

PERSONS ALLOWED TO EXECUTE EVICTION NOTICE

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Senate Bill 3 (S-1) as reported from House committee

Sponsor: Sen. Peter J. Lucido

House Committee: Judiciary

Senate Committee: Judiciary and Public Safety

Complete to 3-13-19

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 2 of 2019)

BRIEF SUMMARY: Senate Bill 3 would amend Chapter 57 of the Revised Judicature Act, concerning eviction proceedings, to revise the list of persons allowed to serve an order of eviction and restore the plaintiff to full possession of the premises.

FISCAL IMPACT: Senate Bill 3 would have no fiscal impact on the state or on local units of government.

THE APPARENT PROBLEM:

During an eviction process in Michigan, landlords must seek a court order (called a “writ”) to remove tenants from the property. The writ specifies the person or persons allowed to execute the eviction, which includes removing any tenants and personal property from the premises. Removing tenants and their personal property often results in heightened emotions, and confrontations can occur. Some feel that the law should be clear that only certain persons with the authority of the court and training in these situations should be able to execute an eviction and restore possession of the property to the landlord.

THE CONTENT OF THE BILL:

Currently, a court that enters a judgment for possession in a summary proceeding must issue a writ commanding the sheriff, or any other officer authorized to serve the process, to restore the plaintiff to full possession of the premises.

Senate Bill 3 would allow the court to issue a writ to a court officer appointed by the court, a bailiff of the court, the sheriff or a deputy sheriff of the county where the court is located, or an officer of the law enforcement agency of the local unit of government where the court is located.

The bill would add that, to restore full, peaceful possession of the premises, the officer, bailiff, sheriff, or deputy sheriff serving the writ must remove all occupants and personal property from the premises and do either of the following:

- Leave the property in an area open to the public or in the public right-of-way.
- Deliver the property to the sheriff as authorized by the sheriff.

The officer, bailiff, sheriff, or deputy sheriff serving the writ would be the only person who could determine whether abandonment of the premises that are the subject of the writ, and of any personal property on the premises, has occurred.

The bill would take effect 90 days after its enactment.

MCL 600.5744

HOUSE COMMITTEE ACTION:

The House Judiciary Committee reported the Senate-passed version of the bill without amendment.

ARGUMENTS:

For:

Supporters of the bill argued that it clarifies who is able to execute a writ from a court for removal of tenants and that this clarification will help make the eviction process safer for all parties involved.

Against:

No arguments against the bill were presented in House committee.

POSITIONS:

A representative of the Michigan Court Officers and Deputy Sheriffs Association testified in support of the bill. (3-5-19)

Legislative Analyst: Emily S. Smith
Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.