

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961
Chapter 24
COSTS

600.2401 Taxation of costs; regulation by supreme court.

Sec. 2401.

Except as otherwise provided by statute, the supreme court shall by rule regulate the taxation of costs. When costs are allowed in any action or proceeding in the supreme court, the circuit court or the district court the items and amount thereof shall be governed by this chapter except as otherwise provided in this act.

History: 1961, Act 236, Eff. Jan. 1, 1963 ;-- Am. 1974, Act 297, Eff. Apr. 1, 1975

600.2405 Costs; items taxable.

Sec. 2405.

The following items may be taxed and awarded as costs unless otherwise directed:

- (1) Any of the fees of officers, witnesses, or other persons mentioned in this chapter or in chapter 25, unless a contrary intention is stated.
- (2) Matters specially made taxable elsewhere in the statutes or rules.
- (3) The legal fees for any newspaper publication required by law.
- (4) The reasonable expense of printing any required brief and appendix in the supreme court, including any brief on motion for leave to appeal.
- (5) The reasonable costs of any bond required by law, including any stay of proceeding or appeal bond.
- (6) Any attorney fees authorized by statute or by court rule.

History: 1961, Act 236, Eff. Jan. 1, 1963

600.2411 Special costs in action against public officers.

Sec. 2411.

In the following actions, if the defendant prevails, he shall be awarded costs and in addition, 1/2 thereof:

- (1) In actions against public officers appointed or elected under the laws of this state, or against any person specially appointed according to law to execute the duties of such public officer, for or concerning the omission to do any act which it was his official duty to perform.
- (2) In actions against any other person for doing any act by the commandment of such officers or persons, or in their aid or assistance, touching the duties of such office or appointment.
- (3) In actions against any person for making any sale or doing any other act by authority of any statute of this state.

History: 1961, Act 236, Eff. Jan. 1, 1963

600.2415 Costs; liability of next of friend or guardian.

Sec. 2415.

Any person who brings an action as next of friend for an infant, or a person who is insane or otherwise mentally incompetent, shall be responsible for the costs of the suit. However, no person who defends a suit as guardian ad litem of an infant or otherwise incompetent person shall be responsible for the costs of the suit unless specifically charged by the court for some personal misconduct in the case.

History: 1961, Act 236, Eff. Jan. 1, 1963

600.2421 Civil actions by or in name of people; liability for costs; warrant.

Sec. 2421.

(1) Except as provided in sections 2421a to 2421d and as otherwise provided by law, in all civil actions by or in the name of the people of this state, except civil infraction actions, instituted by an officer duly authorized for that purpose and not for the use of a citizen, the state shall be liable for costs in the same manner and to the same extent as if the action were commenced by an individual.

(2) In all civil actions instituted in the name of the people of this state, on the relation of any citizen, the relator shall be entitled to and liable for costs as if the action had been commenced in the relator's own name.

(3) When costs are adjudged against the people of this state in a civil action or proceeding, instituted by an officer duly authorized for that purpose, the state treasurer shall issue a warrant for the amount thereof, upon the production of an authenticated copy of the record of judgment, or of the order adjudging the costs, with a taxed bill thereof, and upon the certificate of the attorney general that the action or proceeding was duly instituted, as by law required.

History: 1961, Act 236, Eff. Jan. 1, 1963 ;-- Am. 1978, Act 511, Eff. Aug. 1, 1979 ;-- Am. 1984, Act 197, Imd. Eff. July 3, 1984

600.2421a Meanings of words and phrases in MCL 600.2421c to 600.2421f.

Sec. 2421a.

For the purposes of sections 2421c to 2421f, the words and phrases described in section 2421b have the meanings ascribed to them in that section.

History: Add. 1984, Act 197, Imd. Eff. July 3, 1984

600.2421b Definitions.

Sec. 2421b.

(1) "Costs and fees" means the normal costs incurred in being a party in a civil action after an action has been filed with the court, those provided by law or court rule, and include all of the following:

(a) The reasonable and necessary expenses of expert witnesses as determined by the court.

(b) The reasonable cost of any study, analysis, engineering report, test, or project which is determined by the court to have been necessary for the preparation of a party's case.

(c) Reasonable and necessary attorney fees including those for purposes of appeal.

(2) "Party" means a named plaintiff or defendant involved in the particular civil action, but does not include any of the following:

(a) An individual whose net worth was more than \$500,000.00 at the time the civil action was commenced.

(b) The sole owner of an unincorporated business or any partnership, corporation, association, or organization whose net worth exceeded \$3,000,000.00 at the time the civil action was commenced and which is not either exempt from taxation pursuant to section 501(c)(3) of the internal revenue code or a cooperative association as

defined in section 15(a) of the agricultural marketing act, 12 U.S.C. 1141j(a).

(c) The sole owner of an unincorporated business or any partnership, corporation, association, or organization that had more than 250 full-time equivalent employees as determined by the total number of employees multiplied by their working hours divided by 40, at the time the civil action was commenced.

(d) As used in this subsection "net worth" means the amount remaining after the deduction of liabilities from assets as determined according to generally accepted accounting principles.

(3) "Prevailing party" means as follows:

(a) In an action involving several remedies, or issues or counts which state different causes of actions or defenses, the party prevailing as to each remedy, issue, or count.

(b) In an action involving only 1 issue or count stating only 1 cause of action or defense, the party prevailing on the entire record.

(4) "State" means an agency or department of the state, 1 or more members of an agency or department of the state, or any official of the state or of an agency or department of the state acting in his or her official capacity, but does not include an institution of higher education established pursuant to article 8 of the state constitution of 1963; the department of labor as administrator of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being sections 418.101 to 418.941 of the Michigan Compiled Laws, the Michigan employment security act, Act No. 1 of the Public Acts of Extra Session of 1936, being sections 421.1 to 421.72 of the Michigan Compiled Laws, and Act No. 176 of the Public Acts of 1939, being sections 423.1 to 423.30 of the Michigan Compiled Laws; or the department of corrections.

History: Add. 1984, Act 197, Imd. Eff. July 3, 1984

600.2421c Awarding costs and fees; determining frivolous position of state; motion; matters to be established; reduction or denial of award; amount of costs and fees; applicability of section.

Sec. 2421c.

(1) The court that conducts a civil action brought by or against the state as a party, except for a civil infraction action, shall award to a prevailing party other than the state the costs and fees incurred by that party in connection with the civil action, if the court finds that the position of the state to the civil action was frivolous. To find that the state's position was frivolous, the court shall determine that at least 1 of the following conditions has been met:

(a) The state's primary purpose in initiating the action was to harass, embarrass, or injure the prevailing party.

(b) The state had no reasonable basis to believe that the facts underlying its legal position were in fact true.

(c) The state's legal position was devoid of arguable legal merit.

(2) If the parties to an action do not agree on the awarding of costs and fees under sections 2421a to 2421f, a motion may be brought regarding the awarding of costs and fees and the amount thereof. The party seeking an award of costs and fees under sections 2421a to 2421f shall establish all of the following:

(a) That the position of the state was frivolous.

(b) That the party was the prevailing party.

(c) The amount of costs and fees sought including an itemized statement from any attorney, agent, or expert witness who represented the party showing the rate at which the costs and fees were computed.

(d) That the party is eligible to receive an award of costs and fees under sections 2421a to 2421f. For good cause shown a party may seek a protective order regarding the financial records of that party.

(3) The court may reduce the amount of the costs and fees to be awarded, or deny an award, to the extent that the party seeking the award engaged in conduct which unduly and unreasonably protracted the civil action.

(4) Subject to subsection (5), the amount of costs and fees awarded under this section shall include those reasonable costs actually incurred by the party and any costs allowed by law or by court rule. Subject to subsection (5), the amount of fees awarded under this section shall be based upon the prevailing market rate for the kind and quality of the services furnished, except that an attorney fee shall not be awarded at a rate of more than \$75.00 per hour unless the court determines that special circumstances existed justifying a higher rate or an applicable law or court rule provides for the payment of a higher rate.

(5) The costs and fees awarded under this section shall only be awarded to the extent and amount that the state caused the prevailing party to incur those costs and fees.

(6) This section does not apply to an agency or department in establishing a rate; in approving, disapproving, or withdrawing approval of a form; nor in its role of hearing or adjudicating a case. Unless an agency had discretion to proceed, this section does not apply to an agency or department acting ex rel on the information and at the instigation of a nonagency or nondepartmental person who has a private interest in the matter nor to an agency or

department required by law to commence a case upon the action or request of another nonagency or nondepartmental person.

(7) This section does not apply to an agency or department that has such a minor role as a party in the case in comparison to other nonprevailing parties so as to make its liability for costs and fees under this section unreasonable, unjust, or unfair.

History: Add. 1984, Act 197, Imd. Eff. July 3, 1984

600.2421d Judicial review of final action in contested case; award of costs and fees; finding.

Sec. 2421d.

If the court awards costs and fees to a prevailing party upon judicial review of the final action of a presiding officer in a contested case pursuant to section 125 of Act No. 306 of the Public Acts of 1969, being section 24.325 of the Michigan Compiled Laws, the court shall award those costs and fees provided for in section 123 of Act No. 306 of the Public Acts of 1969, being section 24.323 of the Michigan Compiled Laws, if the court finds that the position of the state involved in the contested case was frivolous.

History: Add. 1984, Act 197, Imd. Eff. July 3, 1984

600.2421e Annual report; payment of costs and fees; applicability of MCL 600.2421a to 600.2421d.

Sec. 2421e.

(1) The director of the department of management and budget shall report annually to the legislature regarding the amount of costs and fees paid by the state during the preceding fiscal year pursuant to sections 2421 to 2421d. The report shall describe the number, nature, and amount of the awards; the claims involved; and any other relevant information which would aid the legislature in evaluating the scope and impact of the awards. Each agency or department of this state shall provide the director of the department of management and budget with information as is necessary for the director to comply with the requirements of this section.

(2) If costs and fees are awarded under sections 2421 to 2421d to a prevailing party, the agency or department over which the party prevailed shall pay those costs and fees.

(3) Sections 2421a to 2421d do not apply to a civil action which is settled, a civil action in which a consent agreement is entered into, or to a civil action based in tort.

History: Add. 1984, Act 197, Imd. Eff. July 3, 1984

600.2421f Recovery of same costs under law or court rule prohibited.

Sec. 2421f.

If a prevailing party recovers costs and fees under sections 2421a to 2421f in a civil action, that prevailing party is not entitled to recover those same costs for that civil action under any law or court rule.

History: Add. 1984, Act 197, Imd. Eff. July 3, 1984

600.2421g Applicability of MCL 600.2421a to 600.2421f to civil actions.

Sec. 2421g.

Sections 2421a to 2421f shall apply to civil actions commenced after September 30, 1984.

History: Add. 1984, Act 197, Imd. Eff. July 3, 1984 ;-- Am. 1988, Act 203, Imd. Eff. June 29, 1988

600.2425 Costs; abatement of public nuisance; private citizen plaintiff; intervention by attorney general or prosecuting attorney.

Sec. 2425.

(1) If an action to abate a public nuisance is brought by a private citizen, whether or not the attorney general or prosecuting attorney intervenes, and the court finds that there was no reasonable ground or cause for the action, costs may be taxed against such citizen. In such a case, attorney's fees are proper costs.

(2) When the attorney general or prosecuting attorney intervenes, the costs incurred by such officer shall be payable by the county in which the nuisance exists and all costs collected in the action shall be paid into the treasury of such county.

History: 1961, Act 236, Eff. Jan. 1, 1963

600.2431 Costs; foreclosure of mortgage by advertisement; attorney's fee.

Sec. 2431.

(1) The expenses of foreclosing any mortgage by advertisement shall be taxed in the circuit court as in civil actions upon the request of any person paying the expenses thereof, and upon such party liable to pay the same.

(2) Where an attorney is employed to foreclose a mortgage by advertisement, an attorney's fee, not to exceed any amount which may be provided for in the mortgage, may be included as a part of the expenses in the amount bid upon such sale for principal and interest due thereon in the following amounts:

- (a) for all sums of \$1,000.00 or less, \$25.00.
- (b) for all sums over \$1,000.00 but less than \$5,000.00, \$50.00.
- (c) for all sums of \$5,000.00 or more, \$75.00.

But if payment is made after foreclosure proceedings are commenced and before sale is made, only 1/2 of such attorney's fees shall be allowed. Both the principal and the interest due thereon shall be included in the sum on which the attorney's fee is computed.

History: 1961, Act 236, Eff. Jan. 1, 1963 ;-- Am. 1963, Act 2, Imd. Eff. Mar. 6, 1963

600.2435 Costs; supplementary proceedings.

Sec. 2435.

The court may allow to the judgment creditor, or to any person examined, whether a party to the action or not, witness fees and disbursements, and an attorney's fee in addition not to exceed \$30.00 as costs, in supplementary proceedings.

History: 1961, Act 236, Eff. Jan. 1, 1963

600.2441 Costs; costs additional in civil actions in supreme court and circuit court.

Sec. 2441.

(1) In all civil actions or special proceedings in the supreme court, whether heard as an original proceeding or on appeal, the following amounts shall be allowed as costs in addition to other costs unless the court otherwise directs:

- (a) On motions, \$20.00.
- (b) On calendar causes and those given an early hearing, \$50.00.

(2) In all civil actions or special proceedings in the circuit court, whether heard as an original proceeding or on appeal, the following amounts shall be allowed as costs in addition to other costs unless the court otherwise directs:

- (a) For the proceedings before trial, \$20.00.
- (b) For motions that result in dismissal or judgment, \$20.00.
- (c) For the trial of the action or proceeding, \$150.00.
- (d) In actions in which a confession of judgment is entered, \$15.00.
- (e) In actions in which a default judgment or consent judgment is entered, \$75.00.

History: 1961, Act 236, Eff. Jan. 1, 1963 ;-- Am. 1999, Act 226, Eff. Apr. 1, 2000

600.2445 Costs on appeal to circuit court, court of appeals, or supreme court; damages for delay and vexation.

Sec. 2445.

(1) Costs on appeal to the circuit court, the court of appeals, or to the supreme court shall be awarded in the discretion of the court.

(2) The appellant may be awarded the costs on appeal if he improves his position on appeal.

(3) The appellee may be awarded damages for the delay and vexation caused by the appeal, to be assessed in the discretion of the court, in addition to costs on appeal, if the appellant does not improve his position on appeal.

(4) Costs in the court below may be awarded to the party who ultimately prevails in the case.

History: 1961, Act 236, Eff. Jan. 1, 1963 ;-- Am. 1974, Act 297, Eff. Apr. 1, 1975

600.2451 Taxation of costs in supreme court and court of appeals; notice.

Sec. 2451.

Costs in the supreme court and in the court of appeals shall be taxed by 1 of the justices or judges or the clerk thereof, and by such other officers as the supreme court shall, by general or special order, designate for that purpose; and upon notice to the opposite party, as shall be prescribed by the general rules of the court.

History: 1961, Act 236, Eff. Jan. 1, 1963 ;-- Am. 1974, Act 297, Eff. Apr. 1, 1975

600.2455 Taxation of costs in circuit court, district court, and municipal courts of record; notice.

Sec. 2455.

Costs in the circuit court, in the district court, and in municipal courts of record having civil jurisdiction, may be taxed by any of the judges or clerks of the courts and upon notice and proceedings as shall be provided by the rules of the supreme court.

History: 1961, Act 236, Eff. Jan. 1, 1963 ;-- Am. 1974, Act 297, Eff. Apr. 1, 1975

600.2461 Costs; duties of taxing officer.

Sec. 2461.

Every officer authorized to tax costs in any court for services rendered in any proceeding authorized by law, shall examine the bills presented to him for taxation, whether such taxation be opposed or not, and shall be satisfied that the items charged in such bill are correct and legal; and shall strike out all charges for services, which, in his judgment, were not necessary to be performed.

History: 1961, Act 236, Eff. Jan. 1, 1963