



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 4899 (as passed by the House)
Sponsor: Representative Larry Julian
House Committee: Criminal Justice
Senate Committee: Judiciary

Date Completed: 12-2-03

CONTENT

The bill would amend the Revised Judicature Act (RJA) to revise the schedule for service of process, beginning on January 1, 2004, and increasing by \$1 annually on October 1 in 2004, 2005, and 2006; revise traveling fees and mileage for process servers; and make other fee revisions.

Fee Schedule

Service of process fees would be revised as shown in the following table.

FEE	Current ^{a)}	Proposed
Personal service—summons and complaint in civil action (per defendant)	\$16 + mileage	\$18 + mileage
Personal service—affidavit of account and statement (per defendant)	\$16 + mileage	\$18 + mileage
Garnishment summons and affidavit (for each garnishee and defendant) ^{b)}	\$13 + mileage	\$15 + mileage
Seizure and delivery of goods in a case of claim and delivery ^{c)}	\$30 + mileage + expenses	\$32 + mileage + expenses
Receiving and filing a defendant's bond	\$5	\$12
Order to show cause	\$16 + mileage	\$18 + mileage
Subpoena on discovery	\$16 + mileage	\$18 + mileage
Property seizure in attachment case ^{d)}	\$30 + mileage + expenses	\$32 + mileage + expenses
Notice of sale on levy in execution or mechanics lien ^{e)}	\$16 + mileage	\$18 + mileage
Writ for restitution of premises or order of eviction	\$30 + mileage + expenses	\$32 + mileage + expenses
Subpoena directed to a witness (including judgment debtor)	\$16 + mileage	\$18 + mileage
Civil bench warrant or body execution	\$30 + mileage + \$16/hr.	\$32 + mileage + a reasonable hourly fee

- a)Includes 1994 statutory amount plus \$1 increases on October 1 in 1995, 1996, and 1997.
- b)The bill refers to a "request for and writ of" garnishment rather than a "summons and affidavit in" garnishment.
- c)The bill refers to "personal service of an order to seize goods that are the subject of a claim and delivery action" rather than "seizure and delivery of goods in a case of claim and delivery".
- d)The bill refers to "levying under or serving an order for the seizure of property and any accompanying paper" rather than "the seizure of property in a case of attachment".
- e)The bill refers to "each notice of sale under an order for the seizure of property or construction lien" rather than "each notice of sale on levy in the case of an execution or mechanics lien".

The Act refers to process served out of the circuit court, probate court, district court, or any municipal court, but the bill would refer to process or papers served out of a court in this State.

Other Fee Revisions

The bill would delete from the fee schedule the \$16 fee plus mileage for a writ, affidavit, and bond in a case of attachment. The bill specifies that "order for the seizure of property" would include a writ of attachment and a writ of execution, including execution in a claim and delivery action on property other than property that was the subject of the claim and delivery action. The bill also would add a fee of \$5 plus the actual cost of postage for service by mail.

The fee schedule currently includes a fee of \$30, plus mileage, plus actual and reasonable expenses for levy under writ of execution. If the judgment is satisfied before sale, the RJA allows an additional fee of 7% of the first \$5,000 received and 3% of the remainder. The bill would delete the \$30 fee plus mileage and expenses. Under the bill, if the person had seized property under an order issued in an action in which a judgement was entered against the property owner, regardless of whether the judgment was entered before or after the order was issued, and if the judgment were satisfied before the sale of the seized property by full payment of the judgment or settlement, the fee would be 7% of the first \$5,000 of the payment or settlement amount and 3% of the remainder.

The fee schedule includes a fee of 7% of the first \$5,000 in receipts and 3% of the remainder for sale on levy in a case of execution. The bill would allow that fee for sale of property seized under an order for the seizure of property.

Traveling Fees & Mileage Expenses

Currently, the sheriff or other officer serving any process or paper is entitled to traveling fees only for service from the county seat to the place of service. The bill specifies instead that a person authorized by the RJA or Supreme Court rule to serve process or a paper issued by or filed with a Michigan court would be entitled to traveling fees for the service from the place where the issuing or filing court was located to the place of service, not to exceed 75 miles each way.

The RJA provides that mileage allowed under the fee schedule must be the same rate per mile, each way, as the rate allowed by the State Civil Service Commission for employees in the State classified civil service. Mileage must be computed by the shortest distance from the place of service to the following locations:

- The court, for service out of any court other than the district court, and within the same county.
- The comparable court in the county, for service out of any court other than the district court, but outside of the county in which the process originates.
- The court that is the place of return, for service out of the district court and within the same

district.

- The place of the court in the district, for service out of the district court, but outside of the district in which the process originates.

The bill specifies instead that mileage allowed under the fee schedule would have to be 1.5 times the rate allowed for employees in the State classified civil service, and that mileage would have to be computed, each way, by the shortest distance from the place where the court that issued or filed the process or paper was located to the place of service.

MCL 600.2555 & 600.2559

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the State and local government. To the extent that State and local units pay service of process fees and expenses as parties to litigation, the State and local units would experience increased costs.

The payment of process server fees is an obligation of the litigant, so an increase in those fees and travel reimbursement rates would not otherwise create increased costs for the State or local units of government. Sheriff's departments that provide process service would benefit from increased fee and travel reimbursement revenue.

Fiscal Analyst: Bethany Wicksall
Bruce Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.