

FIRST REGULAR SESSION

HOUSE BILL NO. 748

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HOUX.

1265H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 57.280 and 488.435, RSMo, and to enact in lieu thereof two new sections relating to charges for service of court orders.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 57.280 and 488.435, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 57.280 and 488.435, to read as follows:

57.280. 1. Sheriffs shall receive a charge for service of any summons, writ or other order of court, in connection with any civil case, and making on the same either a return indicating service, a non est return or a nulla bona return, the sum of twenty dollars for each item to be served, except that a sheriff shall receive a charge for service of any subpoena, and making a return on the same, the sum of ten dollars; however, no such charge shall be collected in any proceeding when court costs are to be paid by the state, county or municipality. In addition to such charge, the sheriff shall be entitled to receive for each mile actually traveled in serving any summons, writ, subpoena or other order of court the rate prescribed by the Internal Revenue Service for all allowable expenses for motor vehicle use expressed as an amount per mile, provided that such mileage shall not be charged for more than one subpoena or summons or other writ served in the same cause on the same trip. All of such charges shall be received by the sheriff who is requested to perform the service. Except as otherwise provided by law, all charges made pursuant to this section shall be collected by the court clerk as court costs and are payable prior to the time the service is rendered; provided that if the amount of such charge cannot be readily determined, then the sheriff shall receive a deposit based upon the likely amount of such charge, and the balance of such charge shall be payable immediately upon ascertainment of the proper amount of said charge. A sheriff may refuse to perform any service

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 in any action or proceeding, other than when court costs are waived as provided by law, until the
19 charge provided by this section is paid. Failure to receive the charge shall not affect the validity
20 of the service.

21 2. The sheriff shall receive for receiving and paying moneys on execution or other
22 process, where lands or goods have been levied and advertised and sold, five percent on five
23 hundred dollars and four percent on all sums above five hundred dollars, and half of these sums,
24 when the money is paid to the sheriff without a levy, or where the lands or goods levied on shall
25 not be sold and the money is paid to the sheriff or person entitled thereto, his agent or attorney.
26 The party at whose application any writ, execution, subpoena or other process has issued from
27 the court shall pay the sheriff's costs for the removal, transportation, storage, safekeeping and
28 support of any property to be seized pursuant to legal process before such seizure. The sheriff
29 shall be allowed for each mile, going and returning from the courthouse of the county in which
30 he resides to the place where the court is held, the rate prescribed by the Internal Revenue
31 Service for all allowable expenses for motor vehicle use expressed as an amount per mile. The
32 provisions of this subsection shall not apply to garnishment proceeds.

33 3. The sheriff upon the receipt of the charge herein provided for shall pay into the
34 treasury of the county any and all charges received pursuant to the provisions of this section. The
35 funds collected pursuant to this section, not to exceed fifty thousand dollars in any calendar year,
36 shall be held in a fund established by the county treasurer, which may be expended at the
37 discretion of the sheriff for the furtherance of the sheriff's set duties. Any such funds in excess
38 of fifty thousand dollars in any calendar year shall be placed to the credit of the general revenue
39 fund of the county. Moneys in the fund shall be used only for the procurement of services and
40 equipment to support the operation of the sheriff's office. Moneys in the fund established
41 pursuant to this subsection shall not lapse to the county general revenue fund at the end of any
42 county budget or fiscal year.

43 4. Notwithstanding the provisions of subsection 3 of this section to the contrary, the
44 sheriff~~], or any other person specially appointed to serve in a county that receives funds under~~
45 ~~section 57.278,]~~ shall receive ten dollars for service of any summons, writ, subpoena, or other
46 order of the court included under subsection 1 of this section, in addition to the charge for such
47 service that each sheriff receives under subsection 1 of this section. The money received by the
48 sheriff~~], or any other person specially appointed to serve in a county that receives funds under~~
49 ~~section 57.278,]~~ under this subsection shall be paid into the county treasury and the county
50 treasurer shall make such money payable to the state treasurer. The state treasurer shall deposit
51 such moneys in the deputy sheriff salary supplementation fund created under section 57.278.

52 **5. Notwithstanding the provisions of subsection 3 of this section to the contrary, the**
53 **court clerk shall collect ten dollars as a court cost for service of any summons, writ,**

54 **subpoena, or other order of the court included under subsection 1 of this section when any**
55 **person other than a sheriff is specially appointed to serve in a county that receives funds**
56 **under section 57.278. The money received by the clerk under this subsection shall be paid**
57 **into the county treasury, and the county treasurer shall make such money payable to the**
58 **state treasurer. The state treasurer shall deposit such moneys in the deputy sheriff salary**
59 **supplementation fund created under section 57.278.**

488.435. 1. Sheriffs shall receive a charge, as provided in section 57.280, for service of
2 any summons, writ or other order of court, in connection with any civil case, and making on the
3 same either a return indicating service, a non est return or a nulla bona return, the sum of twenty
4 dollars for each item to be served, as provided in section 57.280, except that a sheriff shall
5 receive a charge for service of any subpoena, and making a return on the same, the sum of ten
6 dollars, as provided in section 57.280; however, no such charge shall be collected in any
7 proceeding when court costs are to be paid by the state, county or municipality. In addition to
8 such charge, the sheriff shall be entitled, as provided in section 57.280, to receive for each mile
9 actually traveled in serving any summons, writ, subpoena or other order of court, the rate
10 prescribed by the Internal Revenue Service for all allowable expenses for motor vehicle use
11 expressed as an amount per mile, provided that such mileage shall not be charged for more than
12 one subpoena or summons or other writ served in the same cause on the same trip. All of such
13 charges shall be received by the sheriff who is requested to perform the service. Except as
14 otherwise provided by law, all charges made pursuant to section 57.280 shall be collected by the
15 court clerk as court costs and are payable prior to the time the service is rendered; provided that
16 if the amount of such charge cannot be readily determined, then the sheriff shall receive a deposit
17 based upon the likely amount of such charge, and the balance of such charge shall be payable
18 immediately upon ascertainment of the proper amount of such charge. A sheriff may refuse to
19 perform any service in any action or proceeding, other than when court costs are waived as
20 provided by law, until the charge provided by this section is paid. Failure to receive the charge
21 shall not affect the validity of the service.

22 2. The sheriff shall, as provided in section 57.280, receive for receiving and paying
23 moneys on execution or other process, where lands or goods have been levied and advertised and
24 sold, five percent on five hundred dollars and four percent on all sums above five hundred
25 dollars, and half of these sums, when the money is paid to the sheriff without a levy, or where
26 the lands or goods levied on shall not be sold and the money is paid to the sheriff or person
27 entitled thereto, his or her agent or attorney. The party at whose application any writ, execution,
28 subpoena or other process has issued from the court shall pay the sheriff's costs, as provided in
29 section 57.280, for the removal, transportation, storage, safekeeping and support of any property
30 to be seized pursuant to legal process before such seizure. The sheriff shall be allowed for each

31 mile, as provided in section 57.280, going and returning from the courthouse of the county in
32 which he or she resides to the place where the court is held, the rate prescribed by the Internal
33 Revenue Service for all allowable expenses for motor vehicle use expressed as an amount per
34 mile. The provisions of this subsection shall not apply to garnishment proceeds.

35 3. As provided in subsection 4 of section 57.280, the sheriff shall receive ten dollars for
36 service of any summons, writ, subpoena, or other order of the court included under subsection
37 1 of section 57.280, in addition to the charge for such service that each sheriff receives under
38 subsection 1 of section 57.280. The money received by the sheriff under subsection 4 of section
39 57.280 shall be paid into the county treasury and the county treasurer shall make such money
40 payable to the state treasurer. The state treasurer shall deposit such moneys in the deputy sheriff
41 salary supplementation fund created under section 57.278.

42 **4. The court clerk shall collect ten dollars as a court cost for service of any**
43 **summons, writ, subpoena, or other order of the court included under subsection 1 of this**
44 **section when any person other than a sheriff is specially appointed to serve in a county that**
45 **receives funds under section 57.278. The money received by the clerk under this subsection**
46 **shall be paid into the county treasury, and the county treasurer shall make such money**
47 **payable to the state treasurer. The state treasurer shall deposit such moneys in the deputy**
48 **sheriff salary supplementation fund created under section 57.278.**

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