

Legislative Analysis



METHODS FOR PERSONAL SERVICE OF PROCESS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4666 (proposed substitute H-1)
Sponsor: Rep. Jim Runestad

Analysis available at
<http://www.legislature.mi.gov>

House Bill 4670 (proposed substitute H-1)
Sponsor: Rep. Joseph Bellino

Committee: Judiciary
Complete to 10-31-17

BRIEF SUMMARY:

House Bill 4666 would amend the procedure for providing proof of service of process under the Revised Judicature Act. (MCL 600.1910)

House Bill 4670 would incorporate false certification of personal service as a felony violation into the Code of Criminal Procedure. (MCL 777.15d)

Note: Service of process refers to the formal procedure whereby a party to a lawsuit is notified that a legal action has been initiated. The documents served—a court summons and a copy of the plaintiff’s complaint—are collectively referred to as “process,” and give a defendant the notice required in order for the court to exercise personal jurisdiction over the defendant. Service can be either personal/actual or constructive/substituted, with personal service referring to actual delivery to the person to whom it is directed and constructive service to any other method of service allowed by law in place of personal service, such as service by mail.

DETAILED SUMMARY:

Currently under the Act, proof of service may be made by written acknowledgement of the receipt of the process, a certificate stating the facts of service if made by a sheriff or other related official, or an affidavit stating the facts of service if made by any other person.

House Bill 4666 would retain the first two methods, and amend the third, so that the document would be a certificate instead of an affidavit and would include a statement that the individual asserts the truth of the proof of service under penalty of perjury.

The bill would provide that a person who intentionally makes a false declaration under the statement would be guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$2,000, or both.

House Bill 4670 would incorporate that penalty into the Code of Criminal Procedure, so that the statutory maximum sentence for the Class C felony “Proof of service of process: false declaration of personal service” would be 15 years.

The bill would also update the descriptions of other unrelated felonies within the Code.

HBs 4666 and 4670 would take effect 90 days after enactment, and are tie-barred together, meaning neither could take effect unless both are enacted.

FISCAL IMPACT:

House Bill 4666 would have an indeterminate fiscal impact on the state's correctional system and on local court systems. The number of people who would be convicted under provisions of the bill is unknown, but new felony convictions would result in increased costs related to state prisons and state probation supervision. In fiscal year 2016, the average cost of prison incarceration in a state facility was roughly \$36,000 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$3,500 per supervised offender in the same year. The fiscal impact on local court systems would depend on how provisions of the bill affected caseloads and related administrative costs. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

House Bill 4670 amends sentencing guidelines and would not have a direct fiscal impact on the state or on local units of government.

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