

REFERENCE TITLE: **civil process service; fees**

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SB 1606

Introduced by
Senators O'Halleran, Allen, Miranda; Representative Hershberger; Senators
Arzberger, Blendu, Chevront, Flake, Harper; Representatives Anderson,
Brown, Crandall, Kavanagh, Lopez, Tom

AN ACT

**AMENDING SECTION 11-445, ARIZONA REVISED STATUTES; RELATING TO CIVIL SERVICE
OF PROCESS.**

(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~~ TWENTY dollars, except that the sheriff shall not charge a fee for
11 service 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~~ TWENTY 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~~ FIFTEEN dollars.

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

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

22 7. For returning each execution, ~~sixteen~~ TWENTY 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~~ FIFTEEN 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 TWENTY dollars except that posting for a writ of restitution shall not exceed
31 ten dollars.

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

37 13. For services in designating a homestead or other exempt property,
38 ~~twelve~~ FIFTEEN 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~~ FORTY-EIGHT dollars.

43 16. For the preparation, including notarization, of each affidavit of
44 service or other document pertaining to service, ~~eight~~ TEN 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~~ SEVENTY-FIVE dollars plus disbursements for any skip
9 tracing services 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 3. A reasonable fee for storing personal property levied on pursuant
15 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~~ THREE
18 dollars ~~forty~~ SIXTY cents for each mile actually and necessarily traveled
19 but, in any event, not to exceed two hundred miles, nor to be less than
20 ~~sixteen~~ TWENTY dollars. Mileage shall be charged one way only. For service
21 made or attempted at the same time and place, regardless of the number of
22 parties or the number of papers so served or attempted, only one charge for
23 travel fees 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~~ TEN dollars for each one
26 hundred dollars or major portion thereof not to exceed a total of two
27 thousand dollars, but when money is collected by the sheriff without a sale,
28 only 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~~ ON 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 **BEFORE**, during or independently of a court action, including all such as are
2 required or permitted to be served by a sheriff or constable, except writs or
3 orders requiring the service officer to sell, deliver or take into the
4 officer's 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~~ **ON** 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.