



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bills 531, 532, and 533 (as enacted)
House Bills 5028, 5029, and 5030 (as enacted)

PUBLIC ACTS 233, 234, & 235 of 2015

PUBLIC ACTS 230, 231, & 232 of 2015

Sponsor: Senator Rick Jones (S.B. 531)
Senator John Proos (S.B. 532)
Senator Tonya Schuitmaker (S.B. 533)
Representative Klint Kesto (H.B. 5028)
Representative Kurt Heise (H.B. 5029)
Representative Amanda Price (H.B. 5030)

Senate Committee: Judiciary (S.B. 531-533)
House Committee: Judiciary

Date Completed: 1-7-16

CONTENT

Senate Bills 531 and 533 and House Bills 5028, 5029, and 5030 added Chapter 19A (Electronic Access to Courts) to the Revised Judicature Act to do the following:

- Require a court clerk to collect an electronic filing system fee (an e-filing fee) in addition to a fee authorized or required by law for filing a civil action.
- Require the e-filing fee to be collected between March 1, 2016, and February 28, 2021.
- Set the e-filing fee at \$25 for actions filed in the Supreme Court, Court of Appeals, Court of Claims, circuit court, and probate court; and require the fee to be \$5, \$15, or \$20 for district court actions, depending on several factors.
- Require e-filing fees to be remitted to the State Treasurer for deposit in the Judicial Electronic Filing Fund, to be used as described below.
- Allow a court to apply to the Michigan Supreme Court for access to and use of the electronic filing system and, if allowed, require the State Court Administrative Office (SCAO) to use money from the Fund to pay the costs of technological improvements necessary for the court to operate electronic filing.
- Allow the Supreme Court to select a qualified vendor for the electronic filing system.
- Allow a court or court funding unit, until December 31, 2016, to continue collecting \$2.50 or \$5 for electronic filing if it was collecting the fee on September 30, 2015.
- Provide that a court may not charge a fee to retrieve and inspect a document on site, but may charge a fee to copy a document.
- Allow a court to accept automated payment of any fee being paid to the court.

Senate Bill 532 added Section 176 to the Revised Judicature Act:

- Create the "Judicial Electronic Filing Fund" in the State Treasury.
- Require the State Treasurer to credit to the Fund revenue from e-filing fees.
- Require money in the Fund to be spent to support the implementation, operation, and maintenance of a statewide electronic filing system and supporting technology.

- **Allow the Michigan Supreme Court and the SCAO, using a competitive bidding process, to develop a system to facilitate statewide electronic filing of court documents.**

House Bill 5028 defines "electronic filing system" as a system authorized by the Supreme Court after the bill's effective date for the electronic filing of documents using a portal contracted for the by SCAO for the filing of documents in the Supreme Court, Court of Appeals, Court of Claims, circuit court, probate court, and district court. The bill also defines other terms used in Chapter 19A, as indicated below.

A detailed description of the remainder of the bills follows.

All of the bills took effect on January 1, 2016.

House Bill 5029

E-Filing Fee

Beginning on March 1, 2016, if a fee for commencing a civil action is authorized or required by law, in addition to that fee, the bill requires the court clerk to collect an electronic filing system fee, as follows:

- \$25 for civil actions filed in the Supreme Court, Court of Appeals, Court of Claims, circuit court, and probate court.
- \$10 for civil actions filed in the district court, including actions for summary proceedings, except as provided below.
- \$20 for civil actions filed in the district court if a claim for money damages is joined with a claim for relief other than money damages.
- \$5 for civil actions in the Small Claims Division of district court.

("Civil action" means an action that is not a criminal case, a civil infraction action, a proceeding involving a juvenile under the juvenile code, or a proceeding commenced in the probate court under Section 3982 of the Estates and Protected Individuals Code (which pertains to the distribution of small estates by court order).)

The clerk must collect the fee from the party at the time the civil action is commenced, whether or not the document commencing the action was filed electronically.

If the court waives payment of a fee for commencing a civil action because the court determines that the party is indigent or unable to pay the fee, the court also must waive the e-filing fee.

A party that is a governmental entity is not required to pay an e-filing fee.

Automated Payment

The bill allows a court clerk to accept automated payment of any fee being paid to the court. If the bank or other electronic commerce business charges the court or court funding unit a merchant transaction fee, the clerk may charge the person paying the fee an additional automated payment service fee as authorized by the SCAO. The amount of the service fee may not exceed the actual merchant transaction fee to be charged to the court or court funding unit for accepting an automated payment, or 3% of the automated payment, whichever is less.

("Automated payment" means an electronic payment method authorized by the SCAO at the direction of the Supreme Court, including payments made with credit and debit cards.)

Other Fee for Electronic Filing

The bill provides that, except for an automated payment service fee, and except as provided below, the e-filing fee authorized under Chapter 19A is the only fee that may be charged to or collected in a civil action specifically for electronic filing.

If, pursuant to a Supreme Court order, a court or court funding unit was collecting a fee for electronic filing other than the e-filing fee on September 30, 2015, the court or court funding unit may continue to collect \$2.50 for filing or service or \$5 for filing and service, in addition to the e-filing fee, until December 31, 2016.

House Bill 5030

The bill requires an e-filing fee collected to be remitted by the court clerk to the State Treasurer for deposit into the Judicial Electronic Filing Fund and used to establish an electronic filing system and supporting technology, as provided in Chapter 19A.

Senate Bill 531

The bill prohibits an e-filing fee from being collected after February 28, 2021.

The bill allows a court to apply to the Supreme Court for access to and use of the electronic filing system. If the Supreme Court accepts the court, the SCAO must use money from the Judicial Electronic Filing Fund to pay the costs of technological improvements necessary for that court to operate electronic filing. The Supreme Court may select a qualified vendor for the electronic filing system.

The bill provides that any e-filing fee paid by a party is a recoverable taxable cost (that is, a nonprevailing party may be ordered to reimburse the amount of the fee to the party who paid it).

The bill specifies that nothing in Chapter 19A may be construed to require a person to file a document electronically. A court or court funding unit may not require or permit a person to file a document electronically except as directed by the Supreme Court.

Senate Bill 532

Section 176, enacted by the bill, creates the Judicial Electronic Filing Fund in the State Treasury. The State Court Administrative Office is required to administer the Fund. Money from the Fund must be spent to support the implementation, operation, and maintenance of a statewide electronic filing system and supporting technology.

Using a competitive bidding process, the Supreme Court and the SCAO may develop a statewide electronic filing system to facilitate statewide electronic filing of court documents.

The SCAO must be reimbursed annually from the Fund for all reasonable costs associated with the administration of Section 176, including judicial and staff training, on-site management assistance, and software development and conversion.

The State Treasurer must credit to the Fund deposits of proceeds from the collection of court fees as provided in the Act, as well as all income from investment of the Fund. The State Treasurer may invest money in the Fund in any manner authorized by law for the investment of State money, but an investment may not interfere with any apportionment, allocation, or payment of money as required by Section 176. The unencumbered balance in the Fund at the end of a fiscal year must remain in the Fund and not revert to the General Fund.

Senate Bill 533

The bill provides that a court or court funding unit may not charge a fee to retrieve and inspect a document on site, including a document that was filed electronically, but may charge a fee to copy a document.

MCL 600.1990-600.1993 (S.B. 531)
600.176 (S.B. 532)
600.1988 (S.B. 533)
600.1985 (H.B. 5028)
600.1986 & 600.1987 (H.B. 5029)
600.1989 (H.B. 5030)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bills will have no fiscal impact on local government and an indeterminate, though likely small, fiscal impact on the State. The State Court Administrative Office estimates that the cost of the statewide e-filing system will be between \$40.0 million and \$45.0 million over five years, including both the initial setup costs and ongoing costs. It is unknown what portion of the cost will be for initial setup and what portion will be needed for ongoing expenses of the system. The new e-filing fees will be deposited into the Judicial Electronic Filing Fund in the State Treasury to be used to pay the cost of implementation, operation, and maintenance of the e-filing system. The SCAO estimates that the fees will generate approximately \$8.3 million per year, or \$41.5 million over five years. If the money in the Judicial Electronic Filing Fund is not sufficient to pay for the system, the remainder will be paid from General Fund/General Purpose revenue.

The fees may not be collected after February 28, 2021. After that date, the balance and earnings of the Judicial Electronic Filing Fund, if any, will be used to pay the ongoing costs of the e-filing system, and the remainder of those costs will be paid from General Fund/General Purpose revenue.

Fiscal Analyst: Ryan Bergan

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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.