



Michigan Supreme Court

State Court Administrative Office
Trial Court Services Division
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MEMORANDUM

DATE: March 22, 2019

TO: District and Municipal Court Judges
District Court Administrators
District Court Magistrates
District Court Clerks

FROM: Michele Muscat, Management Analyst
Bobbi Morrow, Management Analyst

RE: Contesting the Abandonment Process or Towing and Storage Fees
of Vehicles under MCL 257.252a, *et seq.*

[Public Act 347 of 2018](#) took effect January 14, 2019, and revises the process for contesting the abandonment process or towing and storage fees of vehicles under MCL 257.252a, *et seq.* This memo outlines the elements of the process. Please adjust your procedures accordingly.

Secretary of State Form TR-52P

Within seven days of receiving notice that an abandoned or removed vehicle has been taken into custody, the Secretary of State (SOS) is required to send notice to the last-titled owner and secured party (SOS Form TR-52P). A TR-52P notice will be generated when a vehicle is towed pursuant to MCL 257.252a or 252b (abandonment) or 257.252d (removal) and will include a petition for requesting a hearing on the disposition of the abandoned vehicle.

Filing an Action

A vehicle owner or the secured party can contest the abandonment process or the reasonableness of towing and storage fees by filing the TR-52P at the court listed in the notice or, if no court is listed, at the local district or municipal court. The petition must be filed within 20 days after the date of the notice.

If the vehicle owner or secured party does not have the TR-52P, he or she may file SCAO form [DC 90¹](#), Petition Regarding Impoundment of Motor Vehicle or Seizure of Motorcycle. If the

¹ DC 90 in the process of being updated in reference to this revised public act.

vehicle owner or secured party files DC 90, the court must inquire whether the vehicle was towed pursuant to MCL 257.252a, 252b, or 252d because the form is also used in other situations. The vehicle owner or secured party must pay a \$65 filing fee when the case is filed. The court should open a civil case with case-type code GZ.

For a vehicle towed pursuant to MCL 257.252a or 257.252d, the court is required to collect a bond in the amount of \$40 plus accrued towing and storage fees when a petition is filed, unless the accrued towing and storage fees have already been paid by the vehicle owner or secured party. If that has happened, then the court is required only to collect a \$40 statutory fee from the owner or secured party in addition to the filing fee. For a vehicle towed pursuant to MCL 257.252b, if the owner or secured party wishes to obtain release of the vehicle, the court is required to collect a statutory fee in the amount of \$40, plus accrued towing and storage fees, unless the accrued towing and storage fees have already been paid by the vehicle owner or secured party. If that has happened, then the court is only required to collect a \$40 statutory fee from the owner or secured party in addition to the filing fee.

If both the owner and the secured party request a hearing to contest the reasonableness of the towing fees and daily storage fees within 20 days after the date of the notice (received from the Secretary of State), the court must dismiss the secured party's petition and proceed with the owner's petition, unless the owner is in default on a contract or agreement with the secured party regarding that vehicle. If the owner is in default on a contract or agreement, the court must dismiss the owner's petition and proceed with the secured party's petition. If the secured party redeems the vehicle, the owner may only seek damages related to the reasonableness of the towing fees and daily storage fees from the secured party. If the court finds, after a hearing on the reasonableness of the towing fees and daily storage fees, that the owner's or the secured party's challenge was frivolous, the court may award reasonable attorney fees to the custodian of the vehicle.

If the vehicle was towed under another provision of the law, or upon request of the owner or operator, the bond and \$40 statutory fee are not applicable and should not be collected.

Scheduling a Hearing

The court must schedule a hearing within 30 days for the purpose of determining whether the police agency, towing agency or custodian, or private property owner acted properly. The court must notify the vehicle owner or secured party (as applicable), towing agency or custodian, and police agency, or, if the vehicle was removed from private property, the private property owner, of the time and place of the hearing.²

The hearing shall be conducted by a district court magistrate if a district court magistrate has been appointed by the court. The appeal of a district court magistrate's decision shall be heard by a judge of the district court.³

Issuing a Decision

At the hearing, the police agency, towing agency or custodian, or, if the vehicle was removed from private property, the private property owner has the burden of showing by a preponderance of the evidence that the agency or individual acted properly in reporting or processing the abandoned or removed vehicle.⁴

² MCL 257.252f(1)

³ MCL 257.252f(4). The attorney and non-attorney magistrate LAO templates have been updated and are available on the SCAO website.

⁴ MCL 257.252f(2)

After the hearing, the court shall make a decision that includes one or more of the following:⁵

1. If the court finds that the police agency complied with the procedures for processing an abandoned or removed vehicle, the court shall allow a period of 10 days after its decision for the owner or secured party to redeem the vehicle.⁶ The court shall also forward the towing and storage fees and \$15 of the \$40 to the towing agency. The remaining \$25 shall be transmitted within 30 days directly to the SOS at the following address:

Cashier Section
7064 Crowner
Drive
Lansing, MI 48918

2. If the court finds that the police agency did not enter the vehicle as abandoned into the law enforcement information network within 24 hours after the vehicle was taken into custody, the court must issue an order directing that the vehicle immediately be released to the owner or secured party along with one of the following:
 - a. If the owner or the secured party already paid the accrued storage charges, the police agency shall reimburse the owner or the secured party for the storage charges accrued before the police agency entered the vehicle into the law enforcement information network.
 - b. If the owner or the secured party has not paid the accrued storage charges but has posted a fee or bond with the court, the police agency shall pay directly to the owner or secured party, the amount of the storage charges accrued before the police agency entered the vehicle into the law enforcement information network, plus interest, no later than 10 days after the date of the order. The court shall release the bond posted by the owner or secured party in full to the custodian after the court has received notice from the police agency that the police agency has issued the payment required to the owner or secured party.⁷ [MCL 257.252f(3)(b)]
3. If the courts finds that the police agency improperly determined that the vehicle was abandoned, the court must issue an order directing that the vehicle be immediately released to the owner and directing the custodian to reimburse the owner for the accrued towing and storage charges, if the owner paid the accrued towing and storage charges. The court must order the police agency to reimburse the custodian for accrued towing and storage charges paid to the owner. If the owner has not paid the accrued towing and storage charges, the court must order the police agency to pay the accrued towing and storage charges. The court must also order the police agency to pay any other fees associated with recovering the vehicle, or to reimburse the owner for any other fees associated with recovering the vehicle paid by the owner. The court must also order any fee or bond posted by the owner to be returned to the owner.
4. If the court finds that the towing fees and daily storage fees were reasonable, the statute offers no guidance as to how the bond or fee should be distributed. Other findings the court makes should determine how any bond or fee will be distributed.⁸

⁵ MCL 257.252f(3)

⁶ MCL 257.252f(3)(a)

⁷ MCL 257.252f(3)(c)

⁸ MCL 257.252(3)(d)

5. If the court finds that the towing fees and daily storage fees were unreasonable, the court must issue an order directing the towing agency or custodian of the vehicle to provide the owner or secured party of the vehicle with an appropriate reduction or refund. However, there is no provision in the statute for returning the \$40 statutory fee to the owner. Other findings the court makes should determine how any bond or fee will be distributed.⁹
6. If the court finds that the private property owner acted properly, including compliance with notice requirements, the statute offers no guidance as to how the bond or fee should be distributed. Other findings the court makes should determine how any bond or fee will be distributed.¹⁰
7. If the court finds that a private property owner acted improperly, the court must issue an order requiring the private property owner to reimburse the last titled owner or the secured party for the accrued towing and storage charges. Again, there is no provision for returning the \$40 statutory fee to the vehicle owner if the private property owner is found to have acted improperly. Other findings the court makes should determine how any bond or fee will be distributed.¹¹
8. If the court finds that the towing agency did not comply with the procedures established for the proper removal and reporting of an abandoned vehicle, the court must issue an order directing that the vehicle immediately be released to the owner or secured party and directing 1 of the following:
 - a. If the owner or secured party paid the accrued storage charges, order that the towing agency reimburse the owner or the secured party for the storage charges accrued before the police agency entered the vehicle into the law enforcement information network.
 - b. If the owner or the secured party has not paid the accrued towing and storage charges but has posted a fee or bond with the court, order that the bond and storage charges accrued before the police agency entered the vehicle into the law enforcement information network be returned to the owner or secured party and that the remainder of any fee posted with the court be paid to the custodian.¹²
9. If the court finds that the towing agency did comply with the procedures established for the proper removal and reporting of an abandoned or removed vehicle, the statute offers no guidance as to how the money should be distributed. Other findings the court makes should determine how any bond or fee will be distributed.¹³

Because the statute is silent as to how the statutory bond or fee should be distributed if the court makes more than one of these nine findings, the court should look at its decision as a whole to determine the appropriate distribution.

Please note that the reference in TR-52P to bond forfeiture in the “Notice to the Court” section should be interpreted to include both applicable findings by the court and an owner’s failure to appear at the hearing that results in dismissal of the case. In each of these situations, \$15 of the \$40 statutory fee should be forwarded to the towing agency and the remaining \$25 transmitted to the SOS as outlined above.

⁹ MCL 257.252f(3)(e)

¹⁰ MCL 257.252f(3)(f)

¹¹ MCL 257.252f(3)(g)

¹² MCL 257.252f(h)

¹³ MCL 257.252f(3)(i)

The owner always has 20 days following the hearing to redeem the vehicle from the custodian regardless whether the court order specifically states so.¹⁴

If you have questions, please contact Michele Muscat at 517-373-3756 or Bobbi Morrow at 517-373-2173 or trialcourtservices@courts.mi.gov. The Secretary of State has an abandoned/stolen vehicle unit that can assist the public. They can be reached at abandonedvehicles@michigan.gov or 517-636-5234.

¹⁴ MCL 257.252a(18) & MCL 257.252b(11)