

HOUSE BILL NO. 6497

November 09, 2022, Introduced by Rep. Filler and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 5735 and 5738 (MCL 600.5735 and 600.5738),
section 5735 as amended by 2004 PA 105, and by adding sections 5740
and 5740a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5735. (1) The court in which a summary proceeding is
2 commenced shall issue a summons ~~, which~~ **immediately on filing the**
3 **complaint. The summons** may be served on the defendant by any
4 officer or person authorized to serve process of the court. The
5 summons ~~shall~~ **must** command the defendant to appear for trial **before**

1 **a judge or district court magistrate** in accordance with ~~the~~
2 ~~provisions of~~ subsection (2) unless by local court rule ~~the~~
3 ~~provisions of~~ subsection (4) ~~have~~ **has** been made applicable.

4 (2) A summons issued under this section ~~shall~~ **must** command the
5 defendant to appear for trial as follows:

6 (a) Within 30 days ~~of~~ **after** the issuance date of the summons
7 in proceedings under section 5726, in which event the summons ~~shall~~
8 **must** be served not less than 10 days before the date set for trial.

9 (b) Within 10 days ~~of~~ **after** the issuance date of the summons
10 in all other proceedings, in which event the summons ~~shall~~ **must** be
11 served not ~~less~~ **later** than 3 days before the date set for trial.

12 (3) If a summons issued under this section is not served
13 within the time provided by subsection (2), additional summons
14 ~~shall~~ **must** be issued at the plaintiff's request in the same manner
15 and with the same effect as the original summons.

16 (4) Instead of ~~the provisions of~~ subsection (2), a court by
17 local rule may provide for the application of this subsection to
18 summary proceedings commenced in the court, in which event the
19 summons ~~shall~~ **must** command the defendant to appear as follows:

20 (a) Within 10 days after service of the summons ~~upon~~ **on** the
21 defendant in proceedings under section 5726.

22 (b) Within 5 days after service of the summons ~~upon~~ **on** the
23 defendant in all other proceedings.

24 (5) A summons issued under subsection (4) remains in effect
25 until served or quashed or until the action is dismissed, but
26 additional summons as needed for service may be issued at any time
27 at the plaintiff's request.

28 (6) ~~Except as otherwise provided by court rule, a~~ **A** summary
29 proceeding ~~shall~~ **must** be heard within 7 days after the defendant's

1 appearance or trial date and ~~shall~~**must** not be adjourned beyond
2 that time other than by stipulation of the parties either in
3 writing or on the record.

4 (7) An action to which section 5714(1)(b) applies ~~shall~~**must**
5 be heard at the time of the defendant's appearance or trial date
6 and ~~shall~~**must** not be adjourned beyond that time except for
7 extraordinary reasons.

8 (8) A summons issued under this section must include
9 information regarding the availability of legal aid and rental or
10 other housing assistance.

11 (9) A complaint filed under this section for possession of a
12 leased residential property must state the rental property has been
13 kept fit for the use intended and in reasonable repair, unless
14 modified by lease.

15 Sec. 5738. (1) ~~Any party to~~**A plaintiff in** summary proceedings
16 may demand a trial by jury ~~within the time and manner provided by~~
17 ~~court rule.~~**in the initial filing with the court, and must pay the**
18 **jury fee at that time, or the right to trial by jury is waived.**

19 (2) A defendant in summary proceedings may demand a trial by
20 jury in the first responsive pleading or first appearance in court
21 and must pay the jury fee at that time, or the right to trial by
22 jury is waived. If a defendant demands a trial by jury, the
23 defendant must escrow prospective rent. The court may waive the
24 escrow required under this subsection on the defendant proving
25 financial hardship.

26 (3) Procedures for selecting ~~—and~~ impaneling and otherwise
27 governing jurors in ~~such~~**summary** proceedings ~~shall be~~**are** the same
28 as for a trial by jury in other civil actions in the same court.

29 Sec. 5740. (1) If the defendant fails to appear as ordered in

1 a summons issued under section 5735, the judge shall enter a
2 default judgment against the defendant under section 5741.

3 (2) If the defendant appears as ordered in a summons issued
4 under section 5735 and there is no triable issue, the judge shall
5 take proofs and enter a judgment in conformity with the proofs
6 under section 5741.

7 (3) A district court magistrate may conduct summary
8 proceedings to take a default or consent judgment, and the judge in
9 the summary proceedings shall enter a default or consent judgment
10 presented by the district court magistrate.

11 Sec. 5740a. If the district court conducts a preliminary
12 hearing or scheduling conference in summary proceedings, the trial
13 in the summary proceedings must commence not later than 7 days
14 after the preliminary hearing or scheduling conference.