

**ADD FEES FOR SERVING AN ORDER
OF ALTERNATE SERVICE**

House Bill 4224

Sponsor: Rep. Mickey Mortimer

Committee: Civil Law and the Judiciary

Complete to 10-9-01

A SUMMARY OF HOUSE BILL 4224 AS INTRODUCED 2-13-01

When an individual is sued, he or she must, under the constitutional right of due process, be notified of the pending lawsuit. This notification is called “service of process,” and is governed by Michigan Court Rules. “Process” refers both to the summons to appear in court and to a copy of the complaint filed by the plaintiff with the court. Process may be served on (delivered to) individuals either by “personal service” or, in certain cases, by “substituted service”. Under the Michigan Court Rules “personal service” includes both personal delivery of the summons as well as delivery by registered or certified mail (with delivery restricted to the addressee and a return receipt requested).

Substituted service, commonly referred to as “alternate service”, generally refers to any method of delivery other than personal delivery to the defendant. There are two types of substituted service: service without a court order, and service with a court order. Substituted service without a court order provides service for nonresidents, minors, defendants for whom a guardian has been appointed, and individuals doing business under an assumed name. Substituted service is also permitted in small claims court.

Service on a nonresident may be done by serving a summons and a copy of the complaint in Michigan on an agent, employee, representative, sales representative, or servant of the defendant. In addition, the defendant must also be sent a summons and copy of the complaint via registered mail, but is not required to acknowledge receipt as required for personal service.

Substituted may also be used for minors. Here, a person having care and control of the minor and with whom he or she resides receives a summons and a copy of the complaint. A minor may, however, be served personally.

Substituted service may also be served on a defendant for whom a guardian has been appointed. Under substituted service, the guardian receives a summons and a copy of the complaint.

Substituted service may also be made on an individual doing business under an assumed name. He or she receives a summons and a copy of the complaint by service made on a person in charge of the individual’s business or office and by receiving a summons and copy of the complaint via registered mail.

The second type of substituted service is with a court order. If it can be shown that service of process cannot reasonably be made by personal service, the court may allow, by an order, service

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of process to be made by publication in a newspaper or public posting in the court house and at least two other public places as directed by the court. Under each of these a copy of the order allowing the service is sent to the defendant. In addition, the court may order substituted service be made on an adult family member of the defendant's family and the defendant's usual residence or on the defendant's insurance carrier.

The Revised Judicature Act allows certain fees and other costs (such as mileage) to be collected by people authorized to serve process. Existing fees currently range from \$5 to \$31 plus mileage and, in some cases, certain other expenses. The bill would amend the act to add to the current schedule of fees for service of process a \$10 fee for service of "an order of alternate service", that is, substituted service as permitted according to Michigan Court Rules.

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