

State of Arizona  
Senate  
Forty-seventh Legislature  
Second Regular Session  
2006

# SENATE BILL 1180

AN ACT

AMENDING SECTIONS 11-445 AND 22-136, ARIZONA REVISED STATUTES; RELATING TO  
CONSTABLES.

(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, 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.

1           17. FOR EVERY WRIT SERVED ON BEHALF OF A JUSTICE OF THE PEACE, A FEE  
2 ESTABLISHED BY THE BOARD OF SUPERVISORS NOT TO EXCEED FIVE DOLLARS PER WRIT  
3 SHALL BE ESTABLISHED. MONIES COLLECTED FROM THE WRIT FEES SHALL BE DEPOSITED  
4 IN THE CONSTABLE ETHICS COMMITTEE FUND ESTABLISHED BY SECTION 22-136.

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

7           C. The sheriff may charge:

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

10           2. A REASONABLE FEE FOR EXECUTING A CIVIL ARREST WARRANT ORDERED  
11 PURSUANT TO COURT RULE BY A JUDGE OR JUSTICE OF THE PEACE. THE FEE SHALL  
12 ONLY BE CHARGED TO THE PARTY REQUESTING THE ISSUANCE OF THE CIVIL ARREST  
13 WARRANT.

14           ~~2-~~ 3. A reasonable fee for storing personal property levied on  
15 pursuant to title 12, chapter 9.

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

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

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

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

43           H. Private process servers duly appointed or registered pursuant to  
44 rules established by the supreme court may serve all process, writs, orders,  
45 pleadings or papers required or permitted by law to be served prior to,

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

21 I. Constables shall maintain a log of work related activities  
22 including a listing of all processes served and the number of processes  
23 attempted to be served by case number, the names of the plaintiffs and  
24 defendants, the names and addresses of the persons to be served except as  
25 otherwise precluded by law, the date of process and the daily mileage.

26 J. The log maintained in subsection I of this section is a public  
27 record and shall be made available by the constable at the constable's office  
28 during regular office hours. Copies of the log shall be filed monthly with  
29 the clerk of the justice court and with the clerk of the board of  
30 supervisors.

31 Sec. 2. Section 22-136, Arizona Revised Statutes, is amended to read:  
32 22-136. Constable ethics committee

33 A. A constable ethics committee is established consisting of the  
34 following voting members:

35 1. Two constables from counties with a population of less than one  
36 million persons who are appointed by the Arizona association of counties.

37 2. Two constables from counties with a population of one million or  
38 more persons who are appointed by the Arizona association of counties.

39 ~~3. One superior court judge who is appointed by the chief justice of  
40 the supreme court.~~

41 ~~4.~~ 3. One justice of the peace who is appointed by the chief justice  
42 of the supreme court.

43 ~~5.~~ 4. One county administrator OR DESIGNEE who is appointed by the  
44 county supervisors association.

45 ~~6.~~ 5. One sheriff who is appointed by the governor.

1           ~~7.~~ 6. One member of the public who is appointed by the governor.

2           7. ONE BOARD MEMBER OF THE ARIZONA MULTIHOUSING ASSOCIATION WHO IS  
3 APPOINTED BY THE GOVERNOR.

4           B. ~~The chairperson of the Arizona commission on judicial conduct or~~  
5 ~~the chairperson's designee who is also a member of the commission is the~~  
6 ~~chairperson of the committee. The chairperson of the committee is a~~  
7 ~~nonvoting advisory member.~~ THE COMMITTEE SHALL ANNUALLY ELECT A CHAIRPERSON  
8 FROM AMONG ITS MEMBERS. The committee shall adopt a constable code of  
9 conduct that addresses attendance at mandatory training and rules of  
10 procedure ~~and shall receive administrative support from the Arizona~~  
11 ~~commission on judicial conduct.~~

12           C. Terms of the committee members are four years, except that the  
13 initial terms of two constables, ~~the superior court judge,~~ the county  
14 administrator and the sheriff are two years. If a member ceases to hold the  
15 position that qualified the member for the appointment, the member's  
16 membership terminates and the appointing authority pursuant to subsection A  
17 OF THIS SECTION fills the vacancy for the unexpired term.

18           D. The committee shall hear and investigate written complaints from  
19 any person involving a constable's ethical or personal conduct. The  
20 committee shall attempt to remedy a constable's inappropriate behavior by:

- 21           1. Mediating.  
22           2. Issuing warnings, reprimands or admonishments.  
23           3. Instructing constables to take particular action to correct  
24 behavior or to take educational courses.  
25           4. Urging a constable to retire from office.

26           E. If the committee is not satisfied with the remedies prescribed by  
27 subsection D OF THIS SECTION the committee shall submit a report to the  
28 county attorney's office in the county in which the conduct at issue  
29 occurred.

30           F. A CONSTABLE ETHICS COMMITTEE FUND IS ESTABLISHED CONSISTING OF  
31 MONIES RECEIVED FROM WRIT FEES COLLECTED PURSUANT TO SECTION 11-445,  
32 SUBSECTION A, PARAGRAPH 17. THE CONSTABLE ETHICS COMMITTEE SHALL ADMINISTER  
33 THE FUND SUBJECT TO LEGISLATIVE APPROPRIATION. ON NOTICE FROM THE COMMITTEE,  
34 THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED IN  
35 SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE  
36 FUND. THE FUND IS EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO  
37 LAPSING OF APPROPRIATIONS. THE COMMITTEE SHALL USE:

- 38           1. EIGHTY PER CENT OF THE MONIES APPROPRIATED FROM THE FUND FOR  
39 CONSTABLE TRAINING, EQUIPMENT AND RELATED GRANTS.  
40           2. TWENTY PER CENT OF THE MONIES APPROPRIATED FROM THE FUND FOR  
41 OPERATING EXPENSES OF THE COMMITTEE.

42           Sec. 3. Short title

43           This act may be cited as the "Marilyn Jarrett Constable Ethics Act".