

SENATE BILL No. 1043

March 27, 2012, Introduced by Senators NOFS, KAHN, CASWELL and JONES and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 2559 (MCL 600.2559), as amended by 2003 PA 243.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2559. (1) Except as provided in subsection (2), 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:

5 (a) For personal service of a summons and complaint in a civil
6 action, along with supporting documents, for each defendant, ~~\$18.00~~
7 **\$23.00** plus mileage.

8 (b) For personal service of an affidavit and account, for each
9 defendant, ~~\$18.00~~ **\$23.00** plus mileage.

10 (c) For a request for and writ of garnishment, for each
11 garnishee and defendant, ~~\$15.00~~ **\$20.00** plus mileage.

1 (d) For personal service of an order to seize goods that are
2 the subject of a claim and delivery action, ~~\$32.00~~**\$37.00** plus
3 mileage, plus the actual and reasonable expense of seizing,
4 keeping, and delivering the goods.

5 (e) For receiving and filing a bond from or on behalf of a
6 defendant in a claim and delivery action, ~~\$12.00~~**\$17.00**.

7 (f) For an order to show cause, for each person served, ~~\$18.00~~
8 **\$23.00** plus mileage.

9 (g) For a subpoena on discovery, for each person served,
10 ~~\$18.00~~**\$23.00** plus mileage.

11 (h) For levying under or serving an order for the seizure of
12 property and any accompanying paper, ~~\$32.00~~**\$37.00** plus mileage,
13 plus the actual and reasonable expense ~~for~~**OF** seizing and keeping
14 the property under the order.

15 (i) If the person has seized property under an order for the
16 seizure of property issued in an action in which a judgment is
17 entered against the owner of the property, regardless of whether
18 the judgment is entered before or after the order is issued, and if
19 the judgment is satisfied prior to sale of the seized property by
20 full payment of the judgment or settlement between the parties, 7%
21 of the first ~~\$5,000.00~~**\$8,000.00** of the payment or settlement
22 amount and 3% of the payment or settlement amount exceeding the
23 first ~~\$5,000.00~~**\$8,000.00**.

24 (j) For sale of property seized under an order for the seizure
25 of property, 7% of the first ~~\$5,000.00~~**\$8,000.00** in receipts and 3%
26 of any receipts exceeding the first ~~\$5,000.00~~**\$8,000.00**.

27 (k) For 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, ~~\$18.00~~ **\$23.00** plus mileage.

(l) For an order of eviction or a writ for the restitution of premises, for each defendant, ~~\$32.00~~ **\$37.00** plus mileage, plus the actual and reasonable expense for the physical removal of property from the premises.

(m) For a subpoena directed to a witness, including a judgment debtor, ~~\$18.00~~ **\$23.00** plus mileage.

(n) For a civil bench warrant or body execution, ~~\$32.00~~ **\$37.00** plus mileage, plus a reasonable fee per hour for the amount of time involved in executing the warrant.

(o) For service by mail, ~~\$5.00~~ **\$10.00** plus the actual cost of postage.

(P) FOR EACH VERIFICATION BY A PROCESS SERVER, \$10.00 PLUS MILEAGE.

(Q) FOR EACH POSTAL CHANGE OF ADDRESS VERIFICATION REQUESTED BY THE PLAINTIFF, \$10.00.

(2) Each of the fees prescribed in subsection ~~(1)~~ **(1) (A) TO (O)** shall increase by \$1.00 on October 1, ~~2004~~, **2013**, \$1.00 on October 1, ~~2005~~, **2014**, and \$1.00 on October 1, ~~2006~~ **2015**.

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

(4) Mileage allowed under subsection (1) shall be 1-1/2 times

1 the rate allowed by the state civil service commission for
 2 employees in the state classified civil service. Mileage shall be
 3 computed, each way, ~~by USING~~ the shortest ~~distance~~ **REASONABLE ROUTE**
 4 from the place where the court that issued or filed the process or
 5 paper is located to the place of service.

6 (5) The fees and expenses allowed under subsection (1)(h) to
 7 (k) shall be collected in the same manner as the sum directed to be
 8 levied or collected under the order for the seizure of property. If
 9 ~~there are~~ **AT THE TIME OF ADVERTISING PROPERTY FOR SALE A SHERIFF OR**
 10 **OTHER OFFICER HAS** several orders for the seizure of property
 11 against the **SAME** defendant, ~~at the time of advertising the~~
 12 ~~defendant's property for sale, in the hands of the same sheriff or~~
 13 ~~other officer,~~ only 1 advertising fee shall be charged on the
 14 whole, and the sheriff or other officer shall elect upon which
 15 order he or she will receive that fee.

16 (6) A person authorized by this act or supreme court rule to
 17 serve process or papers out of a court in this state who demands
 18 and receives a greater fee or compensation for performing a service
 19 mentioned in this section than allowed by this section ~~shall,~~ **IS,**
 20 in addition to all other ~~liabilities~~ **LIABILITY** provided by law, be
 21 liable to the party injured by paying the illegal fees for 3 times
 22 the amount of illegal fees actually paid ~~, together with~~ **AND** all
 23 costs of the action.

24 (7) A sheriff or other officer who, after the fees specified
 25 by this section have been tendered, neglects or refuses a service
 26 required by law is liable to the party injured for all damages that
 27 the party sustains ~~by reason~~ **AS A RESULT** of that neglect or

1 refusal.

2 (8) As used in this section, "order for the seizure of
3 property" includes a writ of attachment and a writ of execution,
4 including, but not limited to, execution in a claim and delivery
5 action on property other than the property that is the subject of
6 the claim and delivery action.