

CHAPTER 158

GOVERNMENT - COUNTY

HOUSE BILL 96-1231

BY REPRESENTATIVES Reeves and Mace;
also SENATOR Schroeder.

AN ACT

CONCERNING FEES OF SHERIFFS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 30-1-104 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

30-1-104. Fees of sheriff. (1) Fees collected by sheriffs shall be as follows:

(a) For serving and returning summons or other writ of process IN A CRIMINAL ACTION not specified in this section, with or without complaint attached, on each party served, in counties of every class, actual expenses, but not more than fifteen dollars;

(a.5) FOR SERVING AND RETURNING A SUMMONS OR OTHER WRIT OF PROCESS IN OTHER THAN A CRIMINAL ACTION NOT SPECIFIED IN THIS SECTION, WITH OR WITHOUT COMPLAINT ATTACHED, ON EACH PARTY SERVED, IN COUNTIES OF EVERY CLASS, ACTUAL EXPENSES, BUT NOT MORE THAN THIRTY DOLLARS;

(b) For making a return on a summons IN A CRIMINAL ACTION not served, for each party, in counties of every class, actual expenses, but not more than five dollars;

(b.5) FOR MAKING A RETURN ON A SUMMONS IN OTHER THAN A CRIMINAL ACTION NOT SERVED, FOR EACH PARTY, IN COUNTIES OF EVERY CLASS, ACTUAL EXPENSES, BUT NOT MORE THAN EIGHT DOLLARS;

(c) For serving and returning each subpoena IN A CRIMINAL ACTION on each witness, in counties of every class, actual expenses, but not more than seven dollars

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

and fifty cents;

(c.5) FOR SERVING AND RETURNING EACH SUBPOENA IN OTHER THAN A CRIMINAL ACTION ON EACH WITNESS, IN COUNTIES OF EVERY CLASS, ACTUAL EXPENSES, BUT NOT MORE THAN THIRTY DOLLARS;

(d) For making return on a subpoena IN A CRIMINAL ACTION not served, in counties of every class, five dollars;

(d.5) FOR MAKING RETURN ON A SUBPOENA IN OTHER THAN A CRIMINAL ACTION NOT SERVED, IN COUNTIES OF EVERY CLASS, EIGHT DOLLARS;

(e) For serving each juror in counties of every class, five dollars;

(f) For serving and returning writ of attachment or replevin on each party, in counties of every class, actual expenses, but not more than ~~seven dollars and fifty cents~~ FIFTY DOLLARS;

(g) For serving garnishee summons on each party, in counties of every class, actual expenses, but not more than ~~seven dollars and fifty cents~~ FIFTEEN DOLLARS;

(h) Mileage for each mile actually and necessarily traveled in serving each writ, subpoena, or other process IN A CRIMINAL ACTION, not less than twelve cents nor more than the maximum mileage allowance provided for state officers and employees under section 24-9-104, C.R.S., as determined by resolution of the board of county commissioners of each county or as provided by the charter of a home rule county; except that actual and not constructive mileage shall be allowed in all cases; and, where more than one warrant is served by any officer on one trip, the actual mileage only shall be allowed such officer, and the actual mileage shall be apportioned among the several warrants served on the trip;

(h.5) MILEAGE FOR EACH MILE ACTUALLY AND NECESSARILY TRAVELED IN SERVING EACH WRIT, SUBPOENA, OR OTHER PROCESS IN OTHER THAN A CRIMINAL ACTION, THIRTY-ONE CENTS; EXCEPT THAT ACTUAL AND NOT CONSTRUCTIVE MILEAGE SHALL BE ALLOWED IN ALL CASES; AND, WHERE MORE THAN ONE WARRANT IS SERVED BY ANY OFFICER ON ONE TRIP, THE ACTUAL MILEAGE ONLY SHALL BE ALLOWED SUCH OFFICER, AND THE ACTUAL MILEAGE SHALL BE APPORTIONED AMONG THE SEVERAL WARRANTS SERVED ON THE TRIP;

(i) In making demand for payment on executions when payment is not made, in counties of every class, one dollar;

(j) For levying execution or writ of attachment, besides actual custodial and transportation costs necessarily incurred in counties of every class, actual expenses or ~~seven dollars and fifty cents~~ FIFTY DOLLARS, whichever is greater;

(k) For levying writ of replevin, besides actual custodial and transportation costs necessarily incurred in counties of every class, actual expenses or ~~ten~~ FIFTY dollars, whichever is greater;

(l) No custodian shall be appointed by the sheriff to take custody of goods by him

OR HER attached, nor shall any deputy be placed in charge thereof, unless the plaintiff or his OR HER attorney shall request the appointment of such custodian in writing; such custodian or deputy shall receive twelve dollars per diem of twelve hours, or fraction thereof, which shall be taxed as costs in the case;

(m) For making and filing for record a certificate of levy on attachment or other cases, in counties of every class, actual expenses, but not more than ~~seven dollars and fifty cents~~ FIFTEEN DOLLARS;

(n) For committing and discharging prisoners to and from the county jail, in counties of every class, fifty cents;

(o) For serving writ with aid of posse comitatus with actual expenses necessarily incurred in executing said writ, in counties of every class, ~~fifteen~~ THIRTY dollars; for serving same without aid in counties of every class, two dollars;

(p) For attending before any judge, court not being in session, with prisoners with writ of habeas corpus for each day of twelve hours, or fraction thereof, in counties of every class, twelve dollars;

(q) For attending courts of record when in session, per diem of twelve hours, or fraction thereof, in counties of every class, twelve dollars; but the attendance upon the county court shall be certified by the judge of said court at the close of each month;

(r) For advertising property for sale, besides the actual cost of the advertising, in counties of every class, actual expenses, but not more than ~~seven dollars and fifty cents~~ FIFTEEN DOLLARS;

(s) For making certificates of sale previous to execution of deed, or on sales of personal property, in counties of every class, actual expenses, but not more than ~~seven dollars and fifty cents~~ FIFTEEN DOLLARS;

(t) For executing and acknowledging deed of sale of real estate, in counties of every class, actual expenses, but not more than ~~ten~~ TWENTY dollars;

(u) For taking, approving, and returning bond in any case, in counties of every class, a reasonable fee, not to exceed ten dollars;

(v) For executing capias or warrant in criminal cases, on each prisoner named therein, in counties of every class, two dollars;

(w) For transporting insane or other prisoners, besides the actual expenses necessarily incurred, in counties of every class, not less than twelve cents per mile nor more than the maximum mileage allowance provided for state officers and employees under section 24-9-104, C.R.S., as determined by resolution of the board of county commissioners of each county or as provided by the charter of a home rule county, and for the service of mittimus or other process order, whether written or otherwise, in transporting prisoners, in counties of every class, not less than twelve cents per mile nor more than the maximum mileage allowance provided for state officers and employees under section 24-9-104, C.R.S., as determined by resolution of the board

of county commissioners of each county or as provided by the charter of a home rule county; except that such mileage shall be only by one officer and no mileage shall be charged upon the guards attending the officer having custody of the prisoner and further except that the guards attending the officer in charge of the prisoner shall receive, besides the expenses necessarily incurred, the sum of twelve dollars per diem of twelve hours, or fraction thereof, to be paid out of the county treasury;

(x) For his OR HER services in sales of real estate on an execution or decree, order of court, or other court process, besides actual expenses, in counties of every class on all bids under three thousand dollars, ~~fifteen~~ TWENTY dollars; and on all sums bid over three thousand dollars, ~~one-half of one~~ ONE percent; but such commission shall in no case exceed the sum of ~~fifty~~ ONE HUNDRED dollars;

(y) For money collected by sale of personal property, in counties of every class, on all sums bid under five hundred dollars, ~~four~~ FIVE percent; on all sums bid over five hundred dollars and under one thousand dollars, ~~three and one-half~~ SIX percent; and on all sums bid over one thousand dollars, ~~three~~ SEVEN percent; but no fee shall be charged for an auctioneer or other person for making sales of personal property; and in no case shall such commission exceed the sum of ~~fifty~~ ONE HUNDRED dollars;

(z) For money collected or settlements made without sale, after writ of execution, attachment, or replevin has been placed in his OR HER hands and levy or demand for payment has been made on the proper party, in counties of every class, on all amounts under five hundred dollars, ~~two~~ THREE percent; on all amounts over five hundred dollars and under one thousand dollars, ~~one and one-half~~ TWO percent; and on all amounts over one thousand dollars, ~~one~~ ONE AND ONE-HALF percent; but the fee in no case shall exceed the sum of ~~one hundred~~ ONE HUNDRED AND FIFTY dollars; and the plaintiff or any person making any settlement shall be liable to the sheriff for such fees;

(aa) For pursuing and capturing, or pursuit without capture, when previously authorized by the board of county commissioners, each prisoner charged with the commission of any crime denominated a felony, beyond the limits of said county, in counties of every class, all necessary expenses of such pursuit, upon a verified, itemized account being presented for the same, together with twelve dollars per diem of twelve hours for the time occupied in such pursuit;

(bb) For serving and returning writ of ne exeat or body attachment, in counties of every class, ~~five~~ TEN dollars;

(cc) For serving copy of execution when making levy on shares of stock under execution, on each party served, in counties of every class, actual expenses, but not more than ~~seven dollars and fifty cents~~ THIRTY DOLLARS;

(dd) For making certificates of levy on shares, or otherwise, in counties of every class, actual expenses, but not more than ~~seven dollars and fifty cents~~ FIFTEEN DOLLARS;

(ee) For making return on execution, in counties of every class, actual expenses, but not more than ~~seven dollars and fifty cents~~ THIRTY DOLLARS;

(ff) For executing certificate of redemption, in counties of every class, actual expenses, but not more than ~~seven dollars and fifty cents~~ FIFTEEN DOLLARS;

(gg) For service of any writ of restitution or order of possession of premises, besides actual transportation costs necessarily incurred in counties of every class, actual expenses but not more than ~~fifteen~~ THIRTY dollars; except that, if execution of any such writ or order is required, an additional fee of actual expenses not to exceed ~~thirty-five~~ ONE HUNDRED dollars plus such transportation costs may be charged but only after the sheriff has provided a detailed accounting of his OR HER actual expenses to the person requesting such service. Actual transportation costs assessed pursuant to this paragraph (gg) shall only be charged once per location for each service or execution.

SECTION 2. Article 16 of title 13, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

13-16-124. Sheriff's fees charged to judicial department. EXCEPT AS PROVIDED FOR BY SECTION 13-16-103, IN ANY CIVIL ACTION IN WHICH CIVIL PROCESS IS DELIVERED TO A COUNTY OR CITY AND COUNTY SHERIFF BY THE JUDICIAL DEPARTMENT FOR SERVICE OF PROCESS, THE COURT IN WHICH THE CIVIL ACTION IS PENDING SHALL ASSESS AS COSTS AGAINST THE PARTY OR PARTIES REQUESTING SUCH SERVICE TO BE PAID TO THE COURT THE FEES CHARGED BY THE SHERIFF PURSUANT TO SECTION 30-1-104 (1), C.R.S. NO CIVIL ACTION MAY BE DISMISSED UNTIL SUCH COSTS HAVE BEEN PAID TO THE COURT.

SECTION 3. No appropriation. The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

SECTION 4. Effective date. This act shall take effect July 1, 1996.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 22, 1996