



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



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

Senate Bill 420 (as introduced 8-20-19)  
Sponsor: Senator Peter J. Lucido  
Committee: Judiciary and Public Safety

Date Completed: 12-4-19

## **CONTENT**

**The bill would amend the Revised Judicature Act to do the following:**

- **Extend, from 90 to 180, the maximum number of days an execution would have to be made returnable after its effective date.**
- **Allow an officer who served an execution to physically or constructively seize property subject to execution.**
- **Specify that if an execution were received by a person who was not an officer, he or she could not serve the execution but would have to deliver it promptly to the issuing court.**
- **Modify certain circumstances under which a fee would be allowed for process or papers served out of a court in the State by a person authorized to serve process.**

### Execution of Court Judgment

Under the Act, whenever a judgment is rendered in any court, execution to collect it may be issued to the sheriff, bailiff, or other proper officer of any county, district, court district or municipality of the State. After receiving an execution, the officer who receives it must indorse on it the year, month, day, and hour of receiving it, and that time is the effective date of the execution.

The bill would define "execution" as an order for the seizure of property, as that term is defined in Section 2559 (described below).

"Officer" would mean either of the following:

- A sheriff or deputy sheriff, acting in the county he or she serves or under Section 582(a).
- A person acting at the direction of the court that issued the execution and that, before the execution was issued, appointed the person a court officer in accordance with the general court rules or by ex parte motion and order.

The Act requires an execution to be made returnable at least 20, and not more than 90, days after its effective date. Instead, under the bill, an execution would have to be made returnable at least 20 and not more than 180 days after its effective date.

The bill would allow an officer who served an execution to physically or constructively seize property subject to execution. To execute a constructive seizure, the officer would have to prominently post or attach to the property a notice stating that the property had been seized under an execution, the date the seizure commenced, and the officer's name, address, and

phone number. The officer could, but would not have to, immobilize or disable property that was seized constructively.

If an execution were received by a person who was not an officer, he or she could not serve the execution but would have to deliver it promptly to the issuing court.

### Schedule of Fees

Section 2559 of the Act includes a prescribed schedule of fees allowed for process or papers served out of a court in the State by a person authorized under the Act or Michigan Supreme Court to serve process.

If a person has seized property under an order for the seizure of property issued in an action in which judgment is entered against the owner of the property, regardless of whether the judgment is entered before or after the order is issued, and if the judgment is satisfied before sale of the seized property by full payment of the judgment or settlement between the parties, the fee is 7.0% of the first \$8,000 of the payment or settlement amount and 3.0% of the payment or settlement amount exceeding the first \$8,000. The bill would refer to if a person had seized property *physically or constructively*. The bill also would refer to a judgment satisfied in whole *or in part*, instead of full payment of the judgment.

For sale of property seized under an order for the seizure of property, the fee is 7.0% of the first \$8,000 of the amount received and 3.0% of any amount received exceeding the first \$8,000. The bill, instead, would refer to *money seized or received* or for property seized *and sold*.

"Order for the seizure of property" includes a writ of attachment and a writ of execution. Under the bill, the term also would include an order to seize property.

Under the Act, the person authorized to serve process or papers may collect mileage in addition to the prescribed fee for certain process or papers served. Mileage is allowed at one and one-half times the rate allowed by the State Civil Service Commission for employees in the State classified civil service. The bill specifies that the mileage allowed could be collected for each defendant, garnishee, and person served.

MCL 600.2559 et al.

Legislative Analyst: Stephen Jackson

### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government. Although the bill would include money within the types of property for which an officer could charge a fee to seize, would allow a fee to be charged for the constructive seizure (in addition to the physical seizure) of property, and would double the time limit for which a court order must be executed, the fees in question do not remit to the local courts or to the State, but to the officers executing those orders. Because none of the fees affected by the bill create revenue for the State or local units of government, the bill would have no fiscal impact.

Fiscal Analyst: Michael Siracuse

SAS\S1920\s420sa

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.