employees; effect of existing collective bargaining agreement; control of employees; applicability of subsections (2) to (11) to employees in thirty-sixth district; employees of abolished courts; chief judge as principal administrator; "locally-funded employees of the district court" defined.

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 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.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968 ;-- Am. 1980, Act 438, Eff. Sept. 1, 1981 ;-- Am. 1996, Act 374, Eff. Oct. 1, 1996 ;-- Am. 1996, Act 388, Eff. Oct. 1, 1996

Constitutionality: The Michigan Supreme Court held in *Judicial Attorneys Association v Michigan*, 459 Mich 291; 597 NW2d 113 (1999), that MCL 600.593a (3)-(10) and parallel provisions of MCL 600.591, 600.837, 600.8271, 600.8273, and 600.8274 violate the separation of powers clause of Const 1963, art 3, § 2 and are unconstitutional. 1996 PA 374 provided that a local council created pursuant to the act or Wayne County became the employer of the employees of the Third Circuit and Recorder's Courts. The Court ruled that because subsections (3)-(10) of MCL 600.593a are not a sufficiently limited exercise by one branch of another branch's power that they impermissibly interfere with the judiciary's inherent authority to manage its internal operations and, therefore, are unconstitutional because they violate the separation of powers clause of Const 1963, art 3, § 2.

Compiler's Notes: Sections 2 and 4 of Act 438 of 1980 provide: "Conditional effective date; action constituting exercise of option; effect of exercising option." "Section 2. (1) This amendatory act shall not take effect unless the city of Detroit and the county of Wayne, by resolutions adopted not later than May 1, 1981, by the governing bodies of the city and the county, respectively, agree to assume responsibility for any expenses required of the city or the county by this amendatory act, and the bills listed in enacting section 7 which are enacted and take effect." "(2) If the city of Detroit and the county of Wayne, acting through their governing bodies, agree to assume responsibility for any expenses required of the city and the county by this amendatory act, and the bills listed in enacting section 7 which are enacted and take effect, that action constitutes an exercise of the city's and the county's option to provide a new activity or service or to increase the level of activity or service offered in the city of Detroit and the county of Wayne beyond that required by existing law, as the elements of that option are defined by Act No. 101 of the Public Acts of 1979, being sections 21.231 to 21.244 of the Michigan Compiled Laws, and a voluntary acceptance by the city and the county of all expenses and capital improvements which may result from establishment of the district court in the thirty-sixth district and the reorganization of the circuit court in the third judicial circuit and the recorder's court of the city of Detroit. However, the exercise of the option does not affect the state's obligation to pay the same portion of each district or circuit judge's salary which is paid by the state to the other district or circuit judges, or to appropriate and disburse funds to the district control units, city, or county, for the necessary costs of state requirements established by a state law, other than this amendatory act or the bills listed in enacting section 7 which becomes effective on or after December 23, 1978." "The resolutions referred to in Section 2 were adopted by the city council of the city of Detroit on April 29, 1981, and by the board of commissioners of the county of Wayne on April 30, 1981." "Effective date of certain sections." "Section 4. Sections 304, 555, 563, 564, 567, 591, 592, 593, 594, 595, 641, 821, 1114, 1123, 1168, 1302, 1303, 1306, 1417, 1471, 1481, 5706, 8202, 8271, 8272, 8273, 8275, 8281, 8283, 8302, 8314, 8322, 8501, 8521, 8525, 8535, 8621, 9924, 9944, and 9947 shall take effect September 1, 1981."

600.8272 Repealed. 1996, Act 374, Eff. Oct. 1, 1996.

Compiler's Notes: The repealed section pertained to employees of state judicial council serving in thirty-sixth district.

600.8273 Employee of former judicial council serving in thirty-sixth district court as employee of Detroit judicial council or city of Detroit.

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.

History: Add. 1980, Act 438, Eff. Sept. 1, 1981 ;-- Am. 1996, Act 374, Eff. Oct. 1, 1996 ;-- Am. 1996, Act 388, Eff. Oct. 1, 1996

Constitutionality: The Michigan Supreme Court held in *Judicial Attorneys Association v Michigan*, 459 Mich 291; 597 NW2d 113 (1999), that MCL 600.593a (3)-(10) and parallel provisions of MCL 600.591, 600.837, 600.8271, 600.8273, and 600.8274 violate the separation of powers clause of Const 1963, art 3, § 2 and are unconstitutional. 1996 PA 374 provided that a local council created pursuant to the act or Wayne County became the employer of the employees of the Third Circuit and Recorder's Courts. The Court ruled that because subsections (3)-(10) of MCL 600.593a are not a sufficiently limited exercise by one branch of another branch's power that they impermissibly interfere with the judiciary's inherent authority to manage its internal operations and, therefore, are unconstitutional because they violate the separation of powers clause of Const 1963, art 3, § 2.

Compiler's Notes: Sections 2 and 4 of Act 438 of 1980 provide: "Conditional effective date; action constituting exercise of option; effect of exercising option." "Section 2. (1) This amendatory act shall not take effect unless the city of Detroit and the county of Wayne, by resolutions adopted not later than May 1, 1981, by the governing bodies of the city and the county, respectively, agree to assume responsibility for any expenses required of the city or the county by this amendatory act, and the bills listed in enacting section 7 which are enacted and take

effect.“(2) If the city of Detroit and the county of Wayne, acting through their governing bodies, agree to assume responsibility for any expenses required of the city and the county by this amendatory act, and the bills listed in enacting section 7 which are enacted and take effect, that action constitutes an exercise of the city's and the county's option to provide a new activity or service or to increase the level of activity or service offered in the city of Detroit and the county of Wayne beyond that required by existing law, as the elements of that option are defined by Act No. 101 of the Public Acts of 1979, being sections 21.231 to 21.244 of the Michigan Compiled Laws, and a voluntary acceptance by the city and the county of all expenses and capital improvements which may result from establishment of the district court in the thirty-sixth district and the reorganization of the circuit court in the third judicial circuit and the recorder's court of the city of Detroit. However, the exercise of the option does not affect the state's obligation to pay the same portion of each district or circuit judge's salary which is paid by the state to the other district or circuit judges, or to appropriate and disburse funds to the district control units, city, or county, for the necessary costs of state requirements established by a state law, other than this amendatory act or the bills listed in enacting section 7 which becomes effective on or after December 23, 1978.”The resolutions referred to in Section 2 were adopted by the city council of the city of Detroit on April 29, 1981, and by the board of commissioners of the county of Wayne on April 30, 1981. “Effective date of certain sections.”Section 4. Sections 304, 555, 563, 564, 567, 591, 592, 593, 594, 595, 641, 821, 1114, 1123, 1168, 1302, 1303, 1306, 1417, 1471, 1481, 5706, 8202, 8271, 8272, 8273, 8275, 8281, 8283, 8302, 8314, 8322, 8501, 8521, 8525, 8535, 8621, 9924, 9944, and 9947 shall take effect September 1, 1981.”

600.8274 Detroit judicial council; creation; employees of former state judicial council in thirty-sixth district court; employer; authority; collective bargaining; appointment, supervision, discipline, or dismissal of employees; chief judge as principal administrator; transfer of employees; effect of existing collective bargaining agreement; annual leave; state employees' retirement system.

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.

History: Add. 1996, Act 374, Eff. Oct. 1, 1996 ;-- Am. 1996, Act 388, Eff. Oct. 1, 1996

Constitutionality: The Michigan Supreme Court held in *Judicial Attorneys Association v Michigan*, 459 Mich 291; 597 NW2d 113 (1999), that MCL 600.593a (3)-(10) and parallel provisions of MCL 600.591, 600.837, 600.8271, 600.8273, and 600.8274 violate the separation of powers clause of Const 1963, art 3, § 2 and are unconstitutional. 1996 PA 374 provided that a local council created pursuant to the act or Wayne County became the employer of the employees of the Third Circuit and Recorder's Courts. The Court ruled that because subsections (3)-(10) of MCL 600.593a are not a sufficiently limited exercise by one branch of another branch's power that they impermissibly interfere with the judiciary's inherent authority to manage its internal operations and, therefore, are unconstitutional because they violate the separation of powers clause of Const 1963, art 3, § 2.

600.8275 Employee of state judicial council serving in thirty-sixth district court; member of state employees' retirement system; submission of reports and contributions.

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.

History: Add. 1980, Act 438, Eff. May 1, 1981 ;-- Am. 1981, Act 13, Eff. May 1, 1981 ;-- Am. 1984, Act 319, Eff. Feb. 8, 1985 ;-- Am. 1996, Act 374, Eff. Oct. 1, 1996 ;-- Am. 1996, Act 388, Eff. Oct. 1, 1996

Compiler's Notes: Sections 2, 3, and 4 of Act 438 of 1980 provide: "Conditional effective date; action constituting exercise of option; effect of exercising option." Section 2. (1) This amendatory act shall not take effect unless the city of Detroit and the county of Wayne, by resolutions adopted not later than May 1, 1981, by the governing bodies of the city and the county, respectively, agree to assume responsibility for any expenses required of the city or the county by this amendatory act, and the bills listed in enacting section 7 which are enacted and take effect. (2) If the city of Detroit and the county of Wayne, acting through their governing bodies, agree to assume responsibility for any expenses required of the city and the county by this amendatory act, and the bills listed in enacting section 7 which are enacted and take effect, that action constitutes an exercise of the city's and the county's option to provide a new activity or service or to increase the level of activity or service offered in the city of Detroit and the county of Wayne beyond that required by existing law, as the elements of that option are defined

by Act No. 101 of the Public Acts of 1979, being sections 21.231 to 21.244 of the Michigan Compiled Laws, and a voluntary acceptance by the city and the county of all expenses and capital improvements which may result from establishment of the district court in the thirty-sixth district and the reorganization of the circuit court in the third judicial circuit and the recorder's court of the city of Detroit. However, the exercise of the option does not affect the state's obligation to pay the same portion of each district or circuit judge's salary which is paid by the state to the other district or circuit judges, or to appropriate and disburse funds to the district control units, city, or county, for the necessary costs of state requirements established by a state law, other than this amendatory act or the bills listed in enacting section 7 which becomes effective on or after December 23, 1978."The resolutions referred to in Section 2 were adopted by the city council of the city of Detroit on April 29, 1981, and by the board of commissioners of the county of Wayne on April 30, 1981."Effective date of Chapter 91 and certain sections."Section 3. Chapter 91 and sections 224, 541, 549f, 594, 595, 8121a, 8275, 9941, 9943, 9945, and 9946 shall take effect May 1, 1981."Effective date of certain sections."Section 4. Sections 304, 555, 563, 564, 567, 591, 592, 593, 594, 595, 641, 821, 1114, 1123, 1168, 1302, 1303, 1306, 1417, 1471, 1481, 5706, 8202, 8271, 8272, 8273, 8275, 8281, 8283, 8302, 8314, 8322, 8501, 8521, 8525, 8535, 8621, 9924, 9944, and 9947 shall take effect September 1, 1981."Section 2 of Act 13 of 1981 provides:"Conditional effective date; action constituting exercise of option; effect of exercising option."(1) This amendatory act shall not take effect unless the city of Detroit and the county of Wayne, by resolutions adopted not later than May 1, 1981, by the governing bodies of the city and the county, respectively, agree to assume responsibility for any expenses required of the city or the county by this amendatory act and Act Nos. 438, 439, 440, 441, 442, and 443 of the Public Acts of 1980."(2) If the city of Detroit and the county of Wayne, acting through their governing bodies, agree to assume responsibility for any expenses required of the city and the county by this amendatory act and Act Nos. 438, 439, 440, 441, 442, and 443 of the Public Acts of 1980, that action constitutes an exercise of the city's and the county's option to provide a new activity or service or to increase the level of activity or service offered in the city of Detroit and the county of Wayne beyond that required by existing law, as the elements of that option are defined by Act No. 101 of the Public Acts of 1979, being sections 21.231 to 21.244 of the Michigan Compiled Laws, and a voluntary acceptance by the city and the county of all expenses and capital improvements which may result from establishment of the district court in the thirty-sixth district and the reorganization of the circuit court in the third judicial circuit and the recorder's court of the city of Detroit. However, the exercise of the option does not affect the state's obligation to pay the same portion of each district or circuit judge's salary which is paid by the state to the other district or circuit judges, or to appropriate and disburse funds to the district control units, city, or county, for the necessary costs of state requirements established by a state law, other than this amendatory act or Act Nos. 438, 439, 440, 441, 442, and 443 of the Public Acts of 1980, which becomes effective on or after December 23, 1978."The resolutions referred to in Section 2 were adopted by the city council of the city of Detroit on April 29, 1981, and by the board of commissioners of the county of Wayne on April 30, 1981.Sections 2 and 3 of Act 319 of 1984 provide:"Applicability of changes effected in MCL 600.594(2) and 600.8275(2)."Section 2. The changes effected in sections 594(2) and 8275(2) by this amendatory act shall apply as though the changes were in effect on September 1, 1981."Conditional effective date."Section 3. (1) This amendatory act shall not take effect unless the county of Wayne, by resolution adopted before the expiration of 45 days after the effective date of this amendatory act by the governing body of the county, agrees to assume responsibility for any expenses required of the county by this amendatory act and unless an authenticated copy is filed with the secretary of state not later than 4 p.m. on the forty-fifth day after the effective date of this amendatory act."(2) If the county of Wayne, acting through its governing body, agrees to assume responsibility for any expenses required of the county by this amendatory act, that action constitutes an exercise of the county's option to provide a new activity or service or to increase the level of activity or service offered in the county of Wayne beyond that required by existing law, as the elements of that option are defined by Act No. 101 of the Public Acts of 1979, being sections 21.231 to 21.244 of the Michigan Compiled Laws, and a voluntary acceptance by the county of all expenses which may result from this amendatory act."A resolution agreeing to assume responsibility for expenses, referred to in (1) immediately above, was adopted by the Wayne County Board of Commissioners on February 7, 1985, and was filed with the Secretary of State at 11:00 a.m. on February 8, 1985.

600.8281 Clerk of court and deputy clerks; appointment; term.

Sec. 8281.

(1) In each county within a district of the first class, in each district of the second class, and in each political subdivision where the court sits within a district of the third class, the district judge or judges of the district shall appoint a clerk of the court. In districts of the first class the judge or judges may appoint the county clerk to act as clerk of the court.

(2) The clerk of the court shall appoint deputy clerks of the court subject to the approval of the judges.

(3) The clerk of the court, including a county clerk to the extent he or she is serving as clerk of the court, shall serve at the pleasure of the district judge or judges of the district.

(4) In the thirty-sixth district the chief judge of the district shall appoint the clerk of the court and deputy clerks pursuant to sections 8272, 8273, and 9104.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968 ;-- Am. 1971, Act 49, Eff. Jan. 1, 1972 ;-- Am. 1980, Act 438, Eff. Sept. 1, 1981

Compiler's Notes: Sections 2 and 4 of Act 438 of 1980 provide:"Conditional effective date; action constituting exercise of option; effect of exercising option."Section 2. (1) This amendatory act shall not take effect unless the city of Detroit and the county of Wayne, by resolutions adopted not later than May 1, 1981, by the governing bodies of the city and the county, respectively, agree to assume responsibility for any expenses required of the city or the county by this amendatory act, and the bills listed in enacting section 7 which are enacted and take effect."(2) If the city of Detroit and the county of Wayne, acting through their governing bodies, agree to assume responsibility for any expenses required of the city and the county by this amendatory act, and the bills listed in enacting section 7 which are enacted and take effect, that action constitutes an exercise of the city's and the county's option to provide a new activity or service or to increase the level of activity or service offered in the city of Detroit and the county of Wayne beyond that required by existing law, as the elements of that option are defined by Act No. 101 of the Public Acts of 1979, being sections 21.231 to 21.244 of the Michigan Compiled Laws, and a voluntary acceptance by the city and the county of all expenses and capital improvements which may result from establishment of the district court in the thirty-sixth

district and the reorganization of the circuit court in the third judicial circuit and the recorder's court of the city of Detroit. However, the exercise of the option does not affect the state's obligation to pay the same portion of each district or circuit judge's salary which is paid by the state to the other district or circuit judges, or to appropriate and disburse funds to the district control units, city, or county, for the necessary costs of state requirements established by a state law, other than this amendatory act or the bills listed in enacting section 7 which becomes effective on or after December 23, 1978."The resolutions referred to in Section 2 were adopted by the city council of the city of Detroit on April 29, 1981, and by the board of commissioners of the county of Wayne on April 30, 1981."Effective date of certain sections."Section 4. Sections 304, 555, 563, 564, 567, 591, 592, 593, 594, 595, 641, 821, 1114, 1123, 1168, 1302, 1303, 1306, 1417, 1471, 1481, 5706, 8202, 8271, 8272, 8273, 8275, 8281, 8283, 8302, 8314, 8322, 8501, 8521, 8525, 8535, 8621, 9924, 9944, and 9947 shall take effect September 1, 1981."

600.8283 Court security.

Sec. 8283.

In the thirty-sixth district, the district control unit shall be responsible for maintaining court security. Persons providing security services shall be assigned subject to the approval of the chief judge of the thirty-sixth district and, when performing services in the courtroom, shall be subject to the control of the judge holding court.

History: Add. 1980, Act 438, Eff. Sept. 1, 1981

Compiler's Notes: Sections 2 and 4 of Act 438 of 1980 provide:"Conditional effective date; action constituting exercise of option; effect of exercising option."Section 2. (1) This amendatory act shall not take effect unless the city of Detroit and the county of Wayne, by resolutions adopted not later than May 1, 1981, by the governing bodies of the city and the county, respectively, agree to assume responsibility for any expenses required of the city or the county by this amendatory act, and the bills listed in enacting section 7 which are enacted and take effect."(2) If the city of Detroit and the county of Wayne, acting through their governing bodies, agree to assume responsibility for any expenses required of the city and the county by this amendatory act, and the bills listed in enacting section 7 which are enacted and take effect, that action constitutes an exercise of the city's and the county's option to provide a new activity or service or to increase the level of activity or service offered in the city of Detroit and the county of Wayne beyond that required by existing law, as the elements of that option are defined by Act No. 101 of the Public Acts of 1979, being sections 21.231 to 21.244 of the Michigan Compiled Laws, and a voluntary acceptance by the city and the county of all expenses and capital improvements which may result from establishment of the district court in the thirty-sixth district and the reorganization of the circuit court in the third judicial circuit and the recorder's court of the city of Detroit. However, the exercise of the option does not affect the state's obligation to pay the same portion of each district or circuit judge's salary which is paid by the state to the other district or circuit judges, or to appropriate and disburse funds to the district control units, city, or county, for the necessary costs of state requirements established by a state law, other than this amendatory act or the bills listed in enacting section 7 which becomes effective on or after December 23, 1978."The resolutions referred to in Section 2 were adopted by the city council of the city of Detroit on April 29, 1981, and by the board of commissioners of the county of Wayne on April 30, 1981."Effective date of certain sections."Section 4. Sections 304, 555, 563, 564, 567, 591, 592, 593, 594, 595, 641, 821, 1114, 1123, 1168, 1302, 1303, 1306, 1417, 1471, 1481, 5706, 8202, 8271, 8272, 8273, 8275, 8281, 8283, 8302, 8314, 8322, 8501, 8521, 8525, 8535, 8621, 9924, 9944, and 9947 shall take effect September 1, 1981."

600.8286-600.8288 Repealed. 1981, Act 146, Eff. Jan. 1, 1983.

Compiler's Notes: The repealed sections pertained to district court referees for thirty-sixth district.