



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

BILL



ANALYSIS

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

Senate Bill 1043 (as enrolled)  
Sponsor: Senator Mike Nofs  
Senate Committee: Judiciary  
House Committee: Judiciary

Date Completed: 1-3-13

### **CONTENT**

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

- **Increase process server fees by \$2, and require the fees to be increased by \$1 on October 1 in 2013, 2014, and 2015.**
- **Allow a process server to receive 7% of the first \$8,000, rather than the first \$5,000, of a payment or settlement amount or the receipts of a sale, in the case of property seized under an order.**
- **Establish a \$10 fee for each verification by a process server and each postal change of address verification requested by a plaintiff.**

- **Allow a fee for service of process to exceed the prescribed fee, if agreed to in advance.**
- **Prohibit a person entitled to tax costs from attempting to tax or recover a service of process fee that exceeded the prescribed fee.**

The Act prescribes a schedule of fees for process or papers served out of a court in this State by a person authorized under the Act or Supreme Court rule to serve process. The current fees are shown in Table 1. (The fees listed in the table are \$3 higher than the amounts shown in the Act, which were set in 2003 and increased by \$1 in 2004, 2005, and 2006.)

Table 1

<b>Description</b>	<b>Current Fee</b>
Personal service of civil summons & complaint, for each defendant	\$21
Personal service of affidavit & account, for each defendant	\$21
Request for & writ of garnishment, for each garnishee & defendant	\$18
Personal service of order to seize goods subject to claim & delivery action	\$35
Receiving & filing bond from or for a defendant in claim & delivery action	\$15
Order to show cause, for each person served	\$21
Subpoena on discovery, for each person served	\$21
Levy under or service of order to seize property & any accompanying order	\$35
Each notice of sale under order for the seizure of property or construction lien posted in a public place in the city or township	\$21
Order of eviction or writ for restitution of premises, for each defendant	\$35
Subpoena directed to a witness, including a judgment debtor	\$21
Civil bench warrant or body execution	\$35
Service by mail	\$8

The bill would increase each of the fees listed in Table 1 by \$2, and require the fees to be increased by \$1 on October 1, 2013, October 1, 2014, and October 1, 2015.

The bill would add the following fees:

- For each verification by a process server: \$10 plus mileage.
- For each postal change of address verification requested by the plaintiff: \$10.

Currently, if a person authorized to serve process has seized property under an order for the seizure of property issued in an action in which a judgment is entered against the property owner, and if the judgment is satisfied by full payment of the judgment or settlement between the parties before the property is sold, the fee is 7% of the first \$5,000 of the payment or settlement amount and 3% of the amount over the first \$5,000.

For the sale of property seized under an order for the seizure of property, the fee is 7% of the first \$5,000 in receipts and 3% of any receipts over the first \$5,000.

The bill would increase those fees to 7% of the first \$8,000 and 3% of the amount over the first \$8,000.

The bill would allow a person who was authorized to serve process under the Act or Supreme Court rule to charge a fee that exceeded the fee prescribed in law, but only if the fee were agreed to in advance and in writing by the process server and the person requesting service. The bill also provides that, regardless of whether a fee charged or paid for service of process exceeded the fee prescribed in law, a person entitled to tax costs could not attempt to tax, and would not be entitled to recover, a fee for service of process that exceeded the fee prescribed by law.

In some cases, the prescribed fees include mileage or expenses, or both. Mileage must be 1.5 times the rate allowed by the Civil Service Commission for classified State employees, and must be computed

each way using the shortest distance from the place where the court is located to the place of service. The bill would refer to the shortest "reasonable route", rather than the shortest distance.

MCL 600.2559

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bill would have a limited indeterminate impact on State and local government. Process server fees are paid by litigants, with the fees going to those who serve papers or process. In cases in which a State or local government is a litigant, there would be minor costs due to the increased fees. County sheriffs sometimes provide process service and would see a minor increase in revenue from the fees.

Fiscal Analyst: Steve Angelotti

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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.