REENGROSSED

This Version Includes All Amendments
Adopted in the House of Introduction

LLS NO. 10-0398.01 Troy Bratton

HOUSE BILL 10-1057

HOUSE SPONSORSHIP

Ryden,

SENATE SPONSORSHIP

Spence,

House Committees	Senate Committees
Judiciary	Judiciary

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.

HOUSE
3rd Reading Unamended
February 19, 2010

HOUSE
Amended 2nd Reading
February 18, 2010

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) (b.5), (1) (d.5),   and (1) (h.5),

3 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

7 (b.5) For making a return on a summons in other than a criminal

8 action not served, for each party, in counties of every class, actual

9 expenses, but not more than ~~sixteen~~ TWENTY dollars;

10 (d.5) For making A return on a subpoena in other than a criminal

11 action not served, in counties of every class, actual expenses, but not

12 more than ~~sixteen~~ TWENTY dollars;

13 (h.5) FOR mileage:

14 (I) NOT TO EXCEED THE MILEAGE RATE AUTHORIZED FOR COUNTY

15 OFFICIALS AND EMPLOYEES PURSUANT TO SECTION 30-11-107 (1) (t), for

16 each mile actually and necessarily traveled in serving each writ,

17 subpoena, or other process in AN ACTION other than a criminal action;

18 ~~thirty-six cents; except that actual and not constructive mileage shall be~~

19 ~~allowed in all cases; and, where more than one warrant is served by any~~

20 ~~officer on one trip, the actual mileage only shall be allowed such officer,~~

21 ~~and the actual mileage shall be apportioned among the several warrants~~

1 ~~served on the trip;~~ OR

2 (II) A SHERIFF MAY ESTABLISH A ZONE- OR ZIP CODE-BASED

3 MILEAGE FEE STRUCTURE. THE ZONE- OR ZIP CODE-BASED MILEAGE FEE

4 STRUCTURE SHALL ESTABLISH A SINGLE MILEAGE FEE FOR THE SERVICE OF

5 ANY WRIT, SUBPOENA, OR OTHER PROCESS IN AN ACTION, OTHER THAN A

6 CRIMINAL ACTION, IN EACH SEPARATE ZONE OR ZIP CODE, AS APPLICABLE,

7 IN THE COUNTY. THE APPLICABLE SINGLE MILEAGE FEE FOR A ZONE OR ZIP

8 CODE SHALL BE CHARGED FOR ALL PAPERS SERVED IN THE ZONE OR ZIP

9 CODE REGARDLESS OF THE NUMBER OF ATTEMPTS OR ACTUAL MILEAGE

10 TRAVELED BY A SHERIFF WITHIN THE ZONE OR ZIP CODE DURING A

11 SHERIFF'S OPERATIONAL PERIOD. THE SINGLE MILEAGE FEES FOR EACH

12 ZONE OR ZIP CODE SHALL BE SET BY RESOLUTION OF THE BOARD OF

13 COUNTY COMMISSIONERS FOR THE COUNTY AND POSTED PURSUANT TO

14 SECTION 30-1-108.

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

16 repealed as follows:

17 **30-1-105. Constructive mileage not allowed.** ~~When any sheriff~~

18 ~~serves two or more papers on the same person or on different persons at~~

19 ~~the same time and place in the same action, he may charge mileage from~~

20 ~~his office to the place of service for distance necessarily traveled only~~

21 ~~once each way, and no constructive mileage shall be allowed.~~

22 **SECTION 3.** Part 1 of article 1 of title 30, Colorado Revised

23 Statutes, is amended BY THE ADDITION OF A NEW SECTION to

24 read:

25 **30-1-105.5. Two or more papers served on same person or**

26 **different persons at same time and place in same action.** (1) EXCEPT

27 AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, WHEN ANY SHERIFF

1   SERVES TWO OR MORE PAPERS ON THE SAME PERSON, OR SERVES PAPERS

2   ON DIFFERENT PERSONS AT THE SAME TIME AND PLACE IN THE SAME

3   ACTION, THE SHERIFF SHALL CHARGE THE HIGHEST INDIVIDUAL FEE

4   ALLOWABLE PURSUANT TO SECTION 30-1-104 FOR THE FIRST PROCESS AND

5   AN ADDITIONAL TEN DOLLARS FOR EACH SUBSEQUENT PROCESS SERVED.

6   (2) IF A COUNTY HAS ADOPTED A ZONE- OR ZIP CODE-BASED

7   MILEAGE FEE STRUCTURE, AS THAT TERM IS DESCRIBED IN SECTION

8   30-1-104 (1) (h.5) (II), WHEN ANY SHERIFF SERVES TWO OR MORE PAPERS

9   ON THE SAME PERSON, OR SERVES PAPERS ON DIFFERENT PERSONS AT THE

10 SAME TIME AND PLACE IN THE SAME ACTION, THE SHERIFF SHALL CHARGE

11 THE SINGLE ZONE- OR ZIP CODE-BASED MILEAGE FEE FOR THE FIRST

12 PROCESS AND AN ADDITIONAL TEN DOLLARS FOR EACH SUBSEQUENT

13 PROCESS SERVED.

14 **SECTION 4.** 30-1-106, Colorado Revised Statutes, is amended

15 to read:

16 **30-1-106. Service must be made upon offer or tender of fees.**

17 (1) No sheriff shall refuse to serve any writ, summons, or notice

18 requested by any person entitled to such service, when offered or tendered

19 the fees allowed by law for such service; nor shall he OR SHE charge,

20 demand, or receive any greater sum or compensation or allowance.

21 (2) A SHERIFF SHALL HAVE THE AUTHORITY TO ESTABLISH BILLING

22 ACCOUNTS FOR LICENSED ATTORNEYS AND LICENSED COLLECTION

23 AGENCIES THAT HAVE A PRINCIPAL OFFICE LOCATED IN THE STATE.

24 (3) A SHERIFF SHALL HAVE THE AUTHORITY TO DEVELOP AND

25 PUBLISH STANDARDIZED PROCEDURES FOR BILLING THE ACCOUNTS

26 AUTHORIZED BY SUBSECTION (2) OF THIS SECTION. SUCH PROCEDURES

27 MAY INCLUDE THE ABILITY TO SUSPEND THE BILLING PRIVILEGES OF ANY

1 ENTITY FOR NONPAYMENT OF A FEE UPON DEMAND OR OTHER GOOD CAUSE

2 SHOWN.

3   **SECTION 5.** 30-1-107, Colorado Revised Statutes, is amended

4 to read:

5   **30-1-107. Penalty for violation - duties.** Any sheriff who

6 violates ~~any of the provisions of sections 30-1-105 and 30-1-106~~ SECTION

7 30-1-106 is guilty of a misdemeanor and, upon conviction thereof, shall

8 be punished by a fine of not less than five nor more than fifty dollars for

9 each offense and ~~he~~ is liable to any person aggrieved to pay all loss,

10 damage, and expenses, including attorney fees in prosecuting or suing

11 such officer, which such aggrieved person may sustain by reason of such

12 violation. The sheriff and ~~his~~ THE SHERIFF'S deputies shall be subject to

13 ~~the provisions of sections 30-1-105 and 30-1-106~~ SECTION 30-1-106.

14   **SECTION 6.** 30-1-116 (1), Colorado Revised Statutes, is

15 amended to read:

16   **30-1-116. Officers shall collect fees in advance.** (1) EXCEPT AS

17 PROVIDED IN SECTION 30-1-106, every officer shall collect every fee, as

18 prescribed, for services performed by him OR HER in advance, if the same

19 can be ascertained, and when any officer negligently or willfully fails to

20 collect any such fee, the same shall be charged against his OR HER salary.

21   **SECTION 7. Act subject to petition - effective date -**

22 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day

23 following the expiration of the ninety-day period after final adjournment

24 of the general assembly (August 11, 2010, if adjournment sine die is on

25 May 12, 2010); except that, if a referendum petition is filed pursuant to

26 section 1 (3) of article V of the state constitution against this act or an

27 item, section, or part of this act within such period, then the act, item,

1   section, or part shall not take effect unless approved by the people at the

2   general election to be held in November 2010 and shall take effect on the

3   date of the official declaration of the vote thereon by the governor.

4   (2)   The provisions of this act shall apply to fees collected by

5   sheriffs on or after the applicable effective date of this act.