

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Snyder offered the following:

2  
3 **Substitute Amendment for Amendment (493321) (with title**  
4 **amendment)**

5 Remove lines 81-326 and insert:

6 (e) Fees under this subsection chargeable to the State of  
7 Florida or its agencies shall be those fees as formerly provided  
8 in this subsection as it existed on June 30, 2007.

9 (4) All fees collected under paragraphs (1)(a), (b), (c),  
10 and (d) shall be nonrefundable and shall be earned when each  
11 original request or service of process is made, ~~and no~~  
12 ~~additional fees shall be required for alias and pluries~~  
13 ~~documents when service was not effected on the original document~~  
14 ~~in that county by that sheriff.~~

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

263599

4/24/2007 4:49:23 PM

Amendment No.

17 48.021 Process; by whom served.--

18 (1) All process shall be served by the sheriff of the  
19 county where the person to be served is found, except that  
20 initial nonenforceable civil process, criminal witness  
21 subpoenas, and criminal summonses may be served by a special  
22 process server appointed by the sheriff as provided for in this  
23 section or by a certified process server as provided for in ss.  
24 48.25-48.31. Civil witness subpoenas may be served by any person  
25 authorized by rules of civil procedure.

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

28 56.041 Executions; collection and return.--

29 (2) All unsatisfied executions in the hands of the sheriff  
30 docketed before October 1, 2001, or 20 years after the date of  
31 issuance of final judgment upon which the execution was issued  
32 may be returned, to the court issuing the execution, ~~20 years~~  
33 ~~after the date of issuance of final judgment upon which the~~  
34 ~~execution was issued.~~ Upon such return, the clerk of the court  
35 of issuance shall provide a receipt, to the sheriff submitting  
36 the return, acknowledging the return of the unsatisfied  
37 execution.

38 Section 4. Section 56.21, Florida Statutes, is amended to  
39 read:

40 56.21 Execution sales; notice.--Notice of all sales under  
41 execution shall be given by advertisement once each week for 4  
42 successive weeks in a newspaper published in the county in which  
43 the sale is to take place. The time of such notice may be  
44 shortened in the discretion of the court from which the

263599

4/24/2007 4:49:23 PM

Amendment No.

45 execution issued, upon affidavit that the property to be sold is  
46 subject to decay and will not sell for its full value if held  
47 until date of sale. On or before the date of the first  
48 publication or posting of the notice of sale, a copy of the  
49 notice of sale shall be furnished by the sheriff by certified  
50 mail to the attorney of record of the judgment debtor, or to the  
51 judgment debtor at the judgment debtor's last known address if  
52 the judgment debtor does not have an attorney of record. Such  
53 copy of the notice of sale shall be mailed even though a default  
54 judgment was entered. When levying upon real or personal  
55 property, a notice of such levy and execution sale and a copy of  
56 the affidavit required by s. 56.27(4) shall be sent by the  
57 sheriff to the attorneys of record of all judgment creditors, or  
58 to all judgment creditors who do not have an attorney of record,  
59 who have acquired a judgment lien as provided in s. 55.10(1) and  
60 (2), s. 55.202, or s. 55.204(3), and whose liens have not lapsed  
61 at the time of levy, at the address listed in the judgment lien  
62 certificate, or, if amended, in any amendment to the judgment  
63 lien certificate, and to all secured creditors who have filed  
64 financing statements as provided in part V of chapter 679 in the  
65 name of the judgment debtor reflecting a security interest in  
66 property of the kind to be sold at the execution sale at the  
67 address listed in the financing statement, or, if amended, in  
68 any amendment to the financing statement. Such notice shall be  
69 made in the same manner as notice is made to any judgment debtor  
70 under this section. When levying upon real property, notice of  
71 such levy and execution sale and affidavit required by s.

72 56.27(4) shall be made to the property owner of record in the  
263599

4/24/2007 4:49:23 PM

Amendment No.

73 same manner as notice is made to any judgment debtor pursuant to  
74 this section. When selling real or personal property, the sale  
75 date shall not be earlier than 30 days after the date of the  
76 first advertisement.

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

79 56.27 Executions; payment of money collected.--

80 (1) All money received under executions shall be paid, in  
81 the order prescribed, to the following: the sheriff, for costs;  
82 the levying creditor in the amount of \$500 as liquidated  
83 expenses; ~~and if the levy is upon real property, the first~~  
84 ~~priority lienholder under s. 55.10(1) and (2), 55.10; and if the~~  
85 ~~levy is upon personal property, the first priority lienholder~~  
86 ~~under~~ s. 55.202, s. 55.204(3), or s. 55.208(2), as set forth in  
87 an affidavit required by subsection (4), or his or her attorney,  
88 in satisfaction of the judgment lien, ~~if provided that~~ the  
89 judgment lien has not lapsed at the time of the levy. The  
90 receipt of the attorney shall be a release of the officer paying  
91 the money to him or her. ~~If~~ ~~When~~ the name of more than one  
92 attorney appears in the court file, the money shall be paid to  
93 the attorney who originally commenced the action or who made the  
94 original defense unless the file shows that another attorney has  
95 been substituted.

96 (2) ~~If~~ ~~When~~ property sold under execution brings more than  
97 the amount needed to satisfy the provisions of subsection (1),  
98 the surplus shall be paid in the order of priority to any  
99 judgment lienholders whose judgment liens have not lapsed.

100 Priority of liens on personal property shall be based on the  
263599

4/24/2007 4:49:23 PM

Amendment No.

101 effective date of the judgment lien acquired under s. 55.202, s.  
102 55.204(3), or s. 55.208(2), as set forth in an affidavit  
103 required under subsection (4). Priority of liens on real  
104 property shall be based on the effective date of the judgment  
105 lien acquired under s. 55.10(1) and (2), as set forth in an  
106 affidavit required under subsection (4). If there is a surplus  
107 after all valid judgment liens and execution liens have been  
108 satisfied, the surplus must be paid to the defendant.

109 (4) Before the date of the first publication or posting of  
110 the notice of sale provided for under s. 56.21, at the time of  
111 the levy request to the sheriff, the levying creditor shall  
112 deliver to the sheriff an affidavit setting forth the following  
113 as to the judgment debtor:

114 (a) For a personal property levy, an attestation by ~~that~~  
115 the levying creditor or the creditor's attorney of record that  
116 he or she has reviewed the database or judgment lien records  
117 established in accordance with ss. 55.201-55.209 and that the  
118 information contained in the affidavit based on that review is  
119 true and correct. For a real property levy in accordance with s.  
120 55.10(1) and (2), an attestation by the levying creditor or his  
121 or her attorney of record that he or she has reviewed the  
122 records of the clerk of court of the county where the property  
123 is situated, or that he or she has performed a title search, and  
124 that the information contained in the affidavit based on that  
125 review or title search is true and correct.→

126 (b) The information required under s. 55.203(1) and (2)  
127 for each judgment lien certificate indexed under the name of the  
128 judgment debtor as to each judgment creditor; the file number  
263599

4/24/2007 4:49:23 PM

Amendment No.

129 assigned to the record of the original and, if any, the second  
130 judgment lien; and the date of filing for each judgment lien  
131 certificate under s. 55.202 or s. 55.204(3). For real property,  
132 the information contained in the certified copy of recordation  
133 of lien pursuant to s. 55.10(1) and (2) for each lien recorded  
134 on real property. ~~and~~

135 (c) A statement that the levying creditor either does not  
136 have any other levy in process or, if another levy is in  
137 process, the levying creditor believes in good faith that the  
138 total value of the property under execution does not exceed the  
139 amount of outstanding judgments.

140 Section 6. Paragraph (a) of subsection (8) of section  
141 741.30, Florida Statutes, is amended to read:

142 741.30 Domestic violence; injunction; powers and duties of  
143 court and clerk; petition; notice and hearing; temporary  
144 injunction; issuance of injunction; statewide verification  
145 system; enforcement.--

146 (8)(a)1. The clerk of the court shall furnish a copy of  
147 the petition, financial affidavit, Uniform Child Custody  
148 Jurisdiction and Enforcement Act affidavit, if any, notice of  
149 hearing, and temporary injunction, if any, to the sheriff or a  
150 law enforcement agency of the county where the respondent  
151 resides or can be found, who shall serve it upon the respondent  
152 as soon thereafter as possible on any day of the week and at any  
153 time of the day or night. When requested by the sheriff, the  
154 clerk of court may transmit a facsimile copy of an injunction  
155 that has been certified by the clerk of court, and this  
156 facsimile copy may be served in the same manner as a certified

263599

4/24/2007 4:49:23 PM

Amendment No.

157 | copy. Upon receiving a facsimile copy, the sheriff must verify  
158 | receipt with the sender before attempting to serve it upon the  
159 | respondent. In addition, if the sheriff is in possession of an  
160 | injunction for protection that has been certified by the clerk  
161 | of court, the sheriff may transmit a facsimile copy of that  
162 | injunction to a law enforcement officer who shall serve it in  
163 | the same manner as a certified copy. The clerk of the court  
164 | shall be responsible for furnishing to the sheriff such  
165 | information on the respondent's physical description and  
166 | location as is required by the department to comply with the  
167 | verification procedures set forth in this section.

168 | Notwithstanding any other provision of law to the contrary, the  
169 | chief judge of each circuit, in consultation with the  
170 | appropriate sheriff, may authorize a law enforcement agency  
171 | within the jurisdiction to effect service. A law enforcement  
172 | agency serving injunctions pursuant to this section shall use  
173 | service and verification procedures consistent with those of the  
174 | sheriff.

175 |         2. When an injunction is issued, if the petitioner  
176 | requests the assistance of a law enforcement agency, the court  
177 | may order that an officer from the appropriate law enforcement  
178 | agency accompany the petitioner and assist in placing the  
179 | petitioner in possession of the dwelling or residence, or  
180 | otherwise assist in the execution or service of the injunction.  
181 | A law enforcement officer shall accept a copy of an injunction  
182 | for protection against domestic violence, certified by the clerk  
183 | of the court, from the petitioner and immediately serve it upon  
184 | a respondent who has been located but not yet served.

263599

4/24/2007 4:49:23 PM

Amendment No.

185           3. All orders issued, changed, continued, extended, or  
186 vacated subsequent to the original service of documents  
187 enumerated under subparagraph 1., shall be certified by the  
188 clerk of the court and delivered to the parties at the time of  
189 the entry of the order. The parties may acknowledge receipt of  
190 such order in writing on the face of the original order. In the  
191 event a party fails or refuses to acknowledge the receipt of a  
192 certified copy of an order, the clerk shall note on the original  
193 order that service was effected. If delivery at the hearing is  
194 not possible, the clerk shall mail certified copies of the order  
195 to the parties at the last known address of each party. Service  
196 by mail is complete upon mailing. When an order is served  
197 pursuant to this subsection, the clerk shall prepare a written  
198 certification to be placed in the court file specifying the  
199 time, date, and method of service and shall notify the sheriff.

200  
201 If the respondent has been served previously with the temporary  
202 injunction and has failed to appear at the initial hearing on  
203 the temporary injunction, any subsequent petition for injunction  
204 seeking an extension of time may be served on the respondent by  
205 the clerk of the court by certified mail in lieu of personal  
206 service by a law enforcement officer.

207           Section 7. Paragraph (a) of subsection (8) of section  
208 784.046, Florida Statutes, is amended to read:

209           784.046 Action by victim of repeat violence, sexual  
210 violence, or dating violence for protective injunction; powers  
211 and duties of court and clerk of court; filing and form of

263599

4/24/2007 4:49:23 PM



Amendment No.

212 petition; notice and hearing; temporary injunction; issuance;  
213 statewide verification system; enforcement.--

214 (8)(a)1. The clerk of the court shall furnish a copy of  
215 the petition, notice of hearing, and temporary injunction, if  
216 any, to the sheriff or a law enforcement agency of the county  
217 where the respondent resides or can be found, who shall serve it  
218 upon the respondent as soon thereafter as possible on any day of  
219 the week and at any time of the day or night. When requested by  
220 the sheriff, the clerk of court may transmit a facsimile copy of  
221 an injunction that has been certified by the clerk of court, and  
222 this facsimile copy may be served in the same manner as a  
223 certified copy. Upon receiving a facsimile copy, the sheriff  
224 must verify receipt with the sender before attempting to serve  
225 it upon the respondent. In addition, if the sheriff is in  
226 possession of an injunction for protection that has been  
227 certified by the clerk of court, the sheriff may transmit a  
228 facsimile copy of that injunction to a law enforcement officer  
229 who shall serve it in the same manner as a certified copy. The  
230 clerk of the court shall be responsible for furnishing to the  
231 sheriff such information on the respondent's physical  
232 description and location as is required by the department to  
233 comply with the verification procedures set forth in this  
234 section. Notwithstanding any other provision of law to the  
235 contrary, the chief judge of each circuit, in consultation with  
236 the appropriate sheriff, may authorize a law enforcement agency  
237 within the chief judge's jurisdiction to effect this type of  
238 service and to receive a portion of the service fee. No person  
239 shall be authorized or permitted to serve or execute an

263599

4/24/2007 4:49:23 PM

Amendment No.

240 injunction issued under this section unless the person is a law  
241 enforcement officer as defined in chapter 943.

242 2. When an injunction is issued, if the petitioner  
243 requests the assistance of a law enforcement agency, the court  
244 may order that an officer from the appropriate law enforcement  
245 agency accompany the petitioner and assist in the execution or  
246 service of the injunction. A law enforcement officer shall  
247 accept a copy of an injunction for protection against repeat  
248 violence, sexual violence, or dating violence, certified by the  
249 clerk of the court, from the petitioner and immediately serve it  
250 upon a respondent who has been located but not yet served.

251

252 ===== T I T L E A M E N D M E N T =====

253 Remove lines 5-32 and insert:  
254 additional fees for certain documents; exempting state  
255 agencies from the increased fees; amending s. 48.021,  
256 F.S.; providing that criminal witness subpoenas and  
257 criminal summonses may be served by a special process  
258 server appointed by the local sheriff or by a certified  
259 process server; amending s. 56.041, F.S.; providing that  
260 all unsatisfied executions in the possession of the  
261 sheriff docketed before October 1, 2001, may be returned  
262 to the issuing court; amending s. 56.21, F.S.; requiring  
263 the submission of an affidavit before levying a judgment  
264 upon real property; requiring the sheriff to furnish to  
265 the judgment debtor or the debtor's attorney of record a  
266 copy of the notice of sale, notice of levy, and affidavit  
267 within a specified period before execution of a sale or

263599

4/24/2007 4:49:23 PM

Amendment No.

268       levy; amending s. 56.27, F.S.; requiring that priority of  
269       liens on real property be based on the effective date of  
270       the judgment lien; requiring a levying creditor to deliver  
271       to the sheriff at the time of the levy request an  
272       affidavit setting forth certain information and  
273       attestations; amending ss. 741.30 and 784.046, F.S.,  
274       relating to service of process in cases of domestic  
275       violence or sexual abuse; authorizing clerks of court to  
276       transmit facsimile copies of previously certified  
277       injunctions to sheriffs upon request; requiring sheriffs  
278       to verify receipt of facsimile copies of injunctions with  
279       clerks of court before attempting service; authorizing law  
280       enforcement officers to serve facsimile copies of  
281       injunctions in the same manner as certified copies;  
282       providing an effective date.