

## **REVISION OF ELECTRONIC FILING RULES AND FEES FOR COURT RECORDS; ELECTRONIC FILING FUND**

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**House Bill 5028 as introduced**  
**Sponsor: Rep. Klint Kesto**

**Senate Bill 531 as passed by the Senate**  
**Sponsor: Sen. Rick Jones**

**House Bill 5029 as introduced**  
**Sponsor: Rep. Kurt Heise**

**Senate Bill 532 as passed by the Senate**  
**Sponsor: Sen. John Proos**

**House Bills 5030 as introduced**  
**Sponsor: Rep. Amanda Price**  
**House Committee: Judiciary**

**Senate Bill 533 as passed by the Senate**  
**Sponsor: Sen. Tonya Schuitmaker**  
**House Committee: Judiciary**  
**Senate Committee: Judiciary**

**Complete to 11-2-15**

### **SUMMARY:**

These bills would amend the Revised Judicature Act (MCL 600.101-600.9947) to:

- Lay out the schedule of electronic filing fees, to be collected in addition to other fees, for various actions in various courts.
- Provide that an e-filing fee could not be collected later than five years after the package of bills are enacted.
- Create a Judicial Electronic Filing Fund into which fees will be deposited, with the fund to be used for the creation and maintenance of the electronic filing system.
- Charge the State Court Administrative Office (SCAO) with administering the fund, with the fund to reimburse SCAO for its costs, including judicial and staff training, on-site management assistance and a software development and conversion.
- Authorize the SCAO and the Supreme Court to contract with a company to create a statewide electronic filing system using a competitive bidding process.
- Define the electronic filing terms.

The three House bills would add a new Chapter 19A, and they contain nearly identical language to Senate Bill 531, which has passed the Senate. The other Senate bills further develop the specifics of the electronic filing fund and, importantly, allow the public to view electronically-filed documents on-site free of charge. The House bills are tie-barred to Senate Bills 531, 532, and 533.

All of the provisions outlined in these six bills would take effect January 1, 2016, except for the free-access-to-documents provision in Senate Bill 533, which lists October 1, 2015, as its effective date. The bills are described below.

### **House Bill 5028**

This bill defines relevant terms, including:

- Court funding unit: the system of government which operates the fund for each type of court. The applicable county will facilitate the fund for circuit and probate courts, the district funding unit as defined in Section 8104 for district courts, and the state for the Supreme Court, Court of Appeals and Court of Claims.
- Electronic filing system: the way in which individuals can electronically file documents in all Michigan state courts.
- Civil action: in its only addition to SB 531, the House bill adds a category to this definition. The bill adds "a proceeding commenced in the probate court under Section 3982 of the Estates and Protected Individuals Code, 1988 PA 386, MCL 700.3982" to the categories listed in the Senate bill; namely, an action that is not a criminal case, a civil infraction action, and a proceeding involving a juvenile under Chapter XIA of the Probate Code of 1939.

### **House Bill 5029**

Whether or not a civil action is filed electronically, the following additional electronic filing fees apply:

- \$25 in the Supreme Court, Court of Appeals, Court of Claims, circuit court, and probate court;
- \$20 in district court if a claim for relief is both monetary and nonmonetary;
- \$5 in small claims court; and
- \$10 in district court if the preceding two instances do not apply, including actions for summary proceedings.

If the fee for filing the civil action is waived because the court finds the filer to be indigent or unable to pay, the electronic filing fee is also waived. Government entities are not required to pay electronic filing fees. If the bank processing the electronic filing fee charges a merchant transaction fee, the court may pass this additional fee along to the filer, but it may not exceed the amount charged by the bank or 3% of the automated payment, whichever is less. These are the only fees that may be charged for electronic filing. If a court is currently collecting an additional electronic filing fee, it may continue to collect \$2.50 for filing *or* service and \$5 for filing *and* service until December 31, 2015.

### **House Bill 5030**

This bill would specify that any electronic system fee collected would have to be remitted by the court clerk to the state treasurer for deposit into the Judicial Electronic Filing Fund created in SB 532, and must be used to fund the creation and maintenance of the electronic filing system and supporting technology.

The three Senate bills, which are tie-barred together, and to which the House bills are tie-barred, encompass these provisions and add several others. In addition to presenting a fee schedule, creating a Judicial Electronic Filing Fund, and defining several terms, the Senate bills also develop the specifics of the fund further and, importantly, allow the public to view electronically-filed documents on site free of charge.

### **Senate Bill 531**

While providing the same new rules as HB 5028, 5029, and 5030, this bill would also create several new electronic filing rules. If a court wishes to access and use the electronic filing system, it may apply to the Supreme Court, which will pay for that court's technological improvements out of the new Judicial Electronic Filing Fund. This bill also clarifies that filers are not required to use the electronic filing system. The fees are recoverable taxable costs, and will be phased out no more than five years after the amendatory act enacting this chapter takes effect.

### **Senate Bill 532**

This bill creates the Judicial Electronic Filing Fund and spells out its administration. The state treasurer must collect and deposit revenue from electronic filing fees into the fund, as well as invest that money in any way authorized for investment of state funds. The money remaining in the fund at the end of the fiscal year remains in the fund and does not revert to the General Fund. The State Court Administrative Office (SCAO) is charged with administering the fund, using the money collected to implement, operate, and maintain the electronic filing system, and will be reimbursed its costs by the fund. The SCAO and the Supreme Court is authorized to contract with a company to create this system through a competitive bidding process.

### **Senate Bill 533**

This bill provides that the public may retrieve and view both manually- and electronically-filed documents on site, and must only pay if they choose to copy those documents.

### **FISCAL IMPACT:**

The bills would have an indeterminate, though likely small, fiscal impact on the state and no fiscal impact on local units of government. The State Court Administrative Office (SCAO) estimates that the cost of the statewide e-filing system would be between \$40.0 million and \$45.0 million over five years, including initial start-up costs, ongoing operational costs, and costs to maintain the system. The e-filing fees proposed by Senate Bill 531 (S-2) would be deposited into the Judicial Electronic Filing Fund in the state Treasury to be used to pay the costs of implementation, operation, and maintenance of the e-filing system. SCAO estimates that fees would generate approximately \$8.3 million per year, or \$41.5 million over five years. If fee revenue in the Judicial Electronic Filing Fund was insufficient to cover the costs of the system, General Fund/General Purpose would be used to cover the difference. Also, under Senate Bill 531 (S-2), fees could not be collected later than five years after the effective date of the bill. After the five-year period, the balance and earnings of the Judicial Electronic Filing Fund would be used to pay the ongoing costs of the e-filing system. If costs exceed the amount available from the fund, General Fund/General Purpose revenue would be used.

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