

Act No. 35
Public Acts of 2023
Approved by the Governor
May 22, 2023
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**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2023**

Introduced by Reps. Brixie, Breen, Morse, Skaggs, Rogers, Rheingans, Glanville, Arbit, Young, Hood, Wegela, Price, Brabec, Neeley, Martus, Pohutsky, Byrnes, Hope, Morgan, MacDonell, Puri, Stone, Weiss, McKinney, Liberati, Scott, Koleszar, Mentzer, Grant, Hoskins, Brenda Carter, O'Neal, Tyrone Carter, Tsernoglou, Dievendorf, Wilson, Snyder, Steckloff, Conlin, Fitzgerald, McFall, Farhat, Paiz, Whitsett and Aiyash

ENROLLED HOUSE BILL No. 4147

AN ACT to amend 1961 PA 236, entitled "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 the courts, and of the judges and other officers of the courts; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in the courts; pleading, evidence, practice, and procedure in civil and criminal actions and proceedings in the courts; to provide for the powers and duties of certain state governmental officers and entities; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending sections 1908, 2529, and 2559 (MCL 600.1908, 600.2529, and 600.2559), section 2529 as amended by 2014 PA 532 and section 2559 as amended by 2018 PA 261.

The People of the State of Michigan enact:

Sec. 1908. (1) Process in civil actions may be served by any person of suitable age and discretion who is not a party nor an officer of a corporate party.

(2) If service of process is to be made in the manner prescribed by section 1912 on a person in a governmental institution, hospital, or home, the service of process must be made by the person in charge of the institution or by a member of the staff of the institution.

(3) This section does not apply to service under the extreme risk protection order act.

Sec. 2529. (1) In the circuit court, the following fees must be paid to the clerk of the court:

(a) Before filing a civil action, including an action for superintending control or another extraordinary writ, the party filing the action shall pay a fee of \$150.00. This subdivision does not apply to an action brought exclusively under section 2950, 2950a, or 2950h to 2950m, an action under the extreme risk protection order act, or an action for a writ of habeas corpus. The clerk at the end of each month shall transmit for each fee collected under this subdivision within the month \$31.00 to the county treasurer and the balance of the filing fee to the state treasurer for deposit in the civil filing fee fund created in section 171.

(b) Before filing a claim of appeal or motion for leave to appeal from the district court, probate court, a municipal court, or an administrative tribunal or agency, the appellant or moving party shall pay a fee of \$150.00. For each fee collected under this subdivision, the clerk shall transmit \$31.00 to the county treasurer and the balance of the fee to the state treasurer for deposit in the civil filing fee fund created in section 171.

(c) At the time a trial by jury is demanded, the party making the demand shall pay a fee of \$85.00. Failure to pay the fee at the time the demand is made constitutes a waiver of the right to a jury trial. The fee paid must be taxed in favor of the party paying it if the party recovers a judgment for costs. For each fee collected under this subdivision, the clerk shall transmit \$25.00 to the state treasurer for deposit in the juror compensation reimbursement fund created in section 151d.

(d) At the time an action in which the custody, support, or parenting time of a minor child is to be determined or modified is filed, the party filing the action shall pay 1 of the following fees:

(i) In an action in which the custody or parenting time of a minor child is to be determined or modified, \$80.00.

(ii) In an action in which the support of a minor child is to be determined or modified, \$40.00. This fee does not apply if a fee is paid under subparagraph (i).

(e) Except as otherwise provided in this section, on filing a motion, the moving party shall pay a fee of \$20.00. In conjunction with an action brought under section 2950 or 2950a, the clerk shall not collect a motion fee for a motion to dismiss the petition, a motion to modify, rescind, or terminate a personal protection order, or a motion to show cause for a violation of a personal protection order. The clerk shall not collect a motion fee for a motion to dismiss a proceeding to enforce a foreign protection order or a motion to show cause for a violation of a foreign protection order under sections 2950h to 2950m. The clerk shall not collect a motion fee for a request for a hearing to contest income withholding under section 7 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.607. For each fee collected under this subdivision, the clerk shall transmit \$10.00 to the state treasurer for deposit in the state court fund created by section 151a.

(f) For services under the direction of the court that are not specifically provided for in this section related to receiving, safekeeping, or expending money, purchasing, taking, or transferring a security, or collecting interest on a security, a party shall pay the allowance and compensation that the court determines to be just as ordered by the court after notice to the parties.

(g) Upon appeal to the court of appeals or the supreme court, the appellant shall pay \$25.00.

(h) The applicant or requesting party shall pay \$15.00 as a service fee for each writ of garnishment, attachment, or execution and each judgment debtor discovery subpoena issued.

(2) The fees paid as provided in this section are payment in full for all clerk, entry, and judgment fees in an action from the commencement of the action to and including the issuance and return of the execution or other final process, and are taxable as costs.

(3) Except as otherwise provided in this section, the fees paid under this section must be paid to the county treasurer as required by law.

(4) At the end of each month, each fee collected under subsection (1)(d)(i) must be paid to the county treasurer and deposited by the county treasurer as provided under section 2530 to be used to fund services that are not title IV-D services. The fee collected under subsection (1)(d)(ii) must be paid to the county treasurer and deposited by the county treasurer as provided under section 2530.

(5) The court shall order any of the fees prescribed in this section waived or suspended, in whole or in part, upon a showing by affidavit of indigency or inability to pay.

(6) If the person filing an action described in subsection (1)(d) is a public officer acting in his or her official capacity, if the final judgment or order is submitted with the initial filing as a consent judgment or order, or if other good cause is shown, the court shall order the fee under subsection (1)(d) waived or suspended. If a fee is waived or suspended and the action is contested, the court may require that 1 or more of the parties to the action pay the fee under subsection (1)(d).

(7) The court may order a party to pay the other party all or part of a fee paid by the other party under subsection (1)(d).

(8) A party is not required to pay a fee under this section if the party is filing a child protective action or a delinquency action under section 2 of chapter XIII A of the probate code of 1939, 1939 PA 288, MCL 712A.2, or under the young adult voluntary foster care act, 2011 PA 225, MCL 400.641 to 400.671.

Sec. 2559. (1) Except as provided in subsection (7) or (9), the following is the schedule of fees allowed for process or papers served out of a court in this state by a person authorized under this act or supreme court rule to serve process:

(a) For personal service of a summons and complaint in a civil action, along with supporting documents, for each defendant, \$26.00 plus mileage.

- (b) For personal service of an affidavit and account, for each defendant, \$26.00 plus mileage.
 - (c) For a request for and writ of garnishment, for each garnishee and defendant, \$23.00 plus mileage.
 - (d) For personal service of an order to seize goods that are the subject of a claim and delivery action, \$40.00 plus mileage, plus the actual and reasonable expense of seizing, keeping, and delivering the goods.
 - (e) For receiving and filing a bond from or on behalf of a defendant in a claim and delivery action, \$20.00.
 - (f) For an order to show cause, for each person served, \$26.00 plus mileage.
 - (g) For a subpoena on discovery, for each person served, \$26.00 plus mileage.
 - (h) For levying under or serving an order for the seizure of property and any accompanying paper, \$40.00 plus mileage, plus the actual and reasonable expense of seizing and keeping the property under the order.
 - (i) If the person has seized property under an order for the seizure of property issued in an action in which a judgment is entered against the owner of the property, regardless of whether the judgment is entered before or after the order is issued, and if the judgment is satisfied before sale of the seized property by full payment of the judgment or settlement between the parties, 7% of the first \$8,000.00 of the payment or settlement amount and 3% of the payment or settlement amount exceeding the first \$8,000.00.
 - (j) For sale of property seized under an order for the seizure of property, 7% of the first \$8,000.00 in receipts and 3% of any receipts exceeding the first \$8,000.00.
 - (k) For each notice of sale under an order for the seizure of property or construction lien posted in a public place in the city or township, \$26.00 plus mileage.
 - (l) For an order of eviction or a writ for the restitution of premises, for each defendant, \$40.00 plus mileage, plus the actual and reasonable expense for the physical removal of property from the premises.
 - (m) For a subpoena directed to a witness, including a judgment debtor, \$26.00 plus mileage.
 - (n) For a civil bench warrant or body execution, \$40.00 plus mileage, plus a reasonable fee per hour for the amount of time involved in executing the warrant.
 - (o) For service by mail, \$13.00 plus the actual cost of postage.
 - (p) For each verification by a process server, \$10.00 plus mileage.
 - (q) For each postal change of address verification requested by the plaintiff, \$10.00.
 - (r) For each global positioning service verification requested by the plaintiff, \$5.00.
 - (s) For each photo verification requested by the plaintiff, \$5.00.
- (2) On submitting a sworn affidavit, a person authorized by this act or supreme court rule to serve process or papers out of a court in this state is entitled to receive a \$10.00 fee plus mileage for each process that has an incorrect address. This fee is in addition to any fee the person is entitled to receive under subsection (1).
- (3) Mileage is allowed under subsection (1) at 1-1/2 times the rate allowed by the state civil service commission for employees in the state classified civil service. Mileage is computed, each way, using the shortest reasonable route from the place where the court that issued or filed the process or paper is located to the place of service.
- (4) The fees and expenses allowed under subsection (1)(h) to (k) must be collected in the same manner as the sum directed to be levied or collected under the order for the seizure of property. If at the time of advertising property for sale a sheriff or other officer has several orders for the seizure of property against the same defendant, the sheriff or officer shall charge only 1 advertising fee on the whole, and shall elect on which order he or she will receive the fee.
- (5) A person authorized by this act or supreme court rule to serve process or papers out of a court in this state who demands and receives a greater fee or compensation for performing a service mentioned in this section than allowed by this section is, in addition to all other liability provided by law, liable to the party injured by paying the illegal fees for 3 times the amount of illegal fees actually paid and all costs of the action.
- (6) A sheriff or other officer who, after the fees specified by this section have been tendered, neglects or refuses a service required by law is liable to the party injured for all damages that the party sustains as a result of the neglect or refusal.
- (7) A person authorized under this act or supreme court rule to serve process may charge a fee for service of process that exceeds the fee prescribed under this section or other law if the fee is agreed to in advance in writing by the person serving process and the person requesting the service.
- (8) Regardless of whether a fee charged or paid for service of process exceeds the fee prescribed by this section or other law, including a fee allowed under subsection (7), a person entitled to tax costs shall not attempt to tax and is not entitled to recover a fee for service of process that exceeds the fee prescribed by this section or other law.

(9) A person shall not charge or collect a fee for serving process issued in an action brought under the extreme risk protection order act, or for serving any order issued in the action.

(10) As used in this section, "order for the seizure of property" includes a writ of attachment and a writ of execution, including, but not limited to, execution in a claim and delivery action on property other than the property that is the subject of the claim and delivery action.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 83 of the 102nd Legislature is enacted into law.


Clerk of the House of Representatives


Secretary of the Senate

Approved _____

Governor