

1 previously certified injunctions to sheriffs
2 upon request; requiring sheriffs to verify
3 receipt of facsimile copies of injunctions with
4 clerks of court before attempting service;
5 authorizing law enforcement officers to serve
6 facsimile copies of injunctions in the same
7 manner as certified copies; providing an
8 effective date.

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10 Be It Enacted by the Legislature of the State of Florida:

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12 Section 1. Subsections (1) and (4) of section 30.231,
13 Florida Statutes, are amended to read:

14 30.231 Sheriffs' fees for service of summons,
15 subpoenas, and executions.--

16 (1) The sheriffs of all counties of the state in civil
17 cases shall charge fixed, nonrefundable fees for docketing and
18 service of process, according to the following schedule:

19 (a) All summons or writs except executions: ~~\$40~~\$20
20 for each summons or writ to be served, except when more than
21 one summons or writ is issued at the same time out of the same
22 cause of action to be served upon one person or defendant at
23 the same time, in which case the sheriff shall be entitled to
24 one fee.

25 (b) All writs except executions requiring a levy or
26 seizure of property: \$50 in addition to the ~~\$40~~\$20 fee as
27 stated in paragraph (a).

28 (c) Witness subpoenas: ~~\$40~~\$20 for each witness to be
29 served.

30 (d) Executions:
31

1 1. ~~Forty Twenty~~ dollars for docketing and indexing
2 each writ of execution, regardless of the number of persons
3 involved.

4 2. Fifty dollars for each levy.

5 a. A levy is considered made when any property or any
6 portion of the property listed or unlisted in the instructions
7 for levy is seized, or upon demand of the sheriff the writ is
8 satisfied by the defendant in lieu of seizure. Seizure
9 requires that the sheriff take actual possession, if
10 practicable, or, alternatively, constructive possession of the
11 property by order of the court.

12 b. When the instructions are for levy upon real
13 property, a levy fee is required for each parcel described in
14 the instructions.

15 c. When the instructions are for levy based upon
16 personal property, one fee is allowed, unless the property is
17 seized at different locations, conditional upon all of the
18 items being advertised collectively and the sale being held at
19 a single location. However, if the property seized cannot be
20 sold at one location during the same sale as advertised, but
21 requires separate sales at different locations, the sheriff is
22 then authorized to impose a levy fee for the property and sale
23 at each location.

24 3. ~~Forty Twenty~~ dollars for advertisement of sale
25 under process.

26 4. ~~Forty Twenty~~ dollars for each sale under process.

27 5. ~~Forty Twenty~~ dollars for each deed, bill of sale,
28 or satisfaction of judgment.

29 (4) All fees collected under paragraphs (1)(a), (b),
30 (c), and (d) shall be nonrefundable and shall be earned when
31 each original request or service of process is made, ~~and no~~

1 ~~additional fees shall be required for alias and pluries~~
2 ~~documents when service was not effected on the original~~
3 ~~document in that county by that sheriff.~~

4 Section 2. Subsection (1) of section 48.021, Florida
5 Statutes, is amended to read:

6 48.021 Process; by whom served.--

7 (1) All process shall be served by the sheriff of the
8 county where the person to be served is found, except initial
9 nonenforceable civil process, criminal witness subpoenas, and
10 criminal summonses may be served by a special process server
11 appointed by the sheriff as provided for in this section or by
12 a certified process server as provided for in ss. 48.25-48.31.
13 Civil witness subpoenas may be served by any person authorized
14 by rules of civil procedure.

15 Section 3. Subsection (2) of section 56.041, Florida
16 Statutes, is amended to read:

17 56.041 Executions; collection and return.--

18 (2) All unsatisfied executions in the hands of the
19 sheriff docketed before October 1, 2001, or 20 years after the
20 date of issuance of final judgment upon which the execution
21 was issued may be returned, to the court issuing the
22 ~~execution, 20 years after the date of issuance of final~~
23 ~~judgment upon which the execution was issued.~~ Upon such
24 return, the clerk of the court of issuance shall provide a
25 receipt, to the sheriff submitting the return, acknowledging
26 the return of the unsatisfied execution.

27 Section 4. Section 56.21, Florida Statutes, is amended
28 to read:

29 56.21 Execution sales; notice.--Notice of all sales
30 under execution shall be given by advertisement once each week
31 for 4 successive weeks in a newspaper published in the county

1 | in which the sale is to take place. The time of such notice
2 | may be shortened in the discretion of the court from which the
3 | execution issued, upon affidavit that the property to be sold
4 | is subject to decay and will not sell for its full value if
5 | held until date of sale. On or before the date of the first
6 | publication or posting of the notice of sale, a copy of the
7 | notice of sale shall be furnished by the sheriff by certified
8 | mail to the attorney of record of the judgment debtor, or to
9 | the judgment debtor at the judgment debtor's last known
10 | address if the judgment debtor does not have an attorney of
11 | record. Such copy of the notice of sale shall be mailed even
12 | though a default judgment was entered. When levying upon real
13 | or personal property, a notice of such levy and execution sale
14 | and a copy of the affidavit required by s. 56.27(4) shall be
15 | sent by the sheriff to the attorneys of record of all judgment
16 | creditors, or to all judgment creditors who do not have an
17 | attorney of record, who have acquired a judgment lien as
18 | provided in s. 55.10(1) and (2), s. 55.202, or s. 55.204(3),
19 | and whose liens have not lapsed at the time of levy, at the
20 | address listed in the judgment lien certificate, or, if
21 | amended, in any amendment to the judgment lien certificate,
22 | and to all secured creditors who have filed financing
23 | statements as provided in part V of chapter 679 in the name of
24 | the judgment debtor reflecting a security interest in property
25 | of the kind to be sold at the execution sale at the address
26 | listed in the financing statement, or, if amended, in any
27 | amendment to the financing statement. Such notice shall be
28 | made in the same manner as notice is made to any judgment
29 | debtor under this section. When levying upon real property,
30 | notice of such levy and execution sale and affidavit required
31 | by s. 56.27(4) shall be made to the property owner of record

1 | in the same manner as notice is made to any judgment debtor
2 | pursuant to this section. When selling real or personal
3 | property, the sale date shall not be earlier than 30 days
4 | after the date of the first advertisement.

5 | Section 5. Subsections (1), (2), and (4) of section
6 | 56.27, Florida Statutes, are amended to read:

7 | 56.27 Executions; payment of money collected.--

8 | (1) All money received under executions shall be paid,
9 | in the order prescribed, to the following: the sheriff, for
10 | costs; the levying creditor in the amount of \$500 as
11 | liquidated expenses; and ~~if the levy is upon real property,~~
12 | ~~the first~~ priority lienholder under s. 55.10(1) and (2), ~~s.~~
13 | ~~55.10; and if the levy is upon personal property, the first~~
14 | ~~priority lienholder under~~ s. 55.202, s. 55.204(3), or s.
15 | 55.208(2), as set forth in an affidavit required by subsection
16 | (4), or his or her attorney, in satisfaction of the judgment
17 | lien, if ~~provided that~~ the judgment lien has not lapsed at the
18 | time of the levy. The receipt of the attorney shall be a
19 | release of the officer paying the money to him or her. If ~~When~~
20 | the name of more than one attorney appears in the court file,
21 | the money shall be paid to the attorney who originally
22 | commenced the action or who made the original defense unless
23 | the file shows that another attorney has been substituted.

24 | (2) If ~~When~~ property sold under execution brings more
25 | than the amount needed to satisfy the provisions of subsection
26 | (1), the surplus shall be paid in the order of priority to any
27 | judgment lienholders whose judgment liens have not lapsed.
28 | Priority of liens on personal property shall be based on the
29 | effective date of the judgment lien acquired under s. 55.202,
30 | s. 55.204(3), or s. 55.208(2), as set forth in an affidavit
31 | required under subsection (4). Priority of liens on real

1 property shall be based on the effective date of the judgment
2 lien acquired under s. 55.10(1) and (2), as set forth in an
3 affidavit required under subsection (4). If there is a surplus
4 after all valid judgment liens and execution liens have been
5 satisfied, the surplus must be paid to the defendant.

6 (4) Before the date of the first publication or
7 posting of the notice of sale provided for under s. 56.21, at
8 the time of the levy request to the sheriff, the levying
9 creditor shall deliver to the sheriff an affidavit setting
10 forth all of the following as to the judgment debtor:

11 (a) For a personal property levy, an attestation by
12 ~~that~~ the levying creditor or the creditor's attorney of record
13 that he or she has reviewed the database or judgment lien
14 records established in accordance with ss. 55.201-55.209 and
15 that the information contained in the affidavit based on that
16 review is true and correct. For real property levy in
17 accordance with s. 55.10(1) and (2), an attestation by the
18 levying creditor or his or her attorney of record that he or
19 she has reviewed the records of the clerk of court of the
20 county where the property is situated, or that he or she has
21 performed a title search, and that the information contained
22 in the affidavit based on that review or title search is true
23 and correct.†

24 (b) The information required under s. 55.203(1) and
25 (2) for each judgment lien certificate indexed under the name
26 of the judgment debtor as to each judgment creditor; the file
27 number assigned to the record of the original and, if any, the
28 second judgment lien; and the date of filing for each judgment
29 lien certificate under s. 55.202 or s. 55.204(3). For real
30 property, the information contained in the certified copy of
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1 recordation of lien pursuant to s. 55.10(1) and (2) for each
2 lien recorded on real property. ~~and~~

3 (c) A statement that the levying creditor either does
4 not have any other levy in process or, if another levy is in
5 process, the levying creditor believes in good faith that the
6 total value of the property under execution does not exceed
7 the amount of outstanding judgments.

8 Section 6. Paragraph (a) of subsection (8) of section
9 741.30, Florida Statutes, is amended to read:

10 741.30 Domestic violence; injunction; powers and
11 duties of court and clerk; petition; notice and hearing;
12 temporary injunction; issuance of injunction; statewide
13 verification system; enforcement.--

14 (8)(a)1. The clerk of the court shall furnish a copy
15 of the petition, financial affidavit, Uniform Child Custody
16 Jurisdiction and Enforcement Act affidavit, if any, notice of
17 hearing, and temporary injunction, if any, to the sheriff or a
18 law enforcement agency of the county where the respondent
19 resides or can be found, who shall serve it upon the
20 respondent as soon thereafter as possible on any day of the
21 week and at any time of the day or night. When requested by
22 the sheriff, the clerk of court may transmit a facsimile copy
23 of an injunction that has been certified by the clerk of
24 court, and this facsimile copy may be served in the same
25 manner as a certified copy. Upon receiving a facsimile copy,
26 the sheriff must verify receipt with the sender before
27 attempting to serve it upon the respondent. In addition, if
28 the sheriff is in possession of an injunction for protection
29 that has been certified by the clerk of court, the sheriff may
30 transmit a facsimile copy of that injunction to a law
31 enforcement officer who shall serve it in the same manner as a

1 certified copy. The clerk of the court shall be responsible
2 for furnishing to the sheriff such information on the
3 respondent's physical description and location as is required
4 by the department to comply with the verification procedures
5 set forth in this section. Notwithstanding any other provision
6 of law to the contrary, the chief judge of each circuit, in
7 consultation with the appropriate sheriff, may authorize a law
8 enforcement agency within the jurisdiction to effect service.
9 A law enforcement agency serving injunctions pursuant to this
10 section shall use service and verification procedures
11 consistent with those of the sheriff.

12 2. When an injunction is issued, if the petitioner
13 requests the assistance of a law enforcement agency, the court
14 may order that an officer from the appropriate law enforcement
15 agency accompany the petitioner and assist in placing the
16 petitioner in possession of the dwelling or residence, or
17 otherwise assist in the execution or service of the
18 injunction. A law enforcement officer shall accept a copy of
19 an injunction for protection against domestic violence,
20 certified by the clerk of the court, from the petitioner and
21 immediately serve it upon a respondent who has been located
22 but not yet served.

23 3. All orders issued, changed, continued, extended, or
24 vacated subsequent to the original service of documents
25 enumerated under subparagraph 1., shall be certified by the
26 clerk of the court and delivered to the parties at the time of
27 the entry of the order. The parties may acknowledge receipt
28 of such order in writing on the face of the original order.
29 In the event a party fails or refuses to acknowledge the
30 receipt of a certified copy of an order, the clerk shall note
31 on the original order that service was effected. If delivery

1 at the hearing is not possible, the clerk shall mail certified
2 copies of the order to the parties at the last known address
3 of each party. Service by mail is complete upon mailing.
4 When an order is served pursuant to this subsection, the clerk
5 shall prepare a written certification to be placed in the
6 court file specifying the time, date, and method of service
7 and shall notify the sheriff.

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9 If the respondent has been served previously with the
10 temporary injunction and has failed to appear at the initial
11 hearing on the temporary injunction, any subsequent petition
12 for injunction seeking an extension of time may be served on
13 the respondent by the clerk of the court by certified mail in
14 lieu of personal service by a law enforcement officer.

15 Section 7. Paragraph (a) of subsection (8) of section
16 784.046, Florida Statutes, is amended to read:

17 784.046 Action by victim of repeat violence, sexual
18 violence, or dating violence for protective injunction; powers
19 and duties of court and clerk of court; filing and form of
20 petition; notice and hearing; temporary injunction; issuance;
21 statewide verification system; enforcement.--

22 (8)(a)1. The clerk of the court shall furnish a copy
23 of the petition, notice of hearing, and temporary injunction,
24 if any, to the sheriff or a law enforcement agency of the
25 county where the respondent resides or can be found, who shall
26 serve it upon the respondent as soon thereafter as possible on
27 any day of the week and at any time of the day or night. When
28 requested by the sheriff, the clerk of court may transmit a
29 facsimile copy of an injunction that has been certified by the
30 clerk of court, and this facsimile copy may be served in the
31 same manner as a certified copy. Upon receiving a facsimile

1 copy, the sheriff must verify receipt with the sender before
2 attempting to serve it upon the respondent. In addition, if
3 the sheriff is in possession of an injunction for protection
4 that has been certified by the clerk of court, the sheriff may
5 transmit a facsimile copy of that injunction to a law
6 enforcement officer who shall serve it in the same manner as a
7 certified copy. The clerk of the court shall be responsible
8 for furnishing to the sheriff such information on the
9 respondent's physical description and location as is required
10 by the department to comply with the verification procedures
11 set forth in this section. Notwithstanding any other provision
12 of law to the contrary, the chief judge of each circuit, in
13 consultation with the appropriate sheriff, may authorize a law
14 enforcement agency within the chief judge's jurisdiction to
15 effect this type of service and to receive a portion of the
16 service fee. No person shall be authorized or permitted to
17 serve or execute an injunction issued under this section
18 unless the person is a law enforcement officer as defined in
19 chapter 943.

20 2. When an injunction is issued, if the petitioner
21 requests the assistance of a law enforcement agency, the court
22 may order that an officer from the appropriate law enforcement
23 agency accompany the petitioner and assist in the execution or
24 service of the injunction. A law enforcement officer shall
25 accept a copy of an injunction for protection against repeat
26 violence, sexual violence, or dating violence, certified by
27 the clerk of the court, from the petitioner and immediately
28 serve it upon a respondent who has been located but not yet
29 served.

30 Section 8. This act shall take effect July 1, 2007.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
SB 1712

The committee substitute permits criminal witness subpoenas and criminal summonses to be served by special process servers and certified process servers in addition to a sheriff; permits sheriffs' offices to purge unserved writs that have been on a docket prior to October 1, 2001; requires sheriffs to send a copy of the notice of a sheriff's sale prior to advertisement of the sale; requires a creditor to identify on an affidavit provided to a sheriff the liens recorded on real property subject to an execution sale; clarifies that the priority of judgment liens on real property is based on the date the lien was acquired; and permits sheriffs to lawfully serve facsimile copies of protective injunctions instead of a certified copy of a protective injunction.