

WILLIAMS FLOOR AMENDMENT

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1200

(Reference to the TRANSPORTATION Committee amendment)

Page 12, between lines 20 and 21, insert:

"Sec. 4. Section 11-445, Arizona Revised Statutes, is amended to read:

11-445. Fees chargeable in civil actions by sheriffs, constables
and private process servers; authority of private
process servers; background investigation; constables'
logs

A. The sheriff shall receive the following fees in civil actions:

1. For serving each true copy of the original summons in a civil suit, sixteen dollars, except that the sheriff shall not charge a fee for service of any document pursuant to section 13-3602 or any injunction against harassment pursuant to section 12-1809 if the court indicates the injunction arises out of a dating relationship.

2. For summoning each witness, sixteen dollars.

3. For levying and returning each writ of attachment or claim and delivery, forty-eight dollars.

4. For taking and approving each bond and returning it to the proper court when necessary, twelve dollars.

5. For endorsing the forfeiture of any bond required to be endorsed by him, twelve dollars.

6. For levying each execution, twenty-four dollars.

7. For returning each execution, sixteen dollars.

8. For executing and returning each writ of possession or restitution, forty-eight dollars plus a rate of forty dollars per hour per deputy or constable for the actual time spent in excess of three hours.

9. For posting the advertisement for sale under execution, or any order of sale, twelve dollars.

10. For posting or serving any notice, process, writ, order, pleading or paper required or permitted by law, not otherwise provided for, sixteen

1 dollars except that posting for a writ of restitution shall not exceed ten
2 dollars.

3 11. For executing a deed to each purchaser of real property under
4 execution or order of sale, twenty-four dollars.

5 12. For executing a bill of sale to each purchaser of real and personal
6 property under an execution or order of sale, when demanded by the purchaser,
7 sixteen dollars.

8 13. For services in designating a homestead or other exempt property,
9 twelve dollars.

10 14. For receiving and paying money on redemption and issuing a
11 certificate of redemption, twenty-four dollars.

12 15. For serving and returning each writ of garnishment and related
13 papers, forty dollars.

14 16. For the preparation, including notarization, of each affidavit of
15 service or other document pertaining to service, eight dollars.

16 17. For every writ served on behalf of a justice of the peace, a fee
17 established by the board of supervisors not to exceed five dollars per writ.
18 Monies collected from the writ fees shall be deposited in the constable
19 ethics standards and training fund established by section 22-138.

20 B. The sheriff shall also collect the appropriate recording fees if
21 applicable and other appropriate disbursements.

22 C. The sheriff may charge:

23 1. Fifty-six dollars plus disbursements for any skip tracing services
24 performed.

25 2. A reasonable fee for executing a civil arrest warrant ordered
26 pursuant to court rule by a judge or justice of the peace. The fee shall
27 only be charged to the party requesting the issuance of the civil arrest
28 warrant.

29 3. A reasonable fee for storing personal property levied on pursuant
30 to title 12, chapter 9.

31 D. For traveling to serve or on each attempt to serve civil process,
32 writs, orders, pleadings or papers, the sheriff shall receive two dollars

1 forty cents for each mile actually and necessarily traveled but, in any
2 event, not to exceed two hundred miles, nor to be less than sixteen dollars.
3 Mileage shall be charged one way only. For service made or attempted at the
4 same time and place, regardless of the number of parties or the number of
5 papers so served or attempted, only one charge for travel fees shall be made
6 for such service or attempted service.

7 E. For collecting money on an execution when it is made by sale, the
8 sheriff and the constable shall receive eight dollars for each one hundred
9 dollars or major portion thereof not to exceed a total of two thousand
10 dollars, but when money is collected by the sheriff without a sale, only
11 one-half of such fee shall be allowed. When satisfaction or partial
12 satisfaction of a judgment is received by the judgment creditor after the
13 sheriff or constable has received an execution on the judgment, the
14 commission is due the sheriff or constable and is established by an affidavit
15 of the judgment creditor filed with the officer. If the affidavit is not
16 lodged with the officer within thirty days of the request, the commission
17 shall be based on the total amount of judgment due as billed by the officer
18 and may be collected as any other debt by that officer.

19 F. The sheriff shall be allowed for all process issued from the
20 supreme court and served by the sheriff the same fees as are allowed the
21 sheriff for similar services on process issued from the superior court.

22 G. The constable shall receive the same fees as the sheriff for
23 performing the same services in civil actions, except that mileage shall be
24 computed from the office of the justice of the peace originating the civil
25 action to the place of service.

26 H. Notwithstanding subsection G of this section, in a county with a
27 population of more than three million persons, if an office of a justice of
28 the peace is located outside of the precinct boundaries, the mileage for a
29 constable shall be calculated pursuant to subsection D of this section,
30 except that the distance between the precinct boundaries and the office of
31 the justice of the peace, as determined by the county and certified by the
32 board of supervisors of that county, shall be subtracted from the mileage

1 calculation. This certified mileage calculation shall be transmitted to the
2 justice courts and the clerks of those courts shall calculate the mileage
3 between the office of the justice of the peace and the location where the
4 civil process, writ, order, pleading or paper was served and reduce the
5 mileage used to calculate the mileage fee according to the certified mileage
6 calculation for that respective jurisdiction.

7 I. Private process servers duly appointed or registered pursuant to
8 rules established by the supreme court may serve all process, writs, orders,
9 pleadings or papers required or permitted by law to be served before, during
10 or independently of a court action, including all such as are required or
11 permitted to be served by a sheriff or constable, except writs or orders
12 requiring the service officer to sell, deliver or take into the officer's
13 custody persons or property, or as may otherwise be limited by rule
14 established by the supreme court. A private process server is an officer of
15 the court. As a condition of registration, the supreme court shall require
16 each private process server applicant to furnish a full set of fingerprints
17 to enable a criminal background investigation to be conducted to determine
18 the suitability of the applicant. The completed applicant fingerprint card
19 shall be submitted with the fee prescribed in section 41-1750 to the
20 department of public safety. The applicant shall bear the cost of obtaining
21 the applicant's criminal history record information. The cost shall not
22 exceed the actual cost of obtaining the applicant's criminal history record
23 information. Applicant criminal history records checks shall be conducted
24 pursuant to section 41-1750 and Public Law 92-544. The department of public
25 safety is authorized to exchange the submitted applicant fingerprint card
26 information with the federal bureau of investigation for a federal criminal
27 records check. A private process server may charge such fees for services as
28 may be agreed on between the process server and the party engaging the
29 process server.

30 J. Constables shall maintain a log of work related activities
31 including a listing of all processes served and the number of processes
32 attempted to be served by case number, the names of the plaintiffs and

1 defendants, the names and addresses of the persons to be served except as
2 otherwise precluded by law, the date of process and the daily mileage.

3 K. The log maintained in subsection J of this section is a public
4 record and shall be made available by the constable at the constable's office
5 during regular office hours. Copies of the log shall be filed monthly with
6 the clerk of the justice court and with the clerk of the board of
7 supervisors.

8 ~~L. If the sheriff or constable serves a warrant issued by a justice or~~
9 ~~superior court judge for failure to pay a fine, the court shall collect a ten~~
10 ~~per cent surcharge on the amount of the fine owed by the defendant and shall~~
11 ~~transmit the monies collected to the county treasurer for deposit in the~~
12 ~~county general fund."~~

13 Renumber to conform

14 Page 17, between lines 7 and 8, insert:

15 "Sec. 6. Section 22-131, Arizona Revised Statutes, is amended to read:

16 22-131. Constables: powers and duties

17 A. Constables shall attend the courts of justices of the peace within
18 their precincts when required, and within their counties execute, serve and
19 return all processes, **WARRANTS** and notices directed or delivered to them by a
20 justice of the peace of the county or by competent authority. In addition to
21 any other provision of law these duties may be enforced by the presiding
22 judge of the superior court in the county, including the use of the power of
23 contempt.

24 B. Constables shall attend the training prescribed in section 22-137.

25 C. Constables, with the consent of and at salaries fixed by the board
26 of supervisors, may appoint deputies who are certified pursuant to section
27 41-1822, subsection A, paragraph 3, stenographers, clerks and assistants
28 necessary to conduct the affairs of their offices. The appointments shall be
29 in writing and filed in the office of the county recorder.

30 D. The provisions of law relating to sheriffs, as far as applicable,
31 shall govern the powers, duties and liabilities of constables.

1 E. A constable who is duly elected or who is appointed by the board of
2 supervisors has the authority of a peace officer only in the performance of
3 the constable's official duties.

4 F. A constable may execute, serve and return processes and notices as
5 prescribed in subsection A of this section within any precinct in another
6 county if that precinct adjoins the precinct in which the constable was
7 elected or appointed."

8 Renumber to conform

9 Page 47, after line 33, insert:

10 "Sec. 18. Title 28, chapter 5, article 2, Arizona Revised Statutes, is
11 amended by adding section 28-1525, to read:

12 28-1525. Assessment; failure to pay fine

13 IN ADDITION TO ANY FINE, FEE, PENALTY OR ASSESSMENT AUTHORIZED BY LAW,
14 A PERSON WHO IS CONVICTED IN THE SUPERIOR COURT OR A JUSTICE COURT FOR A
15 VIOLATION OF THIS TITLE SHALL PAY AN ASSESSMENT OF ONE HUNDRED TWENTY-FIVE
16 DOLLARS IF A WARRANT FOR FAILURE TO PAY A FINE, FEE, PENALTY OR ASSESSMENT
17 IMPOSED AS A RESULT OF THE CONVICTION IS ISSUED FOR THE ARREST OF THE
18 DEFENDANT. THE COURT SHALL TRANSMIT THE ASSESSED MONIES TO THE COUNTY
19 TREASURER FOR DEPOSIT IN THE COUNTY GENERAL FUND. THE ASSESSMENT IS NOT
20 SUBJECT TO ANY SURCHARGE."

21 Renumber to conform

22 Amend title to conform

VIC WILLIAMS

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