

HOUSE BILL No. 4924

September 29, 2015, Introduced by Reps. Poleski and Chirkun 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 2012 PA 558.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2559. (1) Except as provided in subsections (2) and (8),
2 the 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, ~~\$23.00~~
7 \$25.00 plus mileage.

8 (b) For personal service of an affidavit and account, for each
9 defendant, ~~\$23.00~~ \$25.00 plus mileage.

1 (c) For a request for and writ of garnishment, for each
2 garnishee and defendant, ~~\$20.00~~ **\$22.00** plus mileage.

3 (d) For personal service of an order to seize goods that are
4 the subject of a claim and delivery action, ~~\$37.00~~ **\$39.00** plus
5 mileage, plus the actual and reasonable expense of seizing,
6 keeping, and delivering the goods.

7 (e) For receiving and filing a bond from or on behalf of a
8 defendant in a claim and delivery action, ~~\$17.00~~ **\$19.00**.

9 (f) For an order to show cause, for each person served, ~~\$23.00~~
10 **\$25.00** plus mileage.

11 (g) For a subpoena on discovery, for each person served,
12 ~~\$23.00~~ **\$25.00** plus mileage.

13 (h) For levying under or serving an order for the seizure of
14 property and any accompanying paper, ~~\$37.00~~ **\$39.00** plus mileage,
15 plus the actual and reasonable expense of seizing and keeping the
16 property under the order.

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

26 (j) For sale of property seized under an order for the seizure
27 of property, 7% of the first \$8,000.00 in receipts and 3% of any

1 receipts exceeding the first \$8,000.00.

2 (k) For each notice of sale under an order for the seizure of
3 property or construction lien posted in a public place in the city
4 or township, ~~\$23.00~~ **\$25.00** plus mileage.

5 (l) For an order of eviction or a writ for the restitution of
6 premises, for each defendant, ~~\$37.00~~ **\$39.00** plus mileage, plus the
7 actual and reasonable expense for the physical removal of property
8 from the premises.

9 (m) For a subpoena directed to a witness, including a judgment
10 debtor, ~~\$23.00~~ **\$25.00** plus mileage.

11 (n) For a civil bench warrant or body execution, ~~\$37.00~~ **\$39.00**
12 plus mileage, plus a reasonable fee per hour for the amount of time
13 involved in executing the warrant.

14 (o) For service by mail, ~~\$10.00~~ **\$12.00** plus the actual cost of
15 postage.

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

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

20 **(R) FOR EACH GLOBAL POSITIONING SERVICE VERIFICATION REQUESTED**
21 **BY THE PLAINTIFF, \$10.00.**

22 **(S) FOR EACH PHOTO VERIFICATION REQUESTED BY THE PLAINTIFF,**
23 **\$10.00.**

24 (2) Each of the fees prescribed in subsection (1)(a) to ~~(e)~~
25 ~~shall increase~~ **(H) AND (K) TO (S) INCREASES** by ~~\$1.00 on October 1,~~
26 ~~2013, \$1.00 on October 1, 2014, and \$1.00 on October 1, 2015.~~

27 (3) Upon 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~~ **\$15.00** 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 (4) Mileage **IS** allowed under subsection (1) ~~shall be~~ **AT** 1-1/2
7 times the rate allowed by the state civil service commission for
8 employees in the state classified civil service. Mileage ~~shall be~~
9 **IS** computed, each way, using the shortest reasonable route from the
10 place where the court that issued or filed the process or paper is
11 located to the place of service.

12 (5) The fees and expenses allowed under subsection (1)(h) to
13 (k) ~~shall~~ **MUST** be collected in the same manner as the sum directed
14 to be levied or collected under the order for the seizure of
15 property. If at the time of advertising property for sale a sheriff
16 or other officer has several orders for the seizure of property
17 against the same defendant, **THE SHERIFF OR OFFICER SHALL CHARGE**
18 only 1 advertising fee ~~shall be charged~~ on the whole, and the
19 ~~sheriff or other officer~~ shall elect ~~upon~~ **ON** which order he or she
20 will receive ~~that~~ **THE** fee.

21 (6) 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.

1 (7) A sheriff or other officer who, after the fees specified
2 by this section have been tendered, neglects or refuses a service
3 required by law is liable to the party injured for all damages that
4 the party sustains as a result of ~~that~~**THE** neglect or refusal.

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

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

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

21 Enacting section 1. This amendatory act takes effect 90 days
22 after the date it is enacted into law.