



Michigan's E-filing Law

A Model Act

By Michael H.R. Buckles

Michigan's new e-filing law is a model act soon to be emulated by many states now developing or seeking to improve digital filing of court documents. With the cooperation and vision of the Michigan Supreme Court, the state legislature passed and the governor signed six bills¹ that will establish and finance a single statewide electronic filing system.

The act's funding method will make e-filing a reality for every court regardless of financial resources at the local level. Moreover, a single statewide system will dramatically facilitate e-filing for litigants because it will establish a uniform digital platform for all users, employing one portal² for filing

documents in any court and eliminating the need for multiple passwords and interfaces currently required in courts using proprietary e-filing systems.

Two key provisions of the act create the groundwork for an effective statewide e-filing system. First, the funding model authorizes the State Court Administrative Office, an arm of the Supreme Court, to manage the system's financing. Second, the act provides every state court with the opportunity to apply for access to the system and receive funding from SCAO to implement e-filing.

Digital e-filing will be financed solely by litigants, who will pay a modest³ one-time fee when initiating a court case. Court

Fast Facts

With the cooperation of all branches of government, Michigan courts will have access to a single statewide electronic filing system.

The new system will dramatically facilitate e-filing for litigants because it will establish a uniform digital platform for all users, employing a single portal for filing documents in any court.

The system will be financed solely by litigants, who will pay a modest one-time fee when initiating a court case.

clerks will remit the new fees to the state treasurer, who will deposit all e-filing system revenue into the newly established, and separate, judicial electronic filing fund.⁴ SCAO will administer the new fund to implement, maintain, and operate the e-filing system.⁵

The act permits any Michigan court to apply to the Supreme Court for access to the e-filing system.⁶ If the Court accepts the application, SCAO is authorized to use money from the judicial electronic filing fund to “pay the costs of technological improvements necessary for that court to operate electronic filing.”⁷ Accordingly, if a state court is approved for access to the system, SCAO can use the judicial electronic filing fund to underwrite the court’s e-filing expenses for hardware, software, and training. This will enable courts in less wealthy communities to fully participate in the central e-filing system, uniting all 245 Michigan courts under a single umbrella.

By creating and funding a single statewide e-filing system, Michigan will save costs by leveraging economies of scale. Additionally, only litigants finance the e-filing system, meaning no new taxes for Michigan citizens. And, by establishing a one-time fee paid when a suit is filed, the law eliminates the pay-as-you-go fees some courts currently charge for every document e-filed during the life of the lawsuit.⁸

The act also includes several other litigant-friendly provisions:

- The e-filing fee is a recoverable taxable cost.⁹
- The court may waive the fee for indigent parties.¹⁰
- Fees for payment via credit card are limited to the “actual merchant transaction fee to be charged to the court,” eliminating the nebulous “convenience fee” some courts have assessed for credit card payments.

As some of you may already have experienced, court clerks have begun collecting the new e-filing fee as of March 1,

2016.¹¹ Additionally, as provided by the act, the state Supreme Court and SCAO may select a “qualified vendor”¹² using a competitive bidding process to develop and facilitate the e-filing system.¹³ Full implementation will be an ongoing process over the next few years.

Because of the cooperation of many, the Michigan Supreme Court now has an opportunity to wisely use the new funding model to provide the state with an economical and effective e-filing system for all courts. Once completed, litigants and their lawyers will be able to e-file documents in any Michigan court using one portal, with one password, facilitated by credit card payment. ■



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Special thanks to Chief Justice Robert P. Young Jr. and Associate Justice David F. Viviano, who inspired and promoted this project, and to the many legislators who sponsored and supported the six bills that will create and finance this impressive e-filing system: Senators Rick Jones, John Proos, Tonya Schuitmaker, Jim Marleau, and Jim Stamas; and Representatives Kurt Heise, Klint Kesto, and Amanda Price.

ENDNOTES

1. The six public acts amend the Revised Judicature Act and have an effective date of January 1, 2016. Act 234 creates a new section: MCL 600.176. The new statute is available at <[http://www.legislature.mi.gov/\(S\(ro1h31xivyfpx2zxgo4q40f\)\)/mileg.aspx?page=getObject&objectName=mcl-600-176](http://www.legislature.mi.gov/(S(ro1h31xivyfpx2zxgo4q40f))/mileg.aspx?page=getObject&objectName=mcl-600-176)> (accessed August 16, 2016). The other five add sections to new Chapter 19A of the Revised Judicature Act and are available at <[http://www.legislature.mi.gov/\(S\(ro1h31xivyfpx2zxgo4q40f\)\)/mileg.aspx?page=getObject&objectName=mcl-236-1961-19A](http://www.legislature.mi.gov/(S(ro1h31xivyfpx2zxgo4q40f))/mileg.aspx?page=getObject&objectName=mcl-236-1961-19A)> (accessed August 16, 2016).
2. Access to the system will not be limited to any particular portal. Litigants will be able to choose one portal for all filing. This flexibility will permit users to develop interfaces for custom portals to access the statewide system, provided technical standards are compliant.
3. Filers in district court pay only an additional \$10 and only \$5 in the small claims division. In circuit court, the increase is \$25. MCLA 600.1986(1).
4. MCL 600.1989.
5. MCL 600.176.
6. MCL 600.1991(1).
7. MCL 600.1991(2).
8. Some courts were previously authorized by Supreme Court administrative orders to establish e-filing “pilot projects” and charge fees for each document filed. This practice ends December 31, 2016 per MCL 600.1987(2).
9. MCL 600.1990.
10. MCL 600.1986(3).
11. MCL 600.1986(1).
12. MCL 600.1991(3).
13. MCL 600.176(3).