

MCODSA

Request and Order to
Seize Property
Workshop

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Seizure of Property

- MC19 Form [mc19 Sample.pdf](#)
- Confirm you have the authority to serve the seizure order. MCR 3.106
 - Court Officer out of the issuing court
 - Deputy Sheriff in county where serving
 - Exparte Order appointing you to serve
 - Name on the Writ to be served by line AND signed by the Judge assigned to that case

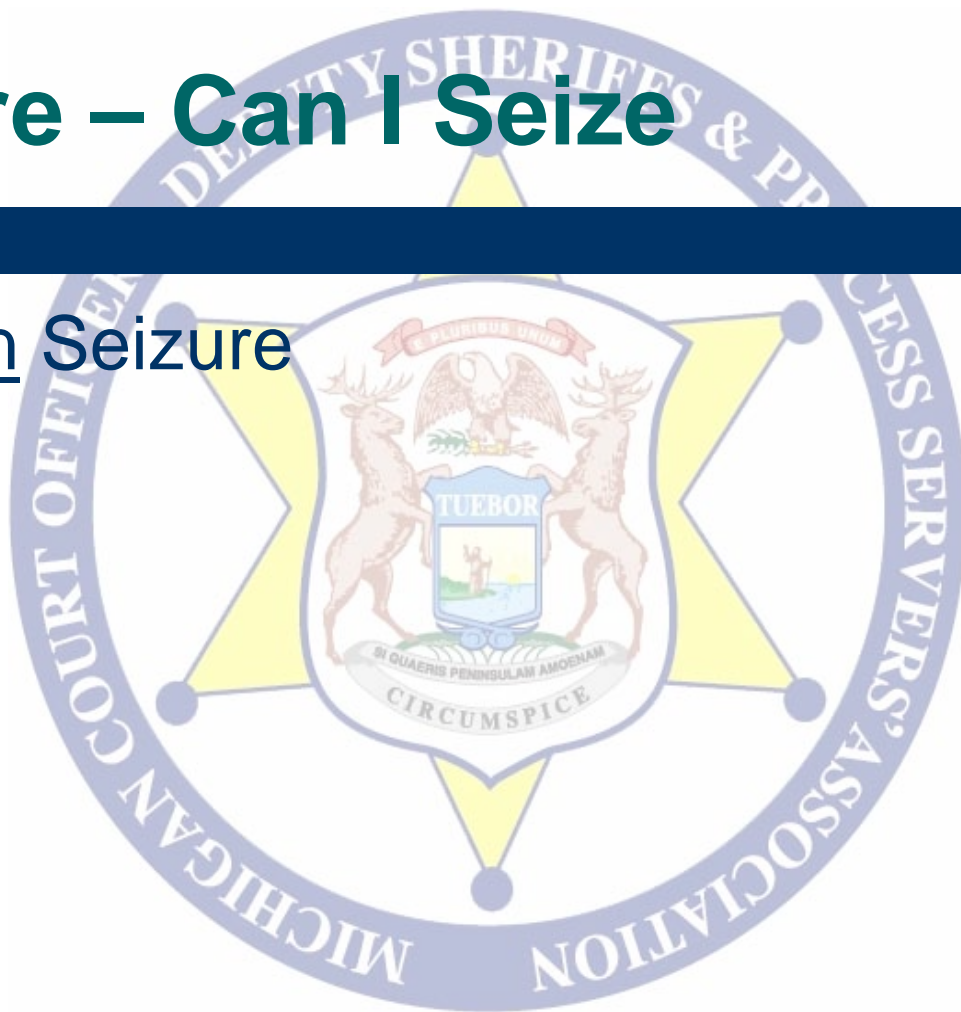
Authority to Seize

The seal of the Michigan Court of Deputies Sheriffs & Process Servers is visible in the background. It features a central shield with a scale of justice, a sword, and a book. The shield is flanked by two figures, possibly representing justice and law. The shield is set against a yellow background with a blue border. The text "COURT OF DEPUTY SHERIFFS & PROCESS SERVERS" is written around the perimeter of the seal. The text "QUAERIS PENITULAM AN" is written below the shield. The text "MICHIGAN" is written below the shield. The text "DEPUTY SHERIFFS & PROCESS SERVERS" is written below the shield.

- A deputy sheriff or court officer must serve process involving the seizure of property MCL 600.6001; MCR 2.103; MCR 3.106
- Cannot seize/levy real property until the officer has attempted to satisfy by seizing personal property MCL 600.6004
- Deputy or Court Officer must be physically present. Cannot do it by phone...

Seizure – Can I Seize

- Wilson Seizure



Seizure of Property

The background features a large, semi-transparent watermark of the Michigan Sheriff's Association logo. The logo is circular with a yellow five-pointed star in the center. The text "MICHIGAN SHERIFFS ASSOCIATION" is written around the perimeter of the circle. Inside the circle, there is a smaller emblem featuring a shield with a scale of justice, a sword, and a laurel wreath, flanked by two figures. The words "DEPUTY SHERIFF" and "SHERIFF" are also visible within the logo's design.

- Endorse the date received as required in MCL 600.6002 (1)
- (1) Upon receipt of any execution the sheriff or other officer receiving the execution shall indorse thereon the year, month, day, and hour of receipt and that time shall be the date of the execution. When it is placed in your hands for service.
- (2) Executions shall be made returnable not less than 20, nor more than 90, days from that date.

Seizure – Ownership proof

- Only SOS not Lexis, IRB, AutoTrak etc...
 - You seize wrong property YOU are liable \$\$\$
 - If you fail to seize you are liable
- Bond MCL 600.6009 – You can require if
 - reasonable doubt as to the ownership by a judgment debtor of any personal property, or as to your liability to be taken upon an execution
- Cannot require a bond if SOS shows ownership and no lien.

Seizure of Property

The background of the slide features a large, semi-transparent watermark of the Michigan Sheriff's Association seal. The seal is circular with a purple border containing the text "MICHIGAN COURT OFFICERS, DEPUTY SHERIFFS & PROTECTIVE SERVICES ASSOCIATION". In the center is a yellow five-pointed star with a shield in the middle. The shield depicts two deer flanking a central figure holding a staff, with the motto "TUEBOR" above and "CIRCUMSPICERE" below.

Notify Police Agency in Area of Seizure
(if necessary)

Visit Defendant Address and Follow-up

Seizure – SOS What it Means

- Vin
- Registration
- Secured Party
- Manual
- Open Online SOS Access (openonline.com)
- Example TASER

Seizure – Talking Control

- Physical possession (generally best)
 - Officer physically takes property
 - Consider the cost involved
- Constructive possession
 - Officer tags property so public knows it is seized
- Inventory
 - Must be done for either type seizure MC82

Seizure – What cannot be seized

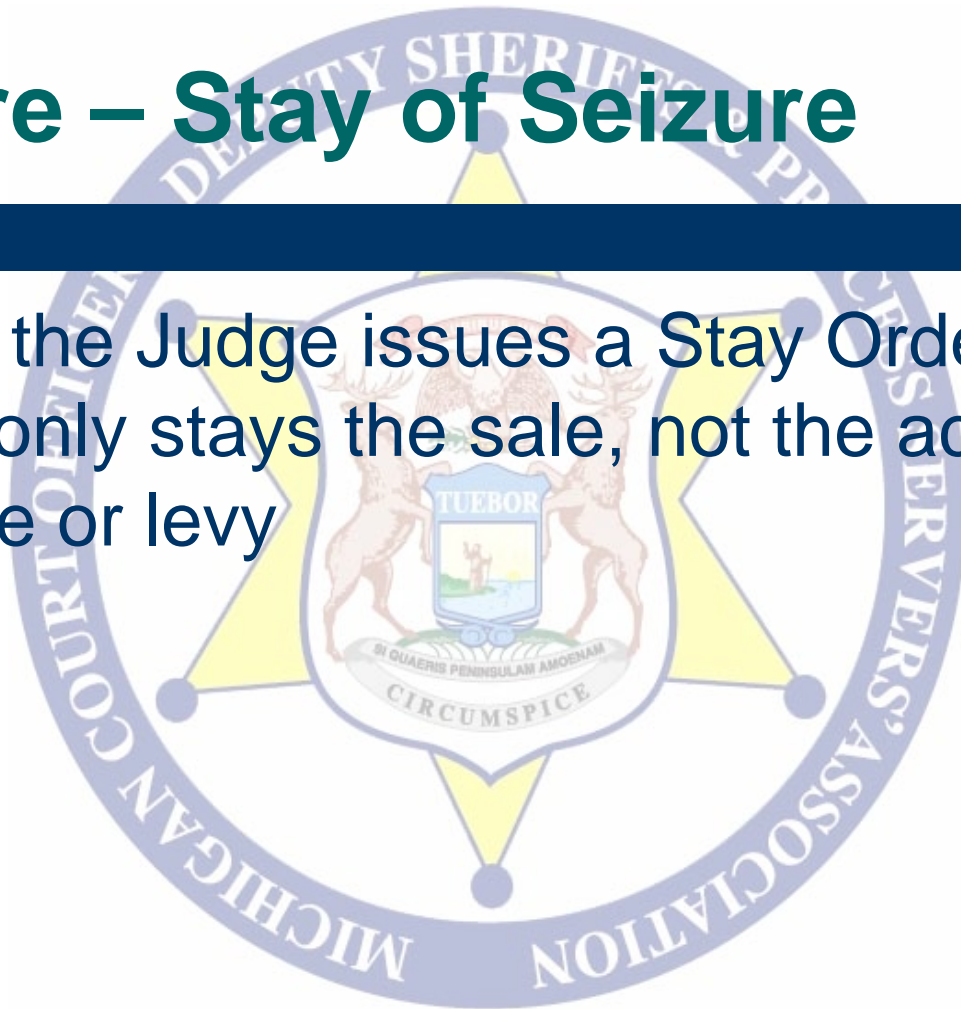
- MCL 600.6023 some examples
 - All household goods, furniture, appliances, NOT exceeding \$1,000 in value
 - 10 sheep, 2 cows, 5 swine, 100 hens, 5 roosters
 - Tool, implements, materials, stock, apparatus, team, vehicle, motor vehicle, other things to enable the def to carry on their **principal** profession, trade, occupation, or business, not exceeding \$1,000 in value

Seizure – Joint Ownership

- MCL 600.6023A
 - exempts real property held jointly by a husband and wife as a tenancy by the entirety, if judgment is entered against only 1 spouse
- MCL 557.151
 - Limits what types of non real property may be held as entireties property. Motor vehicles owed jointly may be seized. See Attached Memo

Seizure – Stay of Seizure

- When the Judge issues a Stay Order, that order only stays the sale, not the actual seizure or levy



Seizure – Sale of Property

- MC 83 - Specify the articles sold, and the sum for which each article or parcel was sold
- If officer commits any fraud in the sale, or in the return, or unreasonably neglects to pay any money collected by him, he is liable for 5 times the amount of the actual damages sustained by reason of such fraud or neglect.

Seizure – Sale of Property Seized

- Must hold property 10 days before sale
 - How to count days MCL 8.6
- Property must be appraised by two freeholders. Real property requires an appraisal from six freeholders
- Must offer the defendant option to select their exemptions from the seized property. If the defendant does not make the selection, the officer **MUST**.

Seizure – Sale of Property Seized

- MCL 600.6042 If, at the scheduled sale time, the officer deems it expedient and for the interest of all persons concerned, to postpone the sale for lack of purchasers or other sufficient cause, he may postpone the sale from time to time until the sale is complete. Must post adjournment notice at the same three public places. MCL600.6052

Seizure – Sale of Property

- MCL 600.6043
 - Cannot sell more property than necessary to satisfy the judgment
- MCL 600.6044
 - Must pay over all excess/surplus money back to defendant.
 - Send certified, return receipt requested, restricted delivery
 - Escheat to State of Michigan if not signed for

Seizure – Sale of Property

- MCL 600.6046
 - The deputies or court officers involved in the seizure cannot directly or indirectly (wife), purchase or be interested in the purchase of any property at the sale.

Seizure – Real Property

- MCL 600.6051
 - Levy on real property expires 5 years from the date recorded (Use \$stamp)
- MCL 600.6052
 - Requires 3 public notices IN the township or city where the premises is located, at least 6 weeks prior to the sale. If the sale will take place elsewhere, then 3 additional public notices in area where property is being sold.

Seizure – Sale Real Property

- MCL 600.6053
 - Sale MUST be held between 9 AM and 4 PM at the court house where the circuit court is held in the county where the real estate is located.
- MCL 600.6054
 - Officer liable to defendant for actual damages if property is sold without proper notices

Seizure – Hiding Assets

- MCL 600.6085
 - Any person who secretes, assigns, conveys, or otherwise disposes of any of his property, with the intent to defraud, shall be guilty of a misdemeanor

Seizure – Tools for the Job

- Digital Recorder
- Spike Strips
- Digital Camera & Viewu
- Seizure Stickers & Tags
- Clubs & Boots

Questions?



Collection of Judgment

- Settle Judgment with Defendant
- Calculate fees
- Collect Cash, Certified Funds
- Fill out MC83
 - Mail Payment with MC83 to Plaintiff
 - Mail MC83 to Court
 - Retain MC83 copy for file

Payment Collection Options

- Setup Payment Arrangements
Verify with Plaintiff (or Attorney)
Payments are acceptable within 90 days
- Log Payments in File
- Fill out MC82
- Mail Payment with MC82 to Plaintiff
- Mail MC82 to Court
- Retain MC82 copy for file

Seize Property

- Verify property to be seized
 - Arrange for Tow or Removal of Item(s)
 - Arrange for Storage
 - Fill out MC82 & Sale Notice
 - Post Sale Notices in Three Public Locations
 - Mail MC82 and Sale Notice to Court
 - Mail MC82 and Sale Notice to Plaintiff
 - Mail MC82 and Sale Notice to Defendant
 - Retain copies of MC82 and Sale Notice for file
 - Have Seized Property Appraised

Hold Public Sale

- Produce Bill of Sale for Buyer
- Mail Copy of Bill of Sale with MC82/MC83 to Court
- Mail Copy of Bill of Sale with MC82/MC83 to Plaintiff
- Mail Copy of Bill of Sale with MC82/MC83 to Defendant
- Retain Copy of Bill of Sale with MC82/MC83 for file

Judgment NOT Satisfied?

- Seize further Personal Property if Judgment not satisfied
- File MC83 that the Judgment was NOT satisfied in FULL
 - Attach real property if available
 - Have Plaintiff entertain reevaluating file in a few years
 - Close File

Questions?

Thank you.

Please give us feedback for the next
Seminar Workshop Group