

HOUSE BILL No. 4899

June 26, 2003, Introduced by Rep. Julian and referred to the Committee on Criminal Justice.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 2555 and 2559 (MCL 600.2555 and 600.2559),
section 2559 as amended by 1994 PA 133.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2555. ~~The sheriff or other officer, serving any~~ **A**
2 **person authorized by this act or supreme court rule to serve**
3 **process or a paper** ~~, shall only be~~ **issued by or filed with a**
4 **court in this state is only** entitled to traveling fees for ~~such~~
5 **the service** ~~, from the county seat of the county in which~~
6 ~~service was made,~~ **place where the court that issued or filed the**
7 **process or paper is located** to the place of service, ~~therein~~
8 **not to exceed 75 miles each way.**

9 Sec. 2559. (1) Except as provided in subsection (2), the
10 following **is the** schedule ~~applies as~~ **of fees allowed** for

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1 process **or papers** served out of ~~the circuit court, the probate~~
2 ~~court, the district court, or any municipal court by any~~ **a court**
3 **in this state by a** person authorized ~~pursuant to~~ **under** this act
4 or supreme court rule to serve process:

5 (a) For personal service of a summons and complaint in a
6 civil action, along with supporting documents, for each
7 defendant, ~~-\$13.00~~ **\$18.00** plus mileage.

8 (b) For personal service of an affidavit ~~of~~ **and** account,
9 ~~and statement,~~ for each defendant, ~~-\$13.00~~ **\$18.00** plus
10 mileage.

11 (c) For a ~~summons and affidavit in~~ **request for and writ of**
12 garnishment, for each garnishee and defendant, ~~-\$10.00~~ **\$15.00**
13 plus mileage.

14 (d) For ~~seizure and delivery of~~ **personal service of an**
15 **order to seize** goods ~~in a case of~~ **that are the subject of a**
16 claim and delivery **action**, ~~-\$27.00~~ **\$32.00** plus mileage, plus the
17 actual and reasonable expense of ~~taking~~ **seizing**, keeping, and
18 delivering the goods.

19 (e) For receiving and filing a bond from or on behalf of a
20 defendant in a ~~case of~~ claim and delivery **action**, ~~-\$2.00~~
21 **\$12.00**.

22 (f) For an order to show cause, ~~-\$13.00~~ **for each person**
23 **served, \$18.00** plus mileage.

24 (g) For a subpoena on discovery, ~~-\$13.00~~ **for each person**
25 **served, \$18.00** plus mileage.

26 ~~(h) For a writ, affidavit, and bond in a case of attachment,~~
27 ~~\$13.00 plus mileage.~~

1 **(h)** ~~-(i)~~ For ~~the seizure of property in a case of~~
2 attachment, ~~\$27.00~~ **levying under or serving an order for the**
3 **seizure of property and any accompanying paper, \$32.00** plus
4 mileage, plus the actual and reasonable expense for ~~taking~~
5 **seizing** and keeping the property **under the order.**

6 **(i)** ~~-(j)~~ For ~~levy under a writ of execution, \$27.00~~ plus
7 mileage, ~~plus the actual and reasonable expense for taking,~~
8 ~~keeping, and sale, plus,~~ **If the person has seized property under**
9 **an order for the seizure of property issued in an action in which**
10 **a judgment is entered against the owner of the property,**
11 **regardless of whether the judgment is entered before or after the**
12 **order is issued, and if the judgment is satisfied prior to sale**
13 **of the seized property by full payment of the judgment or**
14 **settlement between the parties, 7% of the first \$5,000.00** ~~in~~
15 ~~receipts~~ **of the payment or settlement amount** and 3% of
16 ~~receipts~~ **the payment or settlement amount** exceeding the first
17 \$5,000.00.

18 **(j)** ~~-(k)~~ For sale ~~on levy in a case of execution of~~
19 **property seized under an order for the seizure of property, 7% of**
20 the first \$5,000.00 in receipts and 3% of any receipts exceeding
21 the first \$5,000.00.

22 **(k)** ~~-(l)~~ For each notice of sale ~~on levy in the case of an~~
23 ~~execution or mechanics~~ **under an order for the seizure of**
24 **property or construction** lien posted in a public place in the
25 city or township, ~~\$13.00~~ **\$18.00** plus mileage.

26 **(l)** ~~-(m)~~ For **an order of eviction or** a writ for the
27 restitution of premises, ~~\$27.00~~ **for each defendant, \$32.00** plus

1 mileage, plus the actual and reasonable expense for ~~moving the~~
2 **physical removal of** property ~~out of~~ **from** the premises.

3 (m) ~~(n)~~ For a subpoena directed to a witness, including a
4 judgment debtor, ~~-\$13.00~~ **\$18.00** plus mileage.

5 (n) ~~(o)~~ For a civil bench warrant or body execution,
6 ~~-\$27.00~~ **\$32.00** plus mileage, plus ~~-\$13.00~~ **a reasonable fee** per
7 hour for the amount of time ~~-, if any,~~ involved in executing the
8 warrant.

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

11 (2) ~~Each of the fees prescribed in subsection (1), except~~
12 ~~the fee prescribed in subsection (1)(c), shall increase by \$1.00~~
13 ~~on October 1, 1995, \$1.00 on October 1, 1996, and \$1.00 on~~
14 ~~October 1, 1997.~~ **Beginning on January 1, 2005, each specific**
15 **dollar amount in subsection (1) shall be adjusted annually by**
16 **multiplying the amount by a cost-of-living adjustment factor that**
17 **is a fraction, the numerator of which is the United States**
18 **consumer price index for the prior calendar year and the**
19 **denominator of which is the United States consumer price index**
20 **for 2003. The resulting product shall be rounded to the nearest**
21 **50 cents. The annual adjustment to an amount shall not exceed**
22 **\$1.00. As used in this subsection, "United States consumer price**
23 **index" means the annual average of the United States consumer**
24 **price index for all urban consumers as defined and reported by**
25 **the United States department of labor, bureau of labor**
26 **statistics, or its successor agency, and as certified by the**
27 **state treasurer.**

1 (3) Upon submitting a sworn affidavit, a person ~~who serves~~
 2 **authorized by this act or supreme court rule to serve** process or
 3 **papers** out of ~~the circuit court, the probate court, the district~~
 4 ~~court, or any municipal court~~ **a court in this state** is entitled
 5 to receive a \$10.00 fee **plus mileage** for each process that has an
 6 incorrect address. This fee is in addition to any fee ~~to which~~
 7 the person is entitled **to receive** under subsection (1).

8 (4) Mileage allowed under subsection (1) shall be ~~the same~~
 9 ~~rate per mile, each way, as~~ **1-1/2 times** the rate allowed by the
 10 state civil service commission for employees in the state
 11 classified civil service. ~~and~~ **Mileage** shall be computed, **each**
 12 **way**, by the shortest distance from the **place where the court that**
 13 **issued or filed the process or paper is located to the** place of
 14 service. ~~to the following location:~~

15 ~~(a) For service out of any court other than the district~~
 16 ~~court, and within the same county, to the court.~~

17 ~~(b) For service out of any court other than the district~~
 18 ~~court, but outside of the county in which the process originates,~~
 19 ~~to the comparable court in that county.~~

20 ~~(c) For service out of the district court and within the same~~
 21 ~~district, to the court which is the place of return.~~

22 ~~(d) For service out of the district court, but outside of the~~
 23 ~~district in which the process originates, to the place of the~~
 24 ~~court in that district.~~

25 (5) The fees ~~allowed for the service of an execution and for~~
 26 ~~advertising in conjunction with an execution~~ **and expenses**
 27 **allowed under subsection (1)(h) to (k)** shall be collected ~~by~~

1 ~~virtue of the execution,~~ in the same manner as the sum directed
 2 to be levied ~~in the execution~~ **or collected under the order for**
 3 **the seizure of property.** If there are several ~~executions~~
 4 **orders for the seizure of property** against the defendant, at the
 5 time of ~~the~~ advertising ~~of~~ the defendant's property **for sale,**
 6 in the hands of the same sheriff or other officer, ~~there shall~~
 7 ~~be~~ only 1 advertising fee **shall be** charged on the whole, and the
 8 sheriff or other officer shall elect upon which ~~execution~~ **order**
 9 he or she will receive that fee.

10 (6) ~~Any~~ **A person** ~~who serves~~ **authorized by this act or**
 11 **supreme court rule to serve process or papers** out of ~~the circuit~~
 12 ~~court, the probate court, the district court, or any municipal~~
 13 ~~court and~~ **a court in this state** who demands ~~or~~ **and** receives
 14 ~~any~~ a greater ~~fees~~ **fee** or compensation for performing ~~any of~~
 15 ~~the services~~ **a service** mentioned in this section than ~~as~~
 16 allowed by this section ~~,~~ shall, in addition to all other
 17 liabilities ~~now~~ provided by law, be liable to the party injured
 18 ~~,~~ ~~for~~ **by** paying the illegal fees ~~,~~ ~~in~~ **for** 3 times the amount
 19 ~~so demanded, received, or~~ **of illegal fees actually** paid,
 20 together with all costs of the action.

21 (7) ~~Any~~ **A** sheriff or other officer who, after the fees
 22 specified by this section have been tendered, neglects or refuses
 23 ~~any of the services~~ **a service** required by law ~~shall be~~ **is**
 24 liable to the party injured for all damages ~~which~~ **that** the
 25 party sustains by reason of that neglect or refusal.

26 (8) **As used in this section, "order for the seizure of**
 27 **property" includes a writ of attachment and a writ of execution,**

1 including, but not limited to, execution in a claim and delivery
2 action on property other than the property that is the subject of
3 the claim and delivery action.