

FIRST REGULAR SESSION

# HOUSE BILL NO. 77

## 102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE KELLEY (127).

0465H.02I

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal sections 57.280 and 488.435, RSMo, and to enact in lieu thereof two new sections relating to the collection of court costs.

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Section A. Sections 57.280 and 488.435, RSMo, are repealed and two new sections  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

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 sheriff may refuse to perform any service in any action or proceeding, other than when court  
19 costs are waived as provided by law, until the charge provided by this section is paid. Failure  
20 to receive the charge shall not affect the validity 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  
24 sums, when the money is paid to the sheriff without a levy, or where the lands or goods levied  
25 on shall not be sold and the money is paid to the sheriff or person entitled thereto, his agent or  
26 attorney. The party at whose application any writ, execution, subpoena or other process has  
27 issued from the court shall pay the sheriff's costs for the removal, transportation, storage,  
28 safekeeping and support of any property to be seized pursuant to legal process before such  
29 seizure. The sheriff shall be allowed for each mile, going and returning from the courthouse  
30 of the county in which he resides to the place where the court is held, the rate prescribed by  
31 the Internal Revenue Service for all allowable expenses for motor vehicle use expressed as an  
32 amount per mile. The 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.  
35 The funds collected pursuant to this section, not to exceed fifty thousand dollars in any  
36 calendar year, shall be held in a fund established by the county treasurer, which may be  
37 expended at the discretion of the sheriff for the furtherance of the sheriff's set duties. Any  
38 such funds in excess of fifty thousand dollars in any calendar year shall be placed to the credit  
39 of the general revenue fund of the county. Moneys in the fund shall be used only for the  
40 procurement of services and equipment to support the operation of the sheriff's office.  
41 Moneys in the fund established pursuant to this subsection shall not lapse to the county  
42 general revenue fund at the end of any 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  
47 such service that each sheriff receives under subsection 1 of this section. The money received  
48 by the sheriff~~], or any other person specially appointed to serve in a county that receives funds~~  
49 ~~under section 57.278,]~~ under this subsection shall be paid into the county treasury and the  
50 county treasurer shall make such money payable to the state treasurer. The state treasurer  
51 shall deposit such moneys in the deputy sheriff salary supplementation fund created under  
52 section 57.278. **Any other person specially appointed to serve in a county shall execute**  
53 **and deliver to the circuit clerk, along with the confirmation of service, a signed and**  
54 **notarized affidavit of confirmation, made under penalty of perjury, that includes the**

55 **amount, check number, and date of payment to evidence payment was made to the**  
56 **sheriff for the deputy sheriff salary supplementation fund as required by this**  
57 **subsection.**

58 **5. Notwithstanding the provisions of subsection 3 of this section, the court clerk**  
59 **shall collect ten dollars as a court cost for service of any summons, writ, subpoena, or**  
60 **other order of the court included under subsection 1 of this section if any person other**  
61 **than a sheriff is specially appointed to serve in a county that receives funds under**  
62 **section 57.278. The moneys received by the court clerk under this subsection shall be**  
63 **paid into the county treasury and the county treasurer shall make such moneys payable**  
64 **to the state treasurer. The state treasurer shall deposit such moneys in the deputy**  
65 **sheriff salary supplementation fund created under section 57.278.**

66 [~~5-~~] 6. Sheriffs shall receive up to fifty dollars for service of any summons, writ, or  
67 other order of the court in connection with any eviction proceeding, in addition to the charge  
68 for such service that each sheriff receives under this section. All of such charges shall be  
69 received by the sheriff who is requested to perform the service and shall be paid to the county  
70 treasurer in a fund established by the county treasurer, which may be expended at the  
71 discretion of the sheriff for the furtherance of the sheriff's set duties. All charges shall be  
72 payable prior to the time the service is rendered; provided that if the amount of such charge  
73 cannot be readily determined, then the sheriff shall receive a deposit based upon the likely  
74 amount of such charge, and the balance of such charge shall be payable immediately upon  
75 ascertainment of the proper amount of said charge.

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

17 determined, then the sheriff shall receive a deposit based upon the likely amount of such  
18 charge, and the balance of such charge shall be payable immediately upon ascertainment of  
19 the proper amount of such charge. A sheriff may refuse to perform any service in any action  
20 or proceeding, other than when court costs are waived as provided by law, until the charge  
21 provided by this section is paid. Failure to receive the charge shall not affect the validity of  
22 the service.

23         2. The sheriff shall, as provided in section 57.280, receive for receiving and paying  
24 moneys on execution or other process, where lands or goods have been levied and advertised  
25 and sold, five percent on five hundred dollars and four percent on all sums above five hundred  
26 dollars, and half of these sums, when the money is paid to the sheriff without a levy, or where  
27 the lands or goods levied on shall not be sold and the money is paid to the sheriff or person  
28 entitled thereto, his or her agent or attorney. The party at whose application any writ,  
29 execution, subpoena or other process has issued from the court shall pay the sheriff's costs, as  
30 provided in section 57.280, for the removal, transportation, storage, safekeeping and support  
31 of any property to be seized pursuant to legal process before such seizure. The sheriff shall be  
32 allowed for each mile, as provided in section 57.280, going and returning from the courthouse  
33 of the county in which he or she resides to the place where the court is held, the rate  
34 prescribed by the Internal Revenue Service for all allowable expenses for motor vehicle use  
35 expressed as an amount per mile. The provisions of this subsection shall not apply to  
36 garnishment proceeds.

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

44         **4. As provided in subsection 5 of section 57.280, the court clerk shall collect ten**  
45 **dollars as a court cost for service of any summons, writ, subpoena, or other order of the**  
46 **court included under subsection 1 of this section if any person other than a sheriff is**  
47 **specially appointed to serve in a county that receives funds under section 57.278. The**  
48 **moneys received by the clerk under this subsection shall be paid into the county**  
49 **treasury and the county treasurer shall make such moneys payable to the state**  
50 **treasurer. The state treasurer shall deposit such moneys in the deputy sheriff salary**  
51 **supplementation fund created under section 57.278.**

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