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BILL ANALYSIS

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Senate Bill 990 (as introduced 2-12-04)  
Sponsor: Senator Michael D. Bishop  
Committee: Judiciary

Date Completed: 3-9-04

### **CONTENT**

The bill would amend the Revised Judicature Act to revise a provision that tolls (or suspends) the statute of limitations at the time a complaint is filed and a copy of the summons and complaint are served on the defendant. Under the bill, the statute of limitations would be tolled only if the summons and complaint were served on the defendant within the time set forth in the court rules.

The bill also would delete a provision that tolls the statute of limitations at the time the complaint is filed and a copy of the summons and complaint in good faith are placed in the hands of an officer for immediate service, for up to 90 days after the officer receives the summons and complaint.

MCL 600.5856

### **BACKGROUND**

Under Michigan Court Rule (MCR) 2.102, when a civil complaint is filed, the court clerk must issue a summons to be served on the defendant. According to MCR 2.102(D), a summons expires 91 days after the date the complaint is filed. Within those 91 days, however, on a showing of due diligence by the plaintiff in attempting to serve the original summons, the judge may order a second summons issued for a definite period of up to one year from the date the complaint is filed. The judge may impose just conditions on the issuance of the second summons. Also, the 91-day period is tolled while a motion challenging the sufficiency of the summons or the service of the summons is pending.

When a summons expires, the action is considered dismissed as to a defendant who has not been served with the complaint, although the plaintiff may file a new action against the defendant.

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Bethany Wicksall

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.