

1                   A bill to be entitled  
2           An act relating to service of process; amending s. 30.231,  
3           F.S.; increasing the fees charged by the sheriff in civil  
4           cases for service of process; exempting the State of  
5           Florida and its agencies from increased fees; authorizing  
6           an additional fee for certain documents; exempting the  
7           State of Florida and its agencies from paying a specified  
8           portion of such additional fee; amending s. 48.021, F.S.;  
9           providing that criminal witness subpoenas and criminal  
10          summonses may be served by a special process server  
11          appointed by the local sheriff or by a certified process  
12          server; amending s. 48.27, F.S.; providing for selection  
13          of authorized certified process servers to serve criminal  
14          witness subpoenas and criminal summonses; amending s.  
15          56.041, F.S.; providing that all unsatisfied executions in  
16          the possession of the sheriff docketed before October 1,  
17          2001, may be returned to the issuing court; amending s.  
18          56.21, F.S.; requiring the submission of an affidavit  
19          before levying a judgment upon real property; requiring  
20          the sheriff to furnish to the judgment debtor or the  
21          debtor's attorney of record a copy of the notice of sale,  
22          notice of levy, and affidavit within a specified period  
23          before execution of a sale or levy; amending s. 56.27,  
24          F.S.; requiring that priority of liens on real property be  
25          based on the effective date of the judgment lien for a  
26          specified purpose; requiring a levying creditor to deliver  
27          to the sheriff at the time of the levy request an  
28          affidavit setting forth certain information and

29 | attestations; amending ss. 741.30 and 784.046, F.S.,  
 30 | relating to service of process in cases of domestic  
 31 | violence or sexual abuse; authorizing clerks of court to  
 32 | transmit facsimile copies of previously certified  
 33 | injunctions to sheriffs upon request; requiring sheriffs  
 34 | to verify receipt of facsimile copies of injunctions with  
 35 | clerks of court before attempting service; authorizing law  
 36 | enforcement officers to serve facsimile copies of  
 37 | injunctions in the same manner as certified copies;  
 38 | providing an effective date.

39 |

40 | Be It Enacted by the Legislature of the State of Florida:

41 |

42 | Section 1. Subsections (1) and (4) of section 30.231,  
 43 | Florida Statutes, are amended to read:

44 | 30.231 Sheriffs' fees for service of summons, subpoenas,  
 45 | and executions.--

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

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

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

- 57 (c) Witness subpoenas: \$40 ~~\$20~~ for each witness to be  
58 served.
- 59 (d) Executions:
- 60 1. Forty ~~Twenty~~ dollars for docketing and indexing each  
61 writ of execution, regardless of the number of persons involved.
- 62 2. Fifty dollars for each levy.
- 63 a. A levy is considered made when any property or any  
64 portion of the property listed or unlisted in the instructions  
65 for levy is seized, or upon demand of the sheriff the writ is  
66 satisfied by the defendant in lieu of seizure. Seizure requires  
67 that the sheriff take actual possession, if practicable, or,  
68 alternatively, constructive possession of the property by order  
69 of the court.
- 70 b. When the instructions are for levy upon real property,  
71 a levy fee is required for each parcel described in the  
72 instructions.
- 73 c. When the instructions are for levy based upon personal  
74 property, one fee is allowed, unless the property is seized at  
75 different locations, conditional upon all of the items being  
76 advertised collectively and the sale being held at a single  
77 location. However, if the property seized cannot be sold at one  
78 location during the same sale as advertised, but requires  
79 separate sales at different locations, the sheriff is then  
80 authorized to impose a levy fee for the property and sale at  
81 each location.
- 82 3. Forty ~~Twenty~~ dollars for advertisement of sale under  
83 process.
- 84 4. Forty ~~Twenty~~ dollars for each sale under process.

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

87  
 88 Fees under this subsection chargeable to the State of Florida or  
 89 its agencies shall be those fees that were effective under this  
 90 subsection on June 30, 2009.

91           (4) All fees collected under paragraphs (1)(a), (b), (c),  
 92 and (d) shall be nonrefundable and shall be earned when each  
 93 original request or service of process is made. An additional  
 94 fee of \$40 may be charged, ~~and no additional fees shall be~~  
 95 ~~required~~ for alias and pluries documents when service was not  
 96 effected on the original document in that county by that  
 97 sheriff. Such additional fee may only be charged once,  
 98 regardless of the number of alias and pluries documents. The  
 99 State of Florida and its agencies are exempt from paying that  
 100 portion of such additional fee that is not payable from nonstate  
 101 funds.

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

104           48.021 Process; by whom served.--

105           (1) All process shall be served by the sheriff of the  
 106 county where the person to be served is found, except initial  
 107 nonenforceable civil process, criminal witness subpoenas, and  
 108 criminal summonses may be served by a special process server  
 109 appointed by the sheriff as provided for in this section or by a  
 110 certified process server as provided for in ss. 48.25-48.31.  
 111 Civil witness subpoenas may be served by any person authorized  
 112 by rules of civil procedure.

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113 Section 3. Subsection (2) of section 48.27, Florida  
114 Statutes, is amended to read:

115 48.27 Certified process servers.--

116 (2) (a) The addition of a person's name to the list  
117 authorizes him or her to serve initial nonenforceable civil  
118 process on a person found within the circuit where the process  
119 server is certified when a civil action has been filed against  
120 such person in the circuit court or in a county court in the  
121 state. Upon filing an action in circuit or county court, a  
122 person may select from the list for the circuit where the  
123 process is to be served one or more certified process servers to  
124 serve initial nonenforceable civil process.

125 (b) The addition of a person's name to the list authorizes  
126 him or her to serve criminal witness subpoenas and criminal  
127 summonses on a person found within the circuit where the process  
128 server is certified. The state in any proceeding or  
129 investigation by a grand jury or any party in a criminal action,  
130 prosecution, or proceeding may select from the list for the  
131 circuit where the process is to be served one or more certified  
132 process servers to serve the subpoena or summons.

133 Section 4. Subsection (2) of section 56.041, Florida  
134 Statutes, is amended to read:

135 56.041 Executions; collection and return.--

136 (2) All unsatisfied executions in the hands of the sheriff  
137 docketed before October 1, 2001, or 20 years after the date of  
138 issuance of final judgment upon which the execution was issued  
139 ~~may be returned, to the court issuing the execution, 20 years~~  
140 ~~after the date of issuance of final judgment upon which the~~

141 ~~execution was issued.~~ Upon such return, the clerk of the court  
 142 of issuance shall provide a receipt, to the sheriff submitting  
 143 the return, acknowledging the return of the unsatisfied  
 144 execution.

145 Section 5. Section 56.21, Florida Statutes, is amended to  
 146 read:

147 56.21 Execution sales; notice.--Notice of all sales under  
 148 execution shall be given by advertisement once each week for 4  
 149 successive weeks in a newspaper published in the county in which  
 150 the sale is to take place. The time of such notice may be  
 151 shortened in the discretion of the court from which the  
 152 execution issued, upon affidavit that the property to be sold is  
 153 subject to decay and will not sell for its full value if held  
 154 until date of sale. On or before the date of the first  
 155 publication or posting of the notice of sale, a copy of the  
 156 notice of sale shall be furnished by the sheriff by certified  
 157 mail to the attorney of record of the judgment debtor, or to the  
 158 judgment debtor at the judgment debtor's last known address if  
 159 the judgment debtor does not have an attorney of record. Such  
 160 copy of the notice of sale shall be mailed even though a default  
 161 judgment was entered. When levying upon real or personal  
 162 property, a notice of such levy and execution sale and a copy of  
 163 the affidavit required by s. 56.27(4) shall be sent by the  
 164 sheriff to the attorneys of record of all judgment creditors and  
 165 other lienholders and, ~~or~~ to all judgment creditors and other  
 166 lienholders who do not have an attorney of record, who have  
 167 acquired a ~~judgment~~ lien as provided in s. 55.10(1) and (2), s.  
 168 55.202, ~~or~~ s. 55.204(3), or s. 695.01, and whose liens have not

169 lapsed at the time of levy, at the address listed in the  
 170 judgment lien certificate or other recorded lien, or, if  
 171 amended, in any amendment thereto ~~to the judgment lien~~  
 172 ~~certificate~~, and to all secured creditors who have filed  
 173 financing statements as provided in part V of chapter 679 in the  
 174 name of the judgment debtor reflecting a security interest in  
 175 property of the kind to be sold at the execution sale at the  
 176 address listed in the financing statement, or, if amended, in  
 177 any amendment to the financing statement. Such notice shall be  
 178 made in the same manner as notice is made to any judgment debtor  
 179 under this section. When levying upon real property, notice of  
 180 such levy and execution sale and affidavit required by s.  
 181 56.27(4) shall be made to the property owner of record in the  
 182 same manner as notice is made to any judgment debtor pursuant to  
 183 this section and shall be made to each other person holding a  
 184 mortgage or other lien against the real property as disclosed by  
 185 the affidavit. When selling real or personal property, the sale  
 186 date shall not be earlier than 30 days after the date of the  
 187 first advertisement.

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

190 56.27 Executions; payment of money collected.--

191 (1) All money received under executions shall be paid, in  
 192 the order prescribed, to the following: the sheriff, for costs;  
 193 the levying creditor in the amount of \$500 as liquidated  
 194 expenses; ~~and if the levy is upon real property, the first~~  
 195 ~~priority lienholder under s. 55.10(1) and (2), s. 55.10; and if~~  
 196 ~~the levy is upon personal property, the first priority~~

197 ~~lienholder under~~ s. 55.202, s. 55.204(3), or s. 55.208(2), as  
 198 set forth in an affidavit required by subsection (4), or his or  
 199 her attorney, in satisfaction of the judgment lien, if provided  
 200 ~~that~~ the judgment lien has not lapsed at the time of the levy.  
 201 The receipt of the attorney shall be a release of the officer  
 202 paying the money to him or her. If ~~When~~ the name of more than  
 203 one attorney appears in the court file, the money shall be paid  
 204 to the attorney who originally commenced the action or who made  
 205 the original defense unless the file shows that another attorney  
 206 has been substituted.

207 (2) (a) If ~~When~~ property sold under execution brings more  
 208 than the amount needed to satisfy the provisions of subsection  
 209 (1), the surplus shall be paid in the order of priority to any  
 210 judgment lienholders whose judgment liens have not lapsed,  
 211 unless the affidavit required by subsection (4) discloses that  
 212 the property is also subject to any recorded mortgage, financing  
 213 statement, tax warrant, or other lien, other than a judgment  
 214 lien, that is junior in priority to the levying creditor's  
 215 judgment lien. For the purpose of the sheriff's distribution of  
 216 the surplus to judgment lienholders under this paragraph,  
 217 priority of judgment liens on personal property shall be based  
 218 on the effective date of the judgment lien acquired under s.  
 219 55.202, s. 55.204(3), or s. 55.208(2), and priority of judgment  
 220 liens on real property shall be based on the effective date of  
 221 the judgment lien acquired under s. 55.10(1) and (2), as set  
 222 forth in an affidavit required under subsection (4). If there is  
 223 a surplus after all valid judgment liens and execution liens  
 224 have been satisfied under this paragraph, the surplus must be



225 paid to the owner of the property sold ~~defendant~~.

226 (b) If the affidavit required by subsection (4) discloses  
227 that the property is also subject to any recorded mortgage,  
228 financing statement, tax warrant, or other lien, other than a  
229 judgment lien, that is junior in priority to the levying  
230 creditor's judgment lien, any surplus from the sale of the  
231 property shall be paid over to the registry of the court from  
232 which the execution issued for further proceedings to determine  
233 the priority in which such surplus shall be distributed among  
234 judgment lienholders, other lienholders, and the owner of the  
235 property sold.

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

241 (a) For a personal property levy, an attestation by ~~that~~  
242 the levying creditor or the creditor's attorney of record that  
243 he or she has reviewed the database or judgment lien records  
244 established in accordance with ss. 55.201-55.209 and that the  
245 information contained in the affidavit based on that review is  
246 true and correct. For a real property levy in accordance with s.  
247 55.10(1) and (2), an attestation by the levying creditor or his  
248 or her attorney of record that he or she has performed or  
249 reviewed a title search of the records of the clerk of court of  
250 the county where the property is situated, and that the  
251 information contained in the affidavit, including a disclosure  
252 of all judgment liens, mortgages, financing statements, tax

253 warrants, and other liens against the real property, based on  
 254 that title search is true and correct.~~‡~~

255 (b) The information required under s. 55.203(1) and (2)  
 256 for each judgment lien certificate indexed under the name of the  
 257 judgment debtor as to each judgment creditor; the file number  
 258 assigned to the record of the original and, if any, the second  
 259 judgment lien; and the date of filing for each judgment lien  
 260 certificate under s. 55.202 or s. 55.204(3). For each judgment  
 261 lien recorded on real property, the information contained in the  
 262 certified copy of recordation of lien pursuant to s. 55.10(1)  
 263 and (2), and for each other lien recorded on real property, the  
 264 name and address of the lienholder as shown in the copy of the  
 265 recorded lien disclosed by the title search.~~‡ and~~

266 (c) A statement that the levying creditor either does not  
 267 have any other levy in process or, if another levy is in  
 268 process, the levying creditor believes in good faith that the  
 269 total value of the property under execution does not exceed the  
 270 amount of outstanding judgments.

271 Section 7. Paragraph (a) of subsection (8) of section  
 272 741.30, Florida Statutes, is amended to read:

273 741.30 Domestic violence; injunction; powers and duties of  
 274 court and clerk; petition; notice and hearing; temporary  
 275 injunction; issuance of injunction; statewide verification  
 276 system; enforcement.--

277 (8)(a)1. The clerk of the court shall furnish a copy of  
 278 the petition, financial affidavit, Uniform Child Custody  
 279 Jurisdiction and Enforcement Act affidavit, if any, notice of  
 280 hearing, and temporary injunction, if any, to the sheriff or a

281 law enforcement agency of the county where the respondent  
282 resides or can be found, who shall serve it upon the respondent  
283 as soon thereafter as possible on any day of the week and at any  
284 time of the day or night. When requested by the sheriff, the  
285 clerk of court may transmit a facsimile copy of an injunction  
286 that has been certified by the clerk of court, and this  
287 facsimile copy may be served in the same manner as a certified  
288 copy. Upon receiving a facsimile copy, the sheriff must verify  
289 receipt with the sender before attempting to serve it upon the  
290 respondent. In addition, if the sheriff is in possession of an  
291 injunction for protection that has been certified by the clerk  
292 of court, the sheriff may transmit a facsimile copy of that  
293 injunction to a law enforcement officer who shall serve it in  
294 the same manner as a certified copy. The clerk of the court  
295 shall be responsible for furnishing to the sheriff such  
296 information on the respondent's physical description and  
297 location as is required by the department to comply with the  
298 verification procedures set forth in this section.  
299 Notwithstanding any other provision of law to the contrary, the  
300 chief judge of each circuit, in consultation with the  
301 appropriate sheriff, may authorize a law enforcement agency  
302 within the jurisdiction to effect service. A law enforcement  
303 agency serving injunctions pursuant to this section shall use  
304 service and verification procedures consistent with those of the  
305 sheriff.

306 2. When an injunction is issued, if the petitioner  
307 requests the assistance of a law enforcement agency, the court  
308 may order that an officer from the appropriate law enforcement

309 agency accompany the petitioner and assist in placing the  
310 petitioner in possession of the dwelling or residence, or  
311 otherwise assist in the execution or service of the injunction.  
312 A law enforcement officer shall accept a copy of an injunction  
313 for protection against domestic violence, certified by the clerk  
314 of the court, from the petitioner and immediately serve it upon  
315 a respondent who has been located but not yet served.

316 3. All orders issued, changed, continued, extended, or  
317 vacated subsequent to the original service of documents  
318 enumerated under subparagraph 1., shall be certified by the  
319 clerk of the court and delivered to the parties at the time of  
320 the entry of the order. The parties may acknowledge receipt of  
321 such order in writing on the face of the original order. In the  
322 event a party fails or refuses to acknowledge the receipt of a  
323 certified copy of an order, the clerk shall note on the original  
324 order that service was effected. If delivery at the hearing is  
325 not possible, the clerk shall mail certified copies of the order  
326 to the parties at the last known address of each party. Service  
327 by mail is complete upon mailing. When an order is served  
328 pursuant to this subsection, the clerk shall prepare a written  
329 certification to be placed in the court file specifying the  
330 time, date, and method of service and shall notify the sheriff.

331  
332 If the respondent has been served previously with the temporary  
333 injunction and has failed to appear at the initial hearing on  
334 the temporary injunction, any subsequent petition for injunction  
335 seeking an extension of time may be served on the respondent by  
336 the clerk of the court by certified mail in lieu of personal

337 service by a law enforcement officer.

338 Section 8. Paragraph (a) of subsection (8) of section  
339 784.046, Florida Statutes, is amended to read:

340 784.046 Action by victim of repeat violence, sexual  
341 violence, or dating violence for protective injunction; dating  
342 violence investigations, notice to victims, and reporting;  
343 pretrial release violations.--

344 (8)(a)1. The clerk of the court shall furnish a copy of  
345 the petition, notice of hearing, and temporary injunction, if  
346 any, to the sheriff or a law enforcement agency of the county  
347 where the respondent resides or can be found, who shall serve it  
348 upon the respondent as soon thereafter as possible on any day of  
349 the week and at any time of the day or night. When requested by  
350 the sheriff, the clerk of court may transmit a facsimile copy of  
351 an injunction that has been certified by the clerk of court, and  
352 this facsimile copy may be served in the same manner as a  
353 certified copy. Upon receiving a facsimile copy, the sheriff  
354 must verify receipt with the sender before attempting to serve  
355 it upon the respondent. In addition, if the sheriff is in  
356 possession of an injunction for protection that has been  
357 certified by the clerk of court, the sheriff may transmit a  
358 facsimile copy of that injunction to a law enforcement officer  
359 who shall serve it in the same manner as a certified copy. The  
360 clerk of the court shall be responsible for furnishing to the  
361 sheriff such information on the respondent's physical  
362 description and location as is required by the department to  
363 comply with the verification procedures set forth in this  
364 section. Notwithstanding any other provision of law to the

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365 | contrary, the chief judge of each circuit, in consultation with  
366 | the appropriate sheriff, may authorize a law enforcement agency  
367 | within the chief judge's jurisdiction to effect this type of  
368 | service and to receive a portion of the service fee. No person  
369 | shall be authorized or permitted to serve or execute an  
370 | injunction issued under this section unless the person is a law  
371 | enforcement officer as defined in chapter 943.

372 |         2. When an injunction is issued, if the petitioner  
373 | requests the assistance of a law enforcement agency, the court  
374 | may order that an officer from the appropriate law enforcement  
375 | agency accompany the petitioner and assist in the execution or  
376 | service of the injunction. A law enforcement officer shall  
377 | accept a copy of an injunction for protection against repeat  
378 | violence, sexual violence, or dating violence, certified by the  
379 | clerk of the court, from the petitioner and immediately serve it  
380 | upon a respondent who has been located but not yet served.

381 |         Section 9. This act shall take effect July 1, 2009.