

HOUSE BILL NO. 4147

February 28, 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 and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," 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:

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

1 (2) If service of process is to be made in the manner
2 prescribed by section 1912 ~~on a person in a governmental~~
3 institution, hospital, or home, the service of process ~~shall~~**must**
4 be made by the person in charge of ~~such~~**the** institution or by ~~some~~
5 a member of ~~his~~**the** staff **of the institution.**

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

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

10 (a) Before filing a civil action, including an action for
11 superintending control or another extraordinary writ, the party
12 filing the action shall pay a fee of \$150.00. This subdivision does
13 not apply to an action brought exclusively under section 2950,
14 2950a, or 2950h to 2950m, **an action under the extreme risk**
15 **protection order act**, or an action for a writ of habeas corpus. The
16 clerk at the end of each month shall transmit for each fee
17 collected under this subdivision within the month \$31.00 to the
18 county treasurer and the balance of the filing fee to the state
19 treasurer for deposit in the civil filing fee fund created in
20 section 171.

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

28 (c) At the time a trial by jury is demanded, the party making
29 the demand shall pay a fee of \$85.00. Failure to pay the fee at the

1 time the demand is made constitutes a waiver of the right to a jury
2 trial. The fee paid ~~shall~~**must** be taxed in favor of the party
3 paying it if the party recovers a judgment for costs. For each fee
4 collected under this subdivision, the clerk shall transmit \$25.00
5 to the state treasurer for deposit in the juror compensation
6 reimbursement fund created in section 151d.

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

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

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

16 (e) Except as otherwise provided in this section, on filing a
17 motion, the moving party shall pay a fee of \$20.00. In conjunction
18 with an action brought under section 2950 or 2950a, **the clerk shall**
19 **not collect** a motion fee ~~shall not be collected~~ for a motion to
20 dismiss the petition, a motion to modify, rescind, or terminate a
21 personal protection order, or a motion to show cause for a
22 violation of a personal protection order. ~~A~~**The clerk shall not**
23 **collect a** motion fee ~~shall not be collected~~ for a motion to dismiss
24 a proceeding to enforce a foreign protection order or a motion to
25 show cause for a violation of a foreign protection order under
26 sections 2950h to 2950m. ~~A~~**The clerk shall not collect a** motion fee
27 ~~shall not be collected~~ for a request for a hearing to contest
28 income withholding under section 7 of the support and parenting
29 time enforcement act, 1982 PA 295, MCL 552.607. For each fee

1 collected under this subdivision, the clerk shall transmit \$10.00
2 to the state treasurer for deposit in the state court fund created
3 by section 151a.

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

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

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

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

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

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

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

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

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

14 (8) A party is not required to pay a fee under this section if
15 the party is filing a child protective action or a delinquency
16 action under section 2 of chapter XIIIA of the probate code of 1939,
17 1939 PA 288, MCL 712A.2, or under the young adult voluntary foster
18 care act, 2011 PA 225, MCL 400.641 to 400.671.

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

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

26 (b) For personal service of an affidavit and account, for each
27 defendant, \$26.00 plus mileage.

28 (c) For a request for and writ of garnishment, for each
29 garnishee and defendant, \$23.00 plus mileage.

1 (d) For personal service of an order to seize goods that are
2 the subject of a claim and delivery action, \$40.00 plus mileage,
3 plus the actual and reasonable expense of seizing, keeping, and
4 delivering the goods.

5 (e) For receiving and filing a bond from or on behalf of a
6 defendant in a claim and delivery action, \$20.00.

7 (f) For an order to show cause, for each person served, \$26.00
8 plus mileage.

9 (g) For a subpoena on discovery, for each person served,
10 \$26.00 plus mileage.

11 (h) For levying under or serving an order for the seizure of
12 property and any accompanying paper, \$40.00 plus mileage, plus the
13 actual and reasonable expense of seizing and keeping the property
14 under the order.

15 (i) If the person has seized property under an order for the
16 seizure of property issued in an action in which a judgment is
17 entered against the owner of the property, regardless of whether
18 the judgment is entered before or after the order is issued, and if
19 the judgment is satisfied before sale of the seized property by
20 full payment of the judgment or settlement between the parties, 7%
21 of the first \$8,000.00 of the payment or settlement amount and 3%
22 of the payment or settlement amount exceeding the first \$8,000.00.

23 (j) For sale of property seized under an order for the seizure
24 of property, 7% of the first \$8,000.00 in receipts and 3% of any
25 receipts exceeding the first \$8,000.00.

26 (k) For each notice of sale under an order for the seizure of
27 property or construction lien posted in a public place in the city
28 or township, \$26.00 plus mileage.

29 (l) For an order of eviction or a writ for the restitution of

1 premises, for each defendant, \$40.00 plus mileage, plus the actual
2 and reasonable expense for the physical removal of property from
3 the premises.

4 (m) For a subpoena directed to a witness, including a judgment
5 debtor, \$26.00 plus mileage.

6 (n) For a civil bench warrant or body execution, \$40.00 plus
7 mileage, plus a reasonable fee per hour for the amount of time
8 involved in executing the warrant.

9 (o) For service by mail, \$13.00 plus the actual cost of
10 postage.

11 (p) For each verification by a process server, \$10.00 plus
12 mileage.

13 (q) For each postal change of address verification requested
14 by the plaintiff, \$10.00.

15 (r) For each global positioning service verification requested
16 by the plaintiff, \$5.00.

17 (s) For each photo verification requested by the plaintiff,
18 \$5.00.

19 (2) On submitting a sworn affidavit, a person authorized by
20 this act or supreme court rule to serve process or papers out of a
21 court in this state is entitled to receive a \$10.00 fee plus
22 mileage for each process that has an incorrect address. This fee is
23 in addition to any fee the person is entitled to receive under
24 subsection (1).

25 (3) Mileage is allowed under subsection (1) at 1-1/2 times the
26 rate allowed by the state civil service commission for employees in
27 the state classified civil service. Mileage is computed, each way,
28 using the shortest reasonable route from the place where the court
29 that issued or filed the process or paper is located to the place

1 of service.

2 (4) The fees and expenses allowed under subsection (1)(h) to
3 (k) must be collected in the same manner as the sum directed to be
4 levied or collected under the order for the seizure of property. If
5 at the time of advertising property for sale a sheriff or other
6 officer has several orders for the seizure of property against the
7 same defendant, the sheriff or officer shall charge only 1
8 advertising fee on the whole, and shall elect on which order he or
9 she will receive the fee.

10 (5) A person authorized by this act or supreme court rule to
11 serve process or papers out of a court in this state who demands
12 and receives a greater fee or compensation for performing a service
13 mentioned in this section than allowed by this section is, in
14 addition to all other liability provided by law, liable to the
15 party injured by paying the illegal fees for 3 times the amount of
16 illegal fees actually paid and all costs of the action.

17 (6) A sheriff or other officer who, after the fees specified
18 by this section have been tendered, neglects or refuses a service
19 required by law is liable to the party injured for all damages that
20 the party sustains as a result of the neglect or refusal.

21 (7) A person authorized under this act or supreme court rule
22 to serve process may charge a fee for service of process that
23 exceeds the fee prescribed under this section or other law if the
24 fee is agreed to in advance in writing by the person serving
25 process and the person requesting the service.

26 (8) Regardless of whether a fee charged or paid for service of
27 process exceeds the fee prescribed by this section or other law,
28 including a fee allowed under subsection (7), a person entitled to
29 tax costs shall not attempt to tax and is not entitled to recover a

1 fee for service of process that exceeds the fee prescribed by this
2 section or other law.

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

7 **(10)** ~~(9)~~—As used in this section, "order for the seizure of
8 property" includes a writ of attachment and a writ of execution,
9 including, but not limited to, execution in a claim and delivery
10 action on property other than the property that is the subject of
11 the claim and delivery action.

12 Enacting section 1. This amendatory act does not take effect
13 unless Senate Bill No. ____ or House Bill No. 4145 (request no.
14 00421'23) of the 102nd Legislature is enacted into law.