



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 3 (Substitute S-1)
Sponsor: Senator Peter J. Lucido
Committee: Judiciary and Public Safety

Date Completed: 2-12-19

CONTENT

The bill would amend Chapter 57 (Summary Proceedings to Recover Possession of Premises) of the Revised Judicature Act to revise the list of individuals a court could command to restore a plaintiff to, and put the plaintiff in, full possession of a premises following a judgment for possession in a summary proceeding, and specify the procedure for removing occupants and personal property from the premises.

Under Chapter 57, a person entitled to premises may recover possession of the premises by summary proceedings under certain circumstances. ("Summary proceedings" means a civil action to recover possession of premises and to obtain certain ancillary relief as provided by Chapter 57 and by court rules adopted in connection therein.) If a jury or a judge finds that a plaintiff is entitled to possession of the premises, a judgment may be entered in accordance with that finding and may be enforced by a writ of restitution.

Subject to certain time restrictions, a court entering a judgment for possession in a summary proceeding must issue a writ commanding a sheriff, or any other officer authorized to serve the process, to restore the plaintiff to, and put the plaintiff in, full possession of the premises.

Instead, the bill would require, subject to certain time restrictions, a court entering a judgment for possession in a summary proceeding to issue a writ commanding a court officer appointed by or a bailiff of the issuing court, the sheriff or a deputy sheriff of the county in which the issuing court was located, or an officer of the law enforcement agency of the local unit of government in which the issuing court was located to restore the plaintiff to and put the plaintiff in full, peaceful possession of the premises by removing all occupants and all personal property from the premises, and doing either of the following:

- Leaving the property in an area open to the public or in the public right-of-way.
- Delivering the property to the sheriff as he or she authorized.

Abandonment of the premises that was the subject of a writ and of any personal property on the premises would have to be determined by the officer, bailiff, sheriff, or deputy sheriff serving the writ.

MCL 600.5744

BACKGROUND

Michigan Court Rule 2.103 specifies that a writ of restitution or process requiring the seizure or attachment of property may be served only by:

- A sheriff or deputy sheriff, or a bailiff or court officer appointed by the court for that purpose.
- An officer of the Michigan State Police in an action in which the State is a party.
- A police officer of an incorporated city or village in an action in which the city or village is a party.

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Michael Siracuse