

SENATE BILL NO. 420

August 20, 2019, Introduced by Senator LUCIDO and referred to the Committee on Judiciary and Public Safety.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 2559, 6002, and 6012 (MCL 600.2559, 600.6002,
and 600.6012), section 2559 as amended by 2018 PA 261.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2559. (1) Except as provided in subsection (7), the
2 following is the schedule of fees allowed for process or papers
3 served out of a court in this state by a person authorized under
4 this act or supreme court rule to serve process:

(a) For personal service of a summons and complaint in a civil action, along with supporting documents, for each defendant, \$26.00 plus mileage.

(b) For personal service of an affidavit and account, for each defendant, \$26.00 plus mileage.

(c) For a request for and writ of garnishment, for each garnishee and defendant, \$23.00 plus mileage.

(d) For personal service of an order to seize goods that are the subject of a claim and delivery action, \$40.00 plus mileage, plus the actual and reasonable expense of seizing, keeping, and delivering the goods.

(e) For receiving and filing a bond from or on behalf of a defendant in a claim and delivery action, \$20.00.

(f) For an order to show cause, for each person served, \$26.00 plus mileage.

(g) For a subpoena on discovery, for each person served, \$26.00 plus mileage.

(h) For levying under or serving an order for the seizure of property and any accompanying paper, \$40.00 plus mileage, plus the actual and reasonable expense of seizing and keeping the property under the order.

(i) If the person has seized property, **physically or constructively**, under an order for the seizure of property issued in an action in which a 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 **in whole or in part** before sale of the seized property by ~~full payment of the judgment~~ **payments to the person** or settlement between the parties, 7% of the first \$8,000.00 of the ~~payment~~ **payments** or

1 settlement amount and 3% of the ~~payment~~ **payments** or settlement
2 amount exceeding the first \$8,000.00.

3 (j) For ~~sale of money seized or received or for~~ property
4 seized **and sold** under an order for the seizure of property, 7% of
5 the first \$8,000.00 ~~in receipts of the amount received~~ and 3% of
6 any ~~receipts~~ **amount received** exceeding the first \$8,000.00.

7 (k) For each notice of sale under an order for the seizure of
8 property or construction lien posted in a public place in the city
9 or township, \$26.00 plus mileage.

10 (l) For an order of eviction or a writ for the restitution of
11 premises, for each defendant, \$40.00 plus mileage, plus the actual
12 and reasonable expense for the physical removal of property from
13 the premises.

14 (m) For a subpoena directed to a witness, including a judgment
15 debtor, \$26.00 plus mileage.

16 (n) For a civil bench warrant or body execution, \$40.00 plus
17 mileage, plus a reasonable fee per hour for the amount of time
18 involved in executing the warrant.

19 (o) For service by mail, \$13.00 plus the actual cost of
20 postage.

21 (p) For each verification by a process server, \$10.00 plus
22 mileage.

23 (q) For each postal change of address verification requested
24 by the plaintiff, \$10.00.

25 (r) For each global positioning service verification requested
26 by the plaintiff, \$5.00.

27 (s) For each photo verification requested by the plaintiff,
28 \$5.00.

29 (2) On submitting a sworn affidavit, a person authorized by

1 this act or supreme court rule to serve process or papers out of a
2 court in this state is entitled to receive a \$10.00 fee plus
3 mileage for each process that has an incorrect address. This fee is
4 in addition to any fee the person is entitled to receive under
5 subsection (1).

6 (3) Mileage is allowed under subsection (1) **for each**
7 **defendant, garnishee, and person served** at 1-1/2 times the rate
8 allowed by the state civil service commission for employees in the
9 state classified civil service. Mileage is computed, each way,
10 using the shortest reasonable route from the place where the court
11 that issued or filed the process or paper is located to the place
12 of service.

13 (4) The fees and expenses allowed under subsection (1)(h) to
14 (k) must be collected in the same manner as the sum directed to be
15 levied or collected under the order for the seizure of property. If
16 at the time of advertising property for sale a sheriff or other
17 officer has several orders for the seizure of property against the
18 same defendant, the sheriff or officer shall charge only 1
19 advertising fee on the whole, and shall elect on which order he or
20 she will receive the fee.

21 (5) A person authorized by this act or supreme court rule to
22 serve process or papers out of a court in this state who demands
23 and receives a greater fee or compensation for performing a service
24 mentioned in this section than allowed by this section is, in
25 addition to all other liability provided by law, liable to the
26 party injured by paying the illegal fees for 3 times the amount of
27 illegal fees actually paid and all costs of the action.

28 (6) A sheriff or other officer who, after the fees specified
29 by this section have been tendered, neglects or refuses a service

1 required by law is liable to the party injured for all damages that
2 the party sustains as a result of the neglect or refusal.

3 (7) A person authorized under this act or supreme court rule
4 to serve process may charge a fee for service of process that
5 exceeds the fee prescribed under this section or other law if the
6 fee is agreed to in advance in writing by the person serving
7 process and the person requesting the service.

8 (8) Regardless of whether a fee charged or paid for service of
9 process exceeds the fee prescribed by this section or other law,
10 including a fee allowed under subsection (7), a person entitled to
11 tax costs shall not attempt to tax and is not entitled to recover a
12 fee for service of process that exceeds the fee prescribed by this
13 section or other law.

14 (9) As used in this section, "order for the seizure of
15 property" includes **an order to seize property**, a writ of
16 attachment, and a writ of execution, including, but not limited to,
17 execution in a claim and delivery action on property other than the
18 property that is the subject of the claim and delivery action.

19 Sec. 6002. (1) ~~Upon~~**On** receipt of ~~any~~**an** execution, the
20 ~~sheriff or other officer receiving~~**who receives** the execution shall
21 indorse ~~thereon~~**on the execution** the year, month, day, and hour of
22 receipt, and that time ~~shall be~~**is** the **effective** date of the
23 execution.

24 (2) ~~Executions shall~~**An execution must** be made returnable not
25 less than 20 ~~, nor~~**and not** more than ~~90,~~**180** days ~~from that~~
26 ~~date~~**after the effective date of the execution**.

27 (3) ~~When~~**If** an officer has begun to serve an execution issued
28 out of any court ~~, on~~**on** or before the return day of the execution, ~~he~~
29 **the officer** may complete service and return after the return date.

(4) An officer who serves an execution may physically or constructively seize property subject to execution. To effect a constructive seizure, the officer shall prominently post or attach to the property a notice stating that the property has been seized under an execution, the date the seizure commenced, and the name, address, and phone number of the officer. The officer may, but is not required to, immobilize or disable property that is constructively seized.

(5) ~~(4) When~~ If an officer has begun to serve an execution and dies ~~,~~ or becomes incapable of completing service and return, any other officer who might by law have originally served the execution ~~,~~ may complete ~~it.~~ **the service**. If the first officer fails to make a certificate, the second officer shall do so, including the ~~doings~~ **actions** of both officers ~~therein.~~ **in the certificate**. If the first officer makes a certificate, the second officer shall make a certificate as to his **or her** own ~~doings~~ **actions** in completing service.

(6) ~~(5)~~ If there are joint or joint and several obligors and jurisdiction was not acquired over all of them, the names of those over whom jurisdiction was not acquired ~~shall~~ **must** be indorsed on ~~the~~ **an** execution.

(7) If an execution is received by a person that is not an officer, the person shall not serve the execution but shall promptly deliver the execution to the issuing court.

(8) As used in this section:

(a) "Execution" means an order for the seizure of property, as that term is defined in section 2559.

(b) "Officer" means a person that is either of the following:

(i) A sheriff or deputy sheriff, acting in the county the

1 sheriff or deputy sheriff serves or under section 582(a).

2 (ii) A person acting at the direction of the court that issued
3 the execution and that, before the execution was issued, appointed
4 the person a court officer in accordance with the general court
5 rules or by ex parte motion and order.

6 Sec. 6012. ~~Whenever an~~**If an** execution ~~issues~~**is issued**
7 against the property of ~~any~~**a** person, ~~his~~**the person's** goods and
8 chattels, **and** lands and tenements, levied ~~upon~~**on** by ~~such~~**the**
9 execution, ~~shall be~~**are** bound from the ~~time of such levy~~**effective**
10 **date of the execution.**