

# HOUSE BILL No. 5796

August 15, 2012, Introduced by Reps. Constan, Darany, Kandrevas and Meadows and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled  
"Revised judicature act of 1961,"  
by amending sections 321 and 2529 (MCL 600.321 and 600.2529),  
section 321 as amended by 2011 PA 130 and section 2529 as amended  
by 2009 PA 239.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 321. (1) The following fees shall be paid to the clerk of  
2       the court of appeals and may be taxed as costs if costs are allowed  
3       by order of the court:

4       (a) For an appeal as of right, for an application for leave to  
5       appeal, or for an original proceeding, \$375.00. This fee shall be  
6       paid only once for appeals that are taken by multiple parties from  
7       the same lower court order or judgment and can be consolidated.

8       (b) Upon the entry of any motion except a motion described in  
9       subdivision (c) upon the motion docket, \$100.00.

1 (c) Upon the entry of a motion for immediate consideration or  
2 a motion to expedite appeal upon the motion docket, \$200.00. This  
3 fee shall be paid only once regardless of the number of lower court  
4 files involved in the appeal. ~~A prosecuting attorney is exempt from~~  
5 ~~paying a fee under this subdivision with regard to an appeal~~  
6 ~~arising out of a criminal proceeding.~~

7 (2) A PROSECUTING ATTORNEY IS EXEMPT FROM PAYING ANY OF THE  
8 FEES DESCRIBED IN SUBSECTION (1).

9 (3) ~~(2)~~—The clerk of the court of appeals shall charge 50  
10 cents per page for certified copies of entries or papers in any  
11 action or proceedings when required for any other purpose than one  
12 connected with the progress or disposition of the action or  
13 proceeding.

14 (4) ~~(3)~~—The clerk shall charge 50 cents per page for all  
15 uncertified copies of opinions, except those sent to 1 counsel  
16 representing each party in the case, for which no charge shall be  
17 made.

18 (5) ~~(4)~~—If a person is unable to pay the fees required by this  
19 section, the person, by motion, accompanied by the person's  
20 affidavit stating facts showing that inability, may ask the court  
21 to waive the fees and the court or a judge of the court may waive  
22 payment of the fees.

23 (6) ~~(5)~~—Each month the clerk of the court of appeals shall  
24 deposit with the state treasurer all fees collected and obtain and  
25 file a receipt for the fees deposited.

26 (7) ~~(6)~~—Costs shall be awarded in the discretion of the court.

27 Sec. 2529. (1) In the circuit court, the following fees shall

1 be paid to the clerk of the court:

2 (a) Before a civil action other than an action brought  
3 exclusively under section 2950, 2950a, or 2950h to 2950m is  
4 commenced, or before the filing of an application for  
5 superintending control or for an extraordinary writ, except a writ  
6 of habeas corpus, the party bringing the action or filing the  
7 application shall pay \$150.00. The clerk at the end of each month  
8 shall transmit for each fee collected under this subdivision within  
9 the month \$31.00 to the county treasurer and the balance of the  
10 filing fee to the state treasurer for deposit in the civil filing  
11 fee fund created in section 171.

12 (b) Before the filing of a claim of appeal or motion for leave  
13 to appeal from the district court, probate court, a municipal  
14 court, or an administrative tribunal or agency, the appellant or  
15 moving party shall pay \$150.00. **A PROSECUTING ATTORNEY IS EXEMPT**  
16 **FROM PAYING THE FEE DESCRIBED IN THIS SUBDIVISION.** For each fee  
17 collected under this subdivision, the clerk shall transmit \$31.00  
18 to the county treasurer and the balance of the fee to the state  
19 treasurer for deposit in the civil filing fee fund created in  
20 section 171.

21 (c) At the time a trial by jury is demanded, the party making  
22 the demand shall pay \$85.00. Failure to pay the fee at the time the  
23 demand is made constitutes a waiver of the right to a jury trial.  
24 The fee paid shall be taxed in favor of the party paying it if the  
25 party recovers a judgment for costs. For each fee collected under  
26 this subdivision, the clerk shall transmit \$25.00 to the state  
27 treasurer for deposit in the juror compensation reimbursement fund

1 created in section 151d.

2 (d) Before entry of a final judgment or order in an action in  
3 which the custody, support, or parenting time of minor children is  
4 determined or modified, the party submitting the judgment or order  
5 shall pay 1 of the following fees:

6 (i) In an action in which the custody or parenting time of  
7 minor children is determined, \$80.00.

8 (ii) In an action in which the support of minor children is  
9 determined or modified, \$40.00. This fee does not apply when a fee  
10 is paid under subparagraph (i).

11 (e) Except as otherwise provided in this section, upon the  
12 filing of a motion, the moving party shall pay \$20.00. In  
13 conjunction with an action brought under section 2950 or 2950a, a  
14 motion fee shall not be collected for a motion to dismiss the  
15 petition, a motion to modify, rescind, or terminate a personal  
16 protection order, or a motion to show cause for a violation of a  
17 personal protection order. A motion fee shall not be collected for  
18 a motion to dismiss a proceeding to enforce a foreign protection  
19 order or a motion to show cause for a violation of a foreign  
20 protection order under sections 2950h to 2950m. A motion fee shall  
21 not be collected for a request for a hearing to contest income  
22 withholding under section 7 of the support and parenting time  
23 enforcement act, 1982 PA 295, MCL 552.607. For each fee collected  
24 under this subdivision, the clerk shall transmit \$10.00 to the  
25 state treasurer for deposit in the state court fund created by  
26 section 151a.

27 (f) For services under the direction of the court that are not

1 specifically provided for in this section related to receiving,  
2 safekeeping, or expending money, purchasing, taking, or  
3 transferring a security, or collecting interest on a security, a  
4 party shall pay the allowance and compensation that the court  
5 determines to be just as ordered by the court after notice to the  
6 parties.

7 (g) Upon appeal to the court of appeals or the supreme court,  
8 the appellant shall pay \$25.00. **A PROSECUTING ATTORNEY IS EXEMPT**  
9 **FROM PAYING THE FEE DESCRIBED IN THIS SUBDIVISION.**

10 (h) The applicant or requesting party shall pay \$15.00 as a  
11 service fee for each writ of garnishment, attachment, or execution  
12 and each judgment debtor discovery subpoena issued.

13 (2) The fees paid as provided in this section are payment in  
14 full for all clerk, entry, and judgment fees in an action from the  
15 commencement of the action to and including the issuance and return  
16 of the execution or other final process, and are taxable as costs.

17 (3) Except as otherwise provided in this section, the fees  
18 paid under this section shall be paid to the county treasurer as  
19 required by law.

20 (4) At the end of each month, each fee collected under  
21 subsection (1)(d)(i) shall be paid to the county treasurer and  
22 deposited by the county treasurer as provided under section 2530 to  
23 be used to fund services that are not title IV-D services. The fee  
24 collected under subsection (1)(d)(ii) shall be paid to the county  
25 treasurer and deposited by the county treasurer as provided under  
26 section 2530.

27 (5) The court shall order any of the fees prescribed in this

1 section waived or suspended, in whole or in part, upon a showing by  
2 affidavit of indigency or inability to pay.

3 (6) If the person filing an action described in subsection  
4 (1)(d) is a public officer acting in his or her official capacity,  
5 if the final judgment or order is submitted with the initial filing  
6 as a consent judgment or order, or other good cause is shown, the  
7 court shall order the fee under subsection (1)(d) waived or  
8 suspended. If a fee is waived or suspended and the action is  
9 contested, the court may require that 1 or more of the parties to  
10 the action pay the fee under subsection (1)(d).

11 (7) The court may order a party to pay the other party all or  
12 part of a fee paid by the other party under subsection (1)(d).