

Amendment No.

CHAMBER ACTION

Senate

House

---

1 Representative(s) Snyder offered the following:

2  
3 **Amendment (with title amendment)**

4 Remove lines 80-326 and insert:

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

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

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

16 48.021 Process; by whom served.--

493321

4/24/2007 3:36:27 PM

Amendment No.

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

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

27 56.041 Executions; collection and return.--

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

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

39 56.21 Execution sales; notice.--Notice of all sales under  
40 execution shall be given by advertisement once each week for 4  
41 successive weeks in a newspaper published in the county in which  
42 the sale is to take place. The time of such notice may be  
43 shortened in the discretion of the court from which the  
44 execution issued, upon affidavit that the property to be sold is  
493321

4/24/2007 3:36:27 PM

Amendment No.

45 subject to decay and will not sell for its full value if held  
46 until date of sale. On or before the date of the first  
47 publication or posting of the notice of sale, a copy of the  
48 notice of sale shall be furnished by the sheriff by certified  
49 mail to the attorney of record of the judgment debtor, or to the  
50 judgment debtor at the judgment debtor's last known address if  
51 the judgment debtor does not have an attorney of record. Such  
52 copy of the notice of sale shall be mailed even though a default  
53 judgment was entered. When levying upon real or personal  
54 property, a notice of such levy and execution sale and a copy of  
55 the affidavit required by s. 56.27(4) shall be sent by the  
56 sheriff to the attorneys of record of all judgment creditors, or  
57 to all judgment creditors who do not have an attorney of record,  
58 who have acquired a judgment lien as provided in s. 55.10(1) and  
59 (2), s. 55.202, or s. 55.204(3), and whose liens have not lapsed  
60 at the time of levy, at the address listed in the judgment lien  
61 certificate, or, if amended, in any amendment to the judgment  
62 lien certificate, and to all secured creditors who have filed  
63 financing statements as provided in part V of chapter 679 in the  
64 name of the judgment debtor reflecting a security interest in  
65 property of the kind to be sold at the execution sale at the  
66 address listed in the financing statement, or, if amended, in  
67 any amendment to the financing statement. Such notice shall be  
68 made in the same manner as notice is made to any judgment debtor  
69 under this section. When levying upon real property, notice of  
70 such levy and execution sale and affidavit required by s.  
71 56.27(4) shall be made to the property owner of record in the  
72 same manner as notice is made to any judgment debtor pursuant to  
493321

4/24/2007 3:36:27 PM

Amendment No.

73 this section. When selling real or personal property, the sale  
74 date shall not be earlier than 30 days after the date of the  
75 first advertisement.

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

78 56.27 Executions; payment of money collected.--

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

95 (2) ~~If~~ ~~When~~ property sold under execution brings more than  
96 the amount needed to satisfy the provisions of subsection (1),  
97 the surplus shall be paid in the order of priority to any  
98 judgment lienholders whose judgment liens have not lapsed.  
99 Priority of liens on personal property shall be based on the  
100 effective date of the judgment lien acquired under s. 55.202, s.  
493321

4/24/2007 3:36:27 PM

Amendment No.

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

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

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

125 (b) The information required under s. 55.203(1) and (2)  
126 for each judgment lien certificate indexed under the name of the  
127 judgment debtor as to each judgment creditor; the file number  
128 assigned to the record of the original and, if any, the second

493321  
4/24/2007 3:36:27 PM

Amendment No.

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

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

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

141 741.30 Domestic violence; injunction; powers and duties of  
142 court and clerk; petition; notice and hearing; temporary  
143 injunction; issuance of injunction; statewide verification  
144 system; enforcement.--

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

493321

4/24/2007 3:36:27 PM

Amendment No.

157 receipt with the sender before attempting to serve it upon the  
158 respondent. In addition, if the sheriff is in possession of an  
159 injunction for protection that has been certified by the clerk  
160 of court, the sheriff may transmit a facsimile copy of that  
161 injunction to a law enforcement officer who shall serve it in  
162 the same manner as a certified copy. The clerk of the court  
163 shall be responsible for furnishing to the sheriff such  
164 information on the respondent's physical description and  
165 location as is required by the department to comply with the  
166 verification procedures set forth in this section.  
167 Notwithstanding any other provision of law to the contrary, the  
168 chief judge of each circuit, in consultation with the  
169 appropriate sheriff, may authorize a law enforcement agency  
170 within the jurisdiction to effect service. A law enforcement  
171 agency serving injunctions pursuant to this section shall use  
172 service and verification procedures consistent with those of the  
173 sheriff.

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

493321

4/24/2007 3:36:27 PM

Amendment No.

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

199  
200 If the respondent has been served previously with the temporary  
201 injunction and has failed to appear at the initial hearing on  
202 the temporary injunction, any subsequent petition for injunction  
203 seeking an extension of time may be served on the respondent by  
204 the clerk of the court by certified mail in lieu of personal  
205 service by a law enforcement officer.

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

208           784.046 Action by victim of repeat violence, sexual  
209 violence, or dating violence for protective injunction; powers  
210 and duties of court and clerk of court; filing and form of

493321

4/24/2007 3:36:27 PM



Amendment No.

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

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

493321

4/24/2007 3:36:27 PM

Amendment No.

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

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

250

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

252 Remove lines 5-32 and insert:

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

493321

4/24/2007 3:36:27 PM

Amendment No.

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