

PROPOSED AMENDMENT

SENATE AMENDMENTS TO S.B. 1162

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 11-445, Arizona Revised Statutes, is amended to
3 read:

4 11-445. Fees chargeable in civil actions by sheriffs,
5 constables and private process servers; authority of
6 private process servers; background investigation;
7 constables' logs

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

9 1. For serving each true copy of the original summons in a civil suit,
10 sixteen dollars, except that the sheriff shall not charge a fee for service
11 of ANY OF THE FOLLOWING:

12 (a) Any document pursuant to section 13-360. ~~or~~

13 (b) Any injunction against harassment pursuant to section 12-1809 if
14 the court indicates the injunction arises out of a dating relationship.

15 (c) ANY UNIFORM TRAFFIC TICKET AND COMPLAINT THAT IS A RESULT OF A
16 PHOTO ENFORCEMENT SYSTEM AS DEFINED IN SECTION 28-601.

17 2. For summoning each witness, sixteen dollars.

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

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

22 5. For endorsing the forfeiture of any bond required to be endorsed by
23 ~~him~~ THE SHERIFF, twelve dollars.

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

25 7. For returning each execution, sixteen dollars.

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

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

6 10. For posting or serving any notice, process, writ, order, pleading
7 or paper required or permitted by law, not otherwise provided for, sixteen
8 dollars except that posting for a writ of restitution shall not exceed ten
9 dollars.

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

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

15 13. For services in designating a homestead or other exempt property,
16 twelve dollars.

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

19 15. For serving and returning each writ of garnishment and related
20 papers, forty dollars.

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

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

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

29 C. The sheriff may charge:

30 1. Fifty-six dollars plus disbursements for any skip tracing services
31 performed.

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

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

7 D. For traveling to serve or on each attempt to serve civil process,
8 writs, orders, pleadings or papers, the sheriff shall receive two dollars
9 forty cents for each mile actually and necessarily traveled but, in any
10 event, not to exceed two hundred miles, nor to be less than sixteen dollars.
11 Mileage shall be charged one way only. For service made or attempted at the
12 same time and place, regardless of the number of parties or the number of
13 papers so served or attempted, only one charge for travel fees shall be made
14 for such service or attempted service.

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

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

30 G. The constable shall receive the same fees as the sheriff for
31 performing the same services in civil actions, except that mileage shall be

1 computed from the office of the justice of the peace originating the civil
2 action to the place of service.

3 H. Notwithstanding subsection G of this section, in a county with a
4 population of more than three million persons, if an office of a justice of
5 the peace is located outside of the precinct boundaries, the mileage for a
6 constable shall be calculated pursuant to subsection D of this section,
7 except that the distance between the precinct boundaries and the office of
8 the justice of the peace, as determined by the county and certified by the
9 board of supervisors of that county, shall be subtracted from the mileage
10 calculation. This certified mileage calculation shall be transmitted to the
11 justice courts, and the clerks of those courts shall calculate the mileage
12 between the office of the justice of the peace and the location where the
13 civil process, writ, order, pleading or paper was served and reduce the
14 mileage used to calculate the mileage fee according to the certified mileage
15 calculation for that respective jurisdiction.

16 I. Private process servers duly appointed or registered pursuant to
17 rules established by the supreme court may serve all process, writs, orders,
18 pleadings or papers required or permitted by law to be served before, during
19 or independently of a court action, including all such as are required or
20 permitted to be served by a sheriff or constable, except writs or orders
21 requiring the service officer to sell, deliver or take into the officer's
22 custody persons or property, or as may otherwise be limited by rule
23 established by the supreme court. A private process server is an officer of
24 the court. As a condition of registration, the supreme court shall require
25 each private process server applicant to furnish a full set of fingerprints
26 to enable a criminal background investigation to be conducted to determine
27 the suitability of the applicant. The completed applicant fingerprint card
28 shall be submitted with the fee prescribed in section 41-1750 to the
29 department of public safety. The applicant shall bear the cost of obtaining
30 the applicant's criminal history record information. The cost shall not
31 exceed the actual cost of obtaining the applicant's criminal history record
32 information. Applicant criminal history records checks shall be conducted

1 pursuant to section 41-1750 and Public Law 92-544. The department of public
2 safety is authorized to exchange the submitted applicant fingerprint card
3 information with the federal bureau of investigation for a federal criminal
4 records check. A private process server may charge such fees for services as
5 may be agreed on between the process server and the party engaging the
6 process server EXCEPT THAT THE PROCESS SERVER SHALL NOT BE PAID A FEE FOR THE
7 SERVICE OF ANY UNIFORM TRAFFIC TICKET AND COMPLAINT THAT IS A RESULT OF A
8 PHOTO ENFORCEMENT SYSTEM AS DEFINED IN SECTION 28-601.

9 J. Constables shall maintain a log of work related activities
10 including a listing of all processes served and the number of processes
11 attempted to be served by case number, the names of the plaintiffs and
12 defendants, the names and addresses of the persons to be served except as
13 otherwise precluded by law, the date of process and the daily mileage.

14 K. The log maintained in subsection J of this section is a public
15 record and shall be made available by the constable at the constable's office
16 during regular office hours. Copies of the log shall be filed monthly with
17 the clerk of the justice court and with the clerk of the board of
18 supervisors."

19 Amend title to conform

RICK MURPHY

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2/13/12
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S: BB/ly