

HOUSE BILL NO. 4138

February 26, 2025, Introduced by Reps. DeSana, Carra, DeBoyer, Paquette, Hoadley, Harris, Bierlein, Greene, BeGole, Rigas, Fox, Schriver, Cavitt, Markkanen, Woolford, Kunse, Green, Johnsen, Maddock, Alexander, St. Germaine, Thompson, Linting, Smit, Bruck and Martin and referred to Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 1908, 2529, and 2559 (MCL 600.1908, 600.2529,
and 600.2559), as amended by 2023 PA 35.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1908. (1) Process in civil actions may be served by any
- 2 person of suitable age and discretion who is not a party nor an
- 3 officer of a corporate party.
- 4 (2) If service of process is to be made in the manner

1 prescribed by section 1912 on a person in a governmental
2 institution, hospital, or home, the service of process must be made
3 by the person in charge of the institution or by a member of the
4 staff of the institution.

5 ~~(3) This section does not apply to service under the extreme~~
6 ~~risk protection order act.~~

7 Sec. 2529. (1) In the circuit court, the following fees must
8 be paid to the clerk of the court:

9 (a) Before filing a civil action, including an action for
10 superintending control or another extraordinary writ, the party
11 filing the action shall pay a fee of \$150.00. This subdivision does
12 not apply to an action brought exclusively under section 2950,
13 2950a, or 2950h to 2950m, ~~an action under the extreme risk~~
14 ~~protection order act,~~ or an action for a writ of habeas corpus. The
15 clerk at the end of each month shall transmit for each fee
16 collected under this subdivision within the month \$31.00 to the
17 county treasurer and the balance of the filing fee to the state
18 treasurer for deposit in the civil filing fee fund created in
19 section 171.

20 (b) Before filing a claim of appeal or motion for leave to
21 appeal from the district court, probate court, a municipal court,
22 or an administrative tribunal or agency, the appellant or moving
23 party shall pay a fee of \$150.00. For each fee collected under this
24 subdivision, the clerk shall transmit \$31.00 to the county
25 treasurer and the balance of the fee to the state treasurer for
26 deposit in the civil filing fee fund created in section 171.

27 (c) At the time a trial by jury is demanded, the party making
28 the demand shall pay a fee of \$85.00. Failure to pay the fee at the
29 time the demand is made constitutes a waiver of the right to a jury

1 trial. The fee paid must be taxed in favor of the party paying it
2 if the party recovers a judgment for costs. For each fee collected
3 under this subdivision, the clerk shall transmit \$25.00 to the
4 state treasurer for deposit in the juror compensation reimbursement
5 fund created in section 151d.

6 (d) At the time an action in which the custody, support, or
7 parenting time of a minor child is to be determined or modified is
8 filed, the party filing the action shall pay 1 of the following
9 fees:

10 (i) In an action in which the custody or parenting time of a
11 minor child is to be determined or modified, \$80.00.

12 (ii) In an action in which the support of a minor child is to
13 be determined or modified, \$40.00. This fee does not apply if a fee
14 is paid under subparagraph (i).

15 (e) Except as otherwise provided in this section, on filing a
16 motion, the moving party shall pay a fee of \$20.00. In conjunction
17 with an action brought under section 2950 or 2950a, the clerk shall
18 not collect a motion fee for a motion to dismiss the petition, a
19 motion to modify, rescind, or terminate a personal protection
20 order, or a motion to show cause for a violation of a personal
21 protection order. The clerk shall not collect a motion fee for a
22 motion to dismiss a proceeding to enforce a foreign protection
23 order or a motion to show cause for a violation of a foreign
24 protection order under sections 2950h to 2950m. The clerk shall not
25 collect a motion fee for a request for a hearing to contest income
26 withholding under section 7 of the support and parenting time
27 enforcement act, 1982 PA 295, MCL 552.607. For each fee collected
28 under this subdivision, the clerk shall transmit \$10.00 to the
29 state treasurer for deposit in the state court fund created by

1 section 151a.

2 (f) For services under the direction of the court that are not
3 specifically provided for in this section related to receiving,
4 safekeeping, or expending money, purchasing, taking, or
5 transferring a security, or collecting interest on a security, a
6 party shall pay the allowance and compensation that the court
7 determines to be just as ordered by the court after notice to the
8 parties.

9 (g) Upon appeal to the court of appeals or the supreme court,
10 the appellant shall pay \$25.00.

11 (h) The applicant or requesting party shall pay \$15.00 as a
12 service fee for each writ of garnishment, attachment, or execution
13 and each judgment debtor discovery subpoena issued.

14 (2) The fees paid as provided in this section are payment in
15 full for all clerk, entry, and judgment fees in an action from the
16 commencement of the action to and including the issuance and return
17 of the execution or other final process, and are taxable as costs.

18 (3) Except as otherwise provided in this section, the fees
19 paid under this section must be paid to the county treasurer as
20 required by law.

21 (4) At the end of each month, each fee collected under
22 subsection (1) (d) (i) must be paid to the county treasurer and
23 deposited by the county treasurer as provided under section 2530 to
24 be used to fund services that are not title IV-D services. The fee
25 collected under subsection (1) (d) (ii) must be paid to the county
26 treasurer and deposited by the county treasurer as provided under
27 section 2530.

28 (5) The court shall order any of the fees prescribed in this
29 section waived or suspended, in whole or in part, upon a showing by

1 affidavit of indigency or inability to pay.

2 (6) If the person filing an action described in subsection
3 (1)(d) is a public officer acting in his or her official capacity,
4 if the final judgment or order is submitted with the initial filing
5 as a consent judgment or order, or if other good cause is shown,
6 the court shall order the fee under subsection (1)(d) waived or
7 suspended. If a fee is waived or suspended and the action is
8 contested, the court may require that 1 or more of the parties to
9 the action pay the fee under subsection (1)(d).

10 (7) The court may order a party to pay the other party all or
11 part of a fee paid by the other party under subsection (1)(d).

12 (8) A party is not required to pay a fee under this section if
13 the party is filing a child protective action or a delinquency
14 action under section 2 of chapter XIIIA of the probate code of 1939,
15 1939 PA 288, MCL 712A.2, or under the young adult voluntary foster
16 care act, 2011 PA 225, MCL 400.641 to 400.671.

17 Sec. 2559. (1) Except as provided in subsection (7) or (9),
18 the following is the schedule of fees allowed for process or papers
19 served out of a court in this state by a person authorized under
20 this act or supreme court rule to serve process:

21 (a) For personal service of a summons and complaint in a civil
22 action, along with supporting documents, for each defendant, \$26.00
23 plus mileage.

24 (b) For personal service of an affidavit and account, for each
25 defendant, \$26.00 plus mileage.

26 (c) For a request for and writ of garnishment, for each
27 garnishee and defendant, \$23.00 plus mileage.

28 (d) For personal service of an order to seize goods that are
29 the subject of a claim and delivery action, \$40.00 plus mileage,

1 plus the actual and reasonable expense of seizing, keeping, and
2 delivering the goods.

3 (e) For receiving and filing a bond from or on behalf of a
4 defendant in a claim and delivery action, \$20.00.

5 (f) For an order to show cause, for each person served, \$26.00
6 plus mileage.

7 (g) For a subpoena on discovery, for each person served,
8 \$26.00 plus mileage.

9 (h) For levying under or serving an order for the seizure of
10 property and any accompanying paper, \$40.00 plus mileage, plus the
11 actual and reasonable expense of seizing and keeping the property
12 under the order.

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

21 (j) For sale of property seized under an order for the seizure
22 of property, 7% of the first \$8,000.00 in receipts and 3% of any
23 receipts exceeding the first \$8,000.00.

24 (k) For each notice of sale under an order for the seizure of
25 property or construction lien posted in a public place in the city
26 or township, \$26.00 plus mileage.

27 (l) For an order of eviction or a writ for the restitution of
28 premises, for each defendant, \$40.00 plus mileage, plus the actual
29 and reasonable expense for the physical removal of property from

1 the premises.

2 (m) For a subpoena directed to a witness, including a judgment
3 debtor, \$26.00 plus mileage.

4 (n) For a civil bench warrant or body execution, \$40.00 plus
5 mileage, plus a reasonable fee per hour for the amount of time
6 involved in executing the warrant.

7 (o) For service by mail, \$13.00 plus the actual cost of
8 postage.

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

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

13 (r) For each global positioning service verification requested
14 by the plaintiff, \$5.00.

15 (s) For each photo verification requested by the plaintiff,
16 \$5.00.

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

23 (3) Mileage is allowed under subsection (1) at 1-1/2 times the
24 rate allowed by the state civil service commission for employees in
25 the state classified civil service. Mileage is computed, each way,
26 using the shortest reasonable route from the place where the court
27 that issued or filed the process or paper is located to the place
28 of service.

29 (4) The fees and expenses allowed under subsection (1)(h) to

1 (k) must be collected in the same manner as the sum directed to be
2 levied or collected under the order for the seizure of property. If
3 at the time of advertising property for sale a sheriff or other
4 officer has several orders for the seizure of property against the
5 same defendant, the sheriff or officer shall charge only 1
6 advertising fee on the whole, and shall elect on which order ~~he or~~
7 ~~she~~ **the sheriff or officer** will receive the fee.

8 (5) A person authorized by this act or supreme court rule to
9 serve process or papers out of a court in this state who demands
10 and receives a greater fee or compensation for performing a service
11 mentioned in this section than allowed by this section is, in
12 addition to all other liability provided by law, liable to the
13 party injured by paying the illegal fees for 3 times the amount of
14 illegal fees actually paid and all costs of the action.

15 (6) A sheriff or other officer who, after the fees specified
16 by this section have been tendered, neglects or refuses a service
17 required by law is liable to the party injured for all damages that
18 the party sustains as a result of the neglect or refusal.

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

24 (8) Regardless of whether a fee charged or paid for service of
25 process exceeds the fee prescribed by this section or other law,
26 including a fee allowed under subsection (7), a person entitled to
27 tax costs shall not attempt to tax and is not entitled to recover a
28 fee for service of process that exceeds the fee prescribed by this
29 section or other law.

1 ~~(9) A person shall not charge or collect a fee for serving~~
2 ~~process issued in an action brought under the extreme risk~~
3 ~~protection order act, or for serving any order issued in the~~
4 ~~action.~~

5 **(9)** ~~(10)~~As used in this section, "order for the seizure of
6 property" includes a writ of attachment and a writ of execution,
7 including, but not limited to, execution in a claim and delivery
8 action on property other than the property that is the subject of
9 the claim and delivery action.

10 Enacting section 1. This amendatory act does not take effect
11 unless House Bill No. 4140 (request no. H01503'25) of the 103rd
12 Legislature is enacted into law.