

SENATE BILL No. 1136

November 6, 2014, Introduced by Senator SCHUITMAKER and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
 "Revised judicature act of 1961,"
 by amending section 8322 (MCL 600.8322), as amended by 2005 PA 326.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8322. (1) ~~A person~~ **AN INDIVIDUAL** serving as a bailiff of
 2 the common pleas court of Detroit on August 31, 1981, ~~pursuant to~~
 3 **UNDER** an appointment under section 23 of former 1929 PA 260, shall
 4 become a bailiff of the district court in the thirty-sixth district
 5 on September 1, 1981. A bailiff ~~shall be~~ **IS** considered a court
 6 officer under section 8321(1) for the exclusive purpose of serving
 7 civil process in a civil action commenced in the district court in
 8 the thirty-sixth district, except for process issued in a summary

1 proceeding under chapter 57. All process issued by the district
2 court in civil actions ~~shall~~**MUST** be rotated among the bailiffs
3 ~~pursuant to~~**UNDER** rules adopted by the court. A bailiff shall file
4 with the clerk of the court a surety bond in the amount of
5 \$100,000.00 with a surety company. The **DISTRICT CONTROL UNIT SHALL**
6 **PAY THE** premium on the surety bond. ~~shall be paid by the district~~
7 ~~control unit.~~ A bailiff ~~shall possess~~**HAS** only the powers necessary
8 to serve process issued by the court. A bailiff governed ~~pursuant~~
9 ~~to~~**UNDER** this subsection may bear arms while in office and in the
10 exercise of his or her duties as bailiff. A bailiff shall hold
11 office until death, retirement, resignation, or removal from office
12 by the court for **INABILITY TO PERFORM ESSENTIAL FUNCTIONS OF THE**
13 **OFFICE OR FOR** misfeasance or malfeasance in office. A vacancy in
14 the office of bailiff as established ~~pursuant to~~**UNDER** this
15 subsection shall not be filled.

16 (2) ~~A person~~**AN INDIVIDUAL** serving as a bailiff of the common
17 pleas court on August 31, 1981, ~~pursuant to~~**UNDER** an appointment
18 under section 31 of former 1929 PA 260, shall become a bailiff of
19 the district court in the thirty-sixth district on September 1,
20 1981. A bailiff ~~shall be~~**IS** considered a court officer under
21 section 8321(1) for the exclusive purpose of serving civil process
22 in summary proceedings commenced under chapter 57 in the district
23 court in the thirty-sixth district. All process issued by the
24 district court in summary proceedings ~~shall~~**MUST** be rotated among
25 the bailiffs ~~pursuant to~~**UNDER** rules adopted by the court, except
26 that a writ of restitution ~~shall~~**MUST** be issued to the bailiff to
27 whom the summons was issued in the particular proceeding. A bailiff

1 shall file with the clerk of the court a surety bond in an amount
2 of \$100,000.00 with a surety company. The **DISTRICT CONTROL UNIT**
3 **SHALL PAY THE** premium on the surety bond. ~~shall be paid by the~~
4 ~~district control unit.~~ A bailiff governed ~~pursuant to~~ **UNDER** this
5 subsection ~~shall be~~ **IS** considered a peace officer only for the
6 purpose of receiving compensation provided by 1937 PA 329, MCL
7 419.101 to 419.104. A bailiff shall hold office until death,
8 retirement, resignation, or removal from office by the court for
9 **INABILITY TO PERFORM ESSENTIAL FUNCTIONS OF THE OFFICE OR FOR**
10 misfeasance or malfeasance in office. A vacancy in the office of
11 bailiff established ~~pursuant to~~ **UNDER** this subsection shall not be
12 filled.

13 (3) A bailiff governed ~~pursuant to~~ **UNDER** this section shall
14 keep a written record of the date, amount, and nature of each
15 financial transaction conducted by the bailiff in the course of his
16 or her service as bailiff. ~~An~~ **THE DISTRICT CONTROL UNIT SHALL**
17 **ANNUALLY CONDUCT AN** audit of each bailiff's financial transactions
18 ~~shall be conducted annually by the district control unit and~~
19 ~~reported~~ **AND REPORT THE AUDIT** immediately to the judges of the
20 district. If the audit prescribed by this subsection is not
21 conducted by the district control unit before June 30 of any year,
22 the judges of the court shall contract with a certified public
23 accountant to perform the audit. If a certified public accountant
24 is required to perform the audit, the **DISTRICT CONTROL UNIT SHALL**
25 **PAY THE** cost of the audit. ~~shall be paid by the district control~~
26 ~~unit.~~

27 (4) ~~Upon~~ **ON** the existence of a vacancy in the office of

1 bailiff established under this section, the chief judge of the
2 district may appoint a court officer ~~pursuant to~~ **UNDER** section
3 8321(1).

4 (5) A bailiff serving civil process ~~pursuant to~~ **UNDER**
5 subsection (1) or (2) shall be compensated by salary and the fees
6 and mileage prescribed in section 8326. A full-time bailiff, as
7 defined by the employer designated under section 8274(2) or (3),
8 shall receive from the city of Detroit a \$20,000.00 annual salary.
9 For each part-time bailiff, as defined by the employer designated
10 under section 8274(2) or (3), the employer designated under section
11 8274(2) or (3) shall establish a salary which is a pro rata portion
12 of \$20,000.00 based on that portion of a full-time bailiff's
13 workload to be assigned to the bailiff. A bailiff ~~covered by~~
14 **DESCRIBED IN** this subsection is not entitled to any compensation
15 from the city of Detroit other than that specifically authorized in
16 this subsection.

17 (6) A bailiff serving civil process ~~pursuant to~~ **UNDER**
18 subsection (1) or (2) shall not become a member of the state
19 employees' retirement system created by the state employees'
20 retirement act, 1943 PA 240, MCL 38.1 to 38.69. Beginning September
21 1, 1981, the city of Detroit shall contribute to the retirement
22 system in which the bailiff is a member on August 31, 1981, an
23 amount equal to the amount ~~which~~ **THAT** the state would have
24 contributed to the state employees' retirement system ~~pursuant to~~
25 **UNDER** the state employees' retirement act, 1943 PA 240, MCL 38.1 to
26 38.69, if the bailiff had become a member of the state employees'
27 retirement system, based on the salary paid by the city of Detroit

1 ~~pursuant to~~ **UNDER** subsection (5). Beginning September 1, 1981, each
2 bailiff shall continue to contribute to the retirement system in
3 which the bailiff is a member on August 31, 1981, as required by
4 ordinance, based on salary and fees received ~~pursuant to~~ **UNDER**
5 subsection (5), except mileage.

6 (7) ~~From~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (9), FROM**
7 each filing fee collected under section 8371, the clerk of the
8 court shall pay to the Wayne county retirement system ~~the sum of~~
9 \$1.00, to be credited to the retirement fund of the bailiffs of the
10 district court in the thirty-sixth district serving civil process
11 ~~pursuant to~~ **UNDER** subsection (1). The county of Wayne shall
12 annually review the retirement fund and shall ensure that the fund
13 is maintained in an actuarially sound condition. Copies of the
14 actuarial reports ~~shall~~ **MUST** be provided to the employer designated
15 under section 8274(2) or (3) and to the chief judge of the thirty-
16 sixth district.

17 (8) ~~From~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (9), FROM**
18 each filing fee collected for filing a summary proceeding under
19 section 5756, the clerk of the court shall pay to the Wayne county
20 retirement system ~~the sum of~~ \$1.00 for each defendant served in the
21 proceeding, to be credited to the retirement fund of the bailiffs
22 of the district court in the thirty-sixth district serving civil
23 process ~~pursuant to~~ **UNDER** subsection (2). However, the amount
24 credited to the retirement fund under this subsection ~~shall~~ **MUST**
25 not exceed 1/2 of the fee collected in a proceeding. The county of
26 Wayne shall annually review the retirement fund and shall ensure
27 that the fund is maintained in an actuarially sound condition.

1 Copies of the actuarial reports shall ~~shall~~ **MUST** be provided to the
2 employer designated under section 8274(2) or (3) and to the chief
3 judge of the thirty-sixth district.

4 **(9) AFTER THE DEATH OF THE LAST SURVIVING BAILIFF TO SERVE IN**
5 **THE DISTRICT COURT IN THE THIRTY-SIXTH DISTRICT UNDER SUBSECTIONS**
6 **(1) AND (2) OR THE LAST SURVIVING SPOUSE OR OTHER BENEFICIARY**
7 **ELIGIBLE FOR SURVIVOR'S BENEFITS FROM THE WAYNE COUNTY RETIREMENT**
8 **SYSTEM BECAUSE OF HIS OR HER RELATIONSHIP TO THE BAILIFF, THE CLERK**
9 **OF THE COURT SHALL PAY THE PORTION OF THE FILING FEES DESCRIBED IN**
10 **SUBSECTIONS (7) AND (8) TO THE DISTRICT COURT IN THE THIRTY-SIXTH**
11 **DISTRICT.**