

SERVICE OF PROCESS FEES

House Bill 4899

Sponsor: Rep. Larry Julian

Committee: Criminal Justice

Complete to 10-21-03

A SUMMARY OF HOUSE BILL 4899 AS INTRODUCED 6-26-03

The Revised Judicature Act (RJA) specifies that sheriffs and other officers serving any processes or papers are entitled to “traveling fees” from the county seat to the place of service. The bill would amend this provision so that any person authorized by the RJA or Supreme Court rules to serve process or papers issued by or filed with a court in the state would be entitled to traveling fees from the place where the court that issued or filed the process or paper is located to the place of service, though not exceeding 75 miles each way. The bill would revise the schedule of fees, which currently are for service out of “circuit court, the probate court, the district court, or any municipal court”, and would make them apply to process or papers served out of *a court in the state*. The current fee schedule is as follows:

Type of Service	Current Fee
Personal service - summons and complaint in civil action (per defendant)	\$16 + mileage
Personal service - affidavit of account and statement (per defendant)	\$16 + mileage
Garnishment summons and affidavit (for each garnishee and defendant)	\$13 + mileage
Seizure and delivery of goods in a case of claim and delivery	\$30 + mileage + reasonable expenses
Receiving and filing a defendant's bond in a case of claim and delivery	\$2
Order to show cause	\$16 + mileage
Subpoena on discovery	\$16 + mileage
Writ, affidavit, bond in a case of attachment	\$16 + mileage
Property seizure in attachment case	\$30 + mileage + reasonable expenses
Levy under writ of execution	\$30 + mileage + reasonable expenses
Levy under writ of execution - additional fee as a result of satisfaction of judgment prior to sale	7% of the first \$5,000 in receipts + 3% of receipts exceeding the first \$5,000
Sale on levy in case of execution or mechanics lien	\$16 + mileage
Writ for restitution or premises (eviction)	\$30 + mileage + reasonable expenses
Subpoena directed to a witness (including judgment debtor)	\$16 + mileage
Civil bench warrant or body execution	\$30 + mileage + \$13/hour for executing the warrant

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The bill's proposed fee schedule would apply to process or papers served out of a court in the state as follows:

Type of Service	Proposed Fee
Personal service - summons and complaint in a civil action (per defendant)	\$18 + mileage
Personal service - affidavit and account (per defendant)	\$18 + mileage
Request for and writ of garnishment (per garnishee and defendant)	\$15 + mileage
Personal service - order to seize goods subject to claim and delivery action.	\$32 + mileage + reasonable expenses
Receiving and filing a bond from and on behalf of a defendant in a claim and delivery action.	\$12
Order to show cause (per person served)	\$18 + mileage
Subpoena on discovery (per person served)	\$18 + mileage
Levying under or serving an order for the seizure of property	\$32 + mileage + reasonable expenses
Order for seizure of property if issued in an action in which a judgment against the owner of the property, and if satisfied prior to the sale or settlement between parties.	7% of the first \$5,000 in payments or settlement amounts + 3% of payments or settlements exceeding the first \$5,000
Sale of property seized under an order for the seizure of property	7% of the first \$5,000 in receipts + 3% of receipts exceeding the first \$5,000
Each notice of sale under an order for the seizure of property or construction lien posted in a public place in the city or township	\$18 + mileage
Order of eviction or writ for the restitution of premises (per defendant)	\$32 + mileage + reasonable expenses
Subpoena directed to a witness, including a judgment debtor.	\$18 + mileage
Civil bench warrant or body execution.	\$32 + mileage + a reasonable hourly fee for time involved in executing the warrant
Service by mail	\$5 + actual cost of postage

The RJA provides that a person who serves process is entitled to receive a \$10 fee (in addition to the appropriate fee above) for each process that has an incorrect address. The bill would add that the person would also receive a reimbursement for mileage.

The RJA also provides that the mileage reimbursement is equal to the rate set by the civil service commission for employees in the classified civil service system. Currently the rate is 36 cents. The bill would provide that the allowable mileage would be 1.5 times the rate allowed by the civil service commission (54 cents for 2003). In addition, under the RJA, the mileage is computed differently, depending on the court and the location of the service. Under the bill, the

mileage would be calculated, by the shortest distance from the place where the court that issued or filed the process is located to the place of service.

Also, under the bill, an “order of seizure of property” would include a writ of attachment and a writ of execution, including, though not limited to, execution in a claim and delivery action on property other than the property that is the subject of the claim and delivery action.

MCL 600.2555 and 600.2559

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.