

HOUSE BILL No. 5371

September 15, 2009, Introduced by Reps. Constan, Kandrevas and Polidori and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 321 and 2529 (MCL 600.321 and 600.2529),
section 321 as amended by 2007 PA 64 and section 2529 as amended by
2004 PA 205.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 321. (1) The following fees shall be paid to the clerk of
2 the court of appeals and may be taxed as costs if costs are allowed
3 by order of the court:

4 (a) For an appeal as of right, for an application for leave to
5 appeal, or for an original proceeding, \$375.00. This fee shall be
6 paid only once for appeals that are taken by multiple parties from
7 the same lower court order or judgment and can be consolidated.

1 (b) Upon the entry of any motion except a motion described in
2 subdivision (c) upon the motion docket, \$100.00. Beginning October
3 1, 2012, the fee required under this subdivision is \$75.00.

4 (c) Upon the entry of a motion for immediate consideration or
5 a motion to expedite appeal upon the motion docket, \$200.00. This
6 fee shall be paid only once regardless of the number of lower court
7 files involved in the appeal. ~~A prosecuting attorney is exempt from~~
8 ~~paying a fee under this subdivision with regard to an appeal~~
9 ~~arising out of a criminal proceeding.~~ Beginning October 1, 2012,
10 the fee required under this subdivision is \$150.00.

11 (2) **A PROSECUTING ATTORNEY IS EXEMPT FROM PAYING ANY OF THE**
12 **FEES DESCRIBED IN SUBSECTION (1).**

13 (3) ~~(2)~~—The clerk of the court of appeals shall charge 50
14 cents per page for certified copies of entries or papers in any
15 action or proceedings when required for any other purpose than one
16 connected with the progress or disposition of the action or
17 proceeding.

18 (4) ~~(3)~~—The clerk shall charge 50 cents per page for all
19 uncertified copies of opinions, except those sent to 1 counsel
20 representing each party in the case, for which no charge shall be
21 made.

22 (5) ~~(4)~~—If a person is unable to pay the fees required by this
23 section, the person, by motion, accompanied by the person's
24 affidavit stating facts showing that inability, may ask the court
25 to waive the fees and the court or a judge of the court may waive
26 payment of the fees.

27 (6) ~~(5)~~—Each month the clerk of the court of appeals shall

1 deposit with the state treasurer all fees collected and obtain and
2 file a receipt for the fees deposited.

3 (7) ~~(6)~~—Costs shall be awarded in the discretion of the court.

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

6 (a) Before a civil action other than an action brought
7 exclusively under section 2950, 2950a, or 2950h to 2950m is
8 commenced, or before the filing of an application for
9 superintending control or for an extraordinary writ, except the
10 writ of habeas corpus, the party bringing the action or filing the
11 application shall pay the sum of \$150.00. The clerk at the end of
12 each month shall transmit for each fee collected under this
13 subdivision within the month \$31.00 to the county treasurer and the
14 balance of the filing fee to the state treasurer for deposit in the
15 civil filing fee fund created in section 171.

16 (b) Before the filing of a claim of appeal or motion for leave
17 to appeal from the district court, probate court, a municipal
18 court, or an administrative tribunal or agency, the sum of \$150.00.

19 **A PROSECUTING ATTORNEY IS EXEMPT FROM PAYING THE FEE DESCRIBED IN**
20 **THIS SUBDIVISION.** For each fee collected under this subdivision,
21 the clerk shall transmit \$31.00 to the county treasurer and the
22 balance of the fee to the state treasurer for deposit in the civil
23 filing fee fund created in section 171.

24 (c) If a trial by jury is demanded, the party making the
25 demand at the time shall pay the sum of \$85.00. Failure to pay the
26 fee at the time the demand is made constitutes a waiver of the
27 right to a jury trial. The sum shall be taxed in favor of the party

1 paying the fee, in case the party recovers a judgment for costs.
2 For each fee collected under this subdivision, the clerk shall
3 transmit \$25.00 to the state treasurer for deposit in the juror
4 compensation reimbursement fund created in section 151d.

5 (d) Before entry of a final judgment or order in an action in
6 which the custody, support, or parenting time of minor children is
7 determined or modified, the party submitting the judgment or order
8 shall pay 1 of the following fees, which shall be deposited by the
9 county treasurer as provided in section 2530:

10 (i) In an action in which the custody or parenting time of
11 minor children is determined, \$80.00.

12 (ii) In an action in which the support of minor children is
13 determined or modified, \$40.00. This fee does not apply when a fee
14 is paid under subparagraph (i). The court may order a party to
15 reimburse to the other party all or a portion of the fee paid by
16 that other party.

17 (e) Except as otherwise provided in this section, upon the
18 filing of a motion the sum of \$20.00. In conjunction with an action
19 brought under section 2950 or 2950a, a motion fee shall not be
20 collected for a motion to dismiss the petition, a motion to modify,
21 rescind, or terminate a personal protection order, or a motion to
22 show cause for a violation of a personal protection order. A motion
23 fee shall not be collected for a motion to dismiss a proceeding to
24 enforce a foreign protection order or a motion to show cause for a
25 violation of a foreign protection order under sections 2950h to
26 2950m. A motion fee shall not be collected for a request for a
27 hearing to contest income withholding under section 7 of the

1 support and parenting time enforcement act, 1982 PA 295, MCL
2 552.607. For each fee collected under this subdivision, the clerk
3 shall transmit \$10.00 to the state treasurer for deposit in the
4 state court fund created by section 151a.

5 (f) For services under the direction of the court that are not
6 specifically provided for in this section relative to the receipt,
7 safekeeping, or expending of money, or the purchasing, taking, or
8 transferring of a security, or the collecting of interest on a
9 security, the clerk shall receive the allowance and compensation
10 from the parties as the court may consider just and shall direct by
11 court order, after notice to the parties to be charged.

12 (g) Upon appeal to the court of appeals or the supreme court,
13 the sum of \$25.00. **A PROSECUTING ATTORNEY IS EXEMPT FROM PAYING THE**
14 **FEE DESCRIBED IN THIS SUBDIVISION.**

15 (h) The sum of \$15.00 as a service fee for each writ of
16 garnishment, attachment, execution, or judgment debtor discovery
17 subpoena issued.

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

23 (3) Except as otherwise provided in this section, the fees
24 shall be paid over to the county treasurer as required by law.

25 (4) At the end of each month, the clerk shall transmit for
26 each fee collected under subsection (1)(d) \$10.00 to the state
27 treasurer for deposit in the fund created by section 6a of the

1 office of child support act, 1971 PA 174, MCL 400.236a. The balance
2 of the fee collected under subsection (1)(d)(i) shall be paid to the
3 county treasurer and deposited by the county treasurer as provided
4 under section 2530 to be used to fund services that are not title
5 IV-D services. The balance of the fee collected under subsection
6 (1)(d)(ii) shall be paid to the county treasurer and deposited by
7 the county treasurer as provided under section 2530.

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

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