

REFERENCE TITLE: process servers; privileges

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

SB 1197

Introduced by
Senator Pancrazi

AN ACT

AMENDING SECTION 11-445, ARIZONA REVISED STATUTES; RELATING TO PROCESS
SERVERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

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 document pursuant to section 13-3602 or any injunction against
12 harassment pursuant to section 12-1809 if the court indicates the injunction
13 arises out of a dating relationship.

14 2. For summoning each witness, sixteen dollars.

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

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

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

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

22 7. For returning each execution, sixteen dollars.

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

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

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

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

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

37 13. For services in designating a homestead or other exempt property,
38 twelve dollars.

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

41 15. For serving and returning each writ of garnishment and related
42 papers, forty dollars.

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

45 17. For every writ served on behalf of a justice of the peace, a fee
46 established by the board of supervisors THAT IS not ~~to exceed~~ MORE THAN five

1 dollars per writ. Monies collected from the writ fees shall be deposited in
2 the constable ethics standards and training fund established by section
3 22-138.

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

6 C. The sheriff may charge:

7 1. Fifty-six dollars plus disbursements for any skip tracing services
8 performed.

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

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

15 D. For traveling to serve or on each attempt to serve civil process,
16 writs, orders, pleadings or papers, the sheriff shall receive two dollars
17 forty cents for each mile actually and necessarily traveled but, in any
18 event, not ~~to exceed~~ MORE THAN two hundred miles, nor ~~to be~~ less than
19 sixteen dollars. Mileage shall be charged one way only. For service made or
20 attempted at the same time and place, regardless of the number of parties or
21 the number of papers so served or attempted, only one charge for travel fees
22 shall be made for such service or attempted service.

23 E. For collecting money on an execution when it is made by sale, the
24 sheriff and the constable shall receive eight dollars for each one hundred
25 dollars or major portion thereof THAT IS not ~~to exceed~~ MORE THAN a total of
26 two thousand dollars, but when money is collected by the sheriff without a
27 sale, only one-half of ~~such~~ THE fee shall be allowed. When satisfaction or
28 partial satisfaction of a judgment is received by the judgment creditor after
29 the sheriff or constable has received an execution on the judgment, the
30 commission is due the sheriff or constable and is established by an affidavit
31 of the judgment creditor filed with the officer. If the affidavit is not
32 lodged with the officer within thirty days of the request, the commission
33 shall be based on the total amount of judgment due as billed by the officer
34 and may be collected as any other debt by that officer.

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

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

42 H. Notwithstanding subsection G of this section, in a county with a
43 population of more than three million persons, if an office of a justice of
44 the peace is located outside of the precinct boundaries, the mileage for a
45 constable shall be calculated pursuant to subsection D of this section,
46 except that the distance between the precinct boundaries and the office of

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

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

- 33 1. ENTER AND REMAIN LAWFULLY ON REAL PROPERTY.
- 34 2. ENTER UNANNOUNCED AND REMAIN LAWFULLY IN A PLANNED COMMUNITY OR
35 CONDOMINIUM ASSOCIATION THAT IS GUARDED OR GATED.

36 J. Constables shall maintain a log of work related activities
37 including a listing of all processes served and the number of processes
38 attempted to be served by case number, the names of the plaintiffs and
39 defendants, the names and addresses of the persons to be served except as
40 otherwise precluded by law, the date of process and the daily mileage.

41 K. The log maintained in subsection J of this section is a public
42 record and shall be made available by the constable at the constable's office
43 during regular office hours. Copies of the log shall be filed monthly with
44 the clerk of the justice court and with the clerk of the board of
45 supervisors.