

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0398.01 Troy Bratton

HOUSE BILL 10-1057

HOUSE SPONSORSHIP

Ryden,

SENATE SPONSORSHIP

Spence,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING FEES CHARGED BY COUNTY SHERIFFS RELATING TO THE
102 SERVICE OF PROCESS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Current law dictates the fee a county sheriff may charge for the service of process in noncriminal actions. The sheriff must refund a portion of this fee if the sheriff is unable to serve the process. The bill eliminates the refund and allows the sheriff to charge the same fee for service of process whether actually served or not.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

The bill also allows county sheriffs to implement a zone- or zip code-based mileage structure, which would allow sheriffs to charge a flat rate for any service of process within a specified zone or zip code.

Finally, for service of multiple papers on one person, or on different persons at the same place of service for the same action, the bill eliminates the prohibition on constructive mileage and instead allows the sheriff to charge the standard rate for the first service of process and \$10 for each additional service of process.

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

2 **SECTION 1.** 30-1-104 (1) (a.5), (1) (b.5), (1) (c.5), (1) (d.5), (1)
3 (f), and (1) (h.5), Colorado Revised Statutes, are amended to read:

4 **30-1-104. Fees of sheriff.** (1) Fees collected by sheriffs shall be
5 as follows:

6 (a.5) For ~~servicing and returning~~ MAKING A RETURN ON a summons
7 or other writ of process in AN ACTION, other than a criminal action, not
8 specified in this section, WHETHER SERVED OR NOT SERVED, with or
9 without complaint attached, ~~on~~ FOR each party, ~~served~~; in counties of
10 every class, actual expenses, but not more than thirty-five dollars;

11 (b.5) For ~~making a return on a summons in other than a criminal~~
12 ~~action not served, for each party, in counties of every class, actual~~
13 ~~expenses, but not more than sixteen dollars;~~

14 (c.5) For ~~servicing and returning~~ MAKING A RETURN ON each
15 subpoena in AN ACTION, other than a criminal action, ~~on~~ WHETHER
16 SERVED OR NOT SERVED, FOR each witness, in counties of every class,
17 actual expenses, but not more than sixty dollars;

18 (d.5) For ~~making return on a subpoena in other than a criminal~~
19 ~~action not served, in counties of every class, actual expenses, but not~~
20 ~~more than sixteen dollars;~~

21 (f) For ~~servicing and returning~~ MAKING A RETURN ON A writ of

1 attachment or replevin, ~~on~~ WHETHER SERVED OR NOT SERVED, FOR each
2 party, in counties of every class, mileage, as described in paragraph (h.5)
3 of this subsection (1), and actual expenses;

4 (h.5) FOR mileage:

5 (I) NOT TO EXCEED THE MILEAGE RATE AUTHORIZED FOR COUNTY
6 OFFICIALS AND EMPLOYEES PURSUANT TO SECTION 30-11-107 (1) (t), for
7 each mile actually and necessarily traveled in serving each writ,
8 subpoena, or other process in AN ACTION other than a criminal action;
9 ~~thirty-six cents; except that actual and not constructive mileage shall be~~
10 ~~allowed in all cases; and, where more than one warrant is served by any~~
11 ~~officer on one trip, the actual mileage only shall be allowed such officer,~~
12 ~~and the actual mileage shall be apportioned among the several warrants~~
13 ~~served on the trip; OR~~

14 (II) A SHERIFF MAY ESTABLISH A ZONE- OR ZIP CODE-BASED
15 MILEAGE FEE STRUCTURE. THE ZONE- OR ZIP CODE-BASED MILEAGE FEE
16 STRUCTURE SHALL ESTABLISH A SINGLE MILEAGE FEE FOR THE SERVICE OF
17 ANY WRIT, SUBPOENA, OR OTHER PROCESS IN AN ACTION, OTHER THAN A
18 CRIMINAL ACTION, IN EACH SEPARATE ZONE OR ZIP CODE, AS APPLICABLE,
19 IN THE COUNTY. THE APPLICABLE SINGLE MILEAGE FEE FOR A ZONE OR ZIP
20 CODE SHALL BE CHARGED FOR ALL PAPERS SERVED IN THE ZONE OR ZIP
21 CODE REGARDLESS OF THE NUMBER OF ATTEMPTS OR ACTUAL MILEAGE
22 TRAVELED BY A SHERIFF WITHIN THE ZONE OR ZIP CODE DURING A
23 SHERIFF'S OPERATIONAL PERIOD. THE SINGLE MILEAGE FEES FOR EACH
24 ZONE OR ZIP CODE SHALL BE SET BY RESOLUTION OF THE BOARD OF
25 COUNTY COMMISSIONERS FOR THE COUNTY AND POSTED PURSUANT TO
26 SECTION 30-1-108.

27 **SECTION 2. Repeal.** 30-1-105, Colorado Revised Statutes, is

1 repealed as follows:

2 **30-1-105. Constructive mileage not allowed.** ~~When any sheriff~~
3 ~~serves two or more papers on the same person or on different persons at~~
4 ~~the same time and place in the same action, he may charge mileage from~~
5 ~~his office to the place of service for distance necessarily traveled only~~
6 ~~once each way, and no constructive mileage shall be allowed.~~

7 **SECTION 3.** Part 1 of article 1 of title 30, Colorado Revised
8 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
9 read:

10 **30-1-105.5. Two or more papers served on same person or**
11 **different persons at same time and place in same action.** (1) EXCEPT
12 AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, WHEN ANY SHERIFF
13 SERVES TWO OR MORE PAPERS ON THE SAME PERSON, OR SERVES PAPERS
14 ON DIFFERENT PERSONS AT THE SAME TIME AND PLACE IN THE SAME
15 ACTION, THE SHERIFF SHALL CHARGE THE HIGHEST INDIVIDUAL FEE
16 ALLOWABLE PURSUANT TO SECTION 30-1-104 FOR THE FIRST PROCESS AND
17 AN ADDITIONAL TEN DOLLARS FOR EACH SUBSEQUENT PROCESS SERVED.

18 (2) IF A COUNTY HAS ADOPTED A ZONE- OR ZIP CODE-BASED
19 MILEAGE FEE STRUCTURE, AS THAT TERM IS DESCRIBED IN SECTION
20 30-1-104 (1) (h.5) (II), WHEN ANY SHERIFF SERVES TWO OR MORE PAPERS
21 ON THE SAME PERSON, OR SERVES PAPERS ON DIFFERENT PERSONS AT THE
22 SAME TIME AND PLACE IN THE SAME ACTION, THE SHERIFF SHALL CHARGE
23 THE SINGLE ZONE- OR ZIP CODE-BASED MILEAGE FEE FOR THE FIRST
24 PROCESS AND AN ADDITIONAL TEN DOLLARS FOR EACH SUBSEQUENT
25 PROCESS SERVED.

26 **SECTION 4.** 30-1-107, Colorado Revised Statutes, is amended
27 to read:

1 **30-1-107. Penalty for violation - duties.** Any sheriff who
2 violates ~~any of the provisions of sections 30-1-105 and 30-1-106~~ SECTION
3 30-1-106 is guilty of a misdemeanor and, upon conviction thereof, shall
4 be punished by a fine of not less than five nor more than fifty dollars for
5 each offense and ~~he~~ is liable to any person aggrieved to pay all loss,
6 damage, and expenses, including attorney fees in prosecuting or suing
7 such officer, which such aggrieved person may sustain by reason of such
8 violation. The sheriff and ~~his~~ THE SHERIFF'S deputies shall be subject to
9 ~~the provisions of sections 30-1-105 and 30-1-106~~ SECTION 30-1-106.

10 **SECTION 5. Act subject to petition - effective date -**
11 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day
12 following the expiration of the ninety-day period after final adjournment
13 of the general assembly (August 11, 2010, if adjournment sine die is on
14 May 12, 2010); except that, if a referendum petition is filed pursuant to
15 section 1 (3) of article V of the state constitution against this act or an
16 item, section, or part of this act within such period, then the act, item,
17 section, or part shall not take effect unless approved by the people at the
18 general election to be held in November 2010 and shall take effect on the
19 date of the official declaration of the vote thereon by the governor.

20 (2) The provisions of this act shall apply to fees collected by
21 sheriffs on or after the applicable effective date of this act.