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

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30 or other lien that is junior in priority to the  
31 judgment lien; requiring a levying creditor to deliver  
32 the affidavit to the sheriff at the time of the levy  
33 request setting forth certain information and  
34 attestations; requiring certain information to be  
35 contained in the certified copy of recordation of  
36 lien; amending ss. 741.30 and 784.046, F.S., relating  
37 to service of process in cases of domestic violence or  
38 sexual abuse; authorizing clerks of the court to  
39 transmit facsimile copies of previously certified  
40 injunctions to sheriffs upon request; requiring  
41 sheriffs to verify receipt of facsimile copies of  
42 injunctions with clerks of the court before attempting  
43 service; authorizing law enforcement officers to serve  
44 facsimile copies of injunctions in the same manner as  
45 certified copies; authorizing a law enforcement  
46 officer to arrest a person suspected of violating a  
47 condition of pretrial release if the original arrest  
48 was for an act of dating violence; amending s. 901.15,  
49 F.S.; conforming provisions to changes made by the  
50 act; amending s. 939.185, F.S.; revising provisions  
51 relating to assessment of additional court costs and  
52 surcharges; providing an effective date.

53  
54 Be It Enacted by the Legislature of the State of Florida:

55  
56 Section 1. Subsections (1) and (4) of section 30.231,  
57 Florida Statutes, are amended, and subsection (6) is added to  
58 that section, to read:

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59 30.231 Sheriffs' fees for service of summons, subpoenas,  
60 and executions.—

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

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

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

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

74 (d) Executions:

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

77 2. Fifty dollars for each levy.

78 a. A levy is considered made when any property or any  
79 portion of the property listed or unlisted in the instructions  
80 for levy is seized, or upon demand of the sheriff the writ is  
81 satisfied by the defendant in lieu of seizure. Seizure requires  
82 that the sheriff take actual possession, if practicable, or,  
83 alternatively, constructive possession of the property by order  
84 of the court.

85 b. When the instructions are for levy upon real property, a  
86 levy fee is required for each parcel described in the  
87 instructions.

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88 c. When the instructions are for levy based upon personal  
89 property, one fee is allowed, unless the property is seized at  
90 different locations, conditional upon all of the items being  
91 advertised collectively and the sale being held at a single  
92 location. However, if the property seized cannot be sold at one  
93 location during the same sale as advertised, but requires  
94 separate sales at different locations, the sheriff is then  
95 authorized to impose a levy fee for the property and sale at  
96 each location.

97 3. Forty ~~Twenty~~ dollars for advertisement of sale under  
98 process.

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

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

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

108 (6) Fees under this section chargeable to the state or its  
109 agencies shall be those fees that were effective under this  
110 section on June 30, 2009.

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

113 48.021 Process; by whom served.—

114 (1) All process shall be served by the sheriff of the  
115 county where the person to be served is found, except initial  
116 nonenforceable civil process, criminal witness subpoenas, and

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117 criminal summonses may be served by a special process server  
118 appointed by the sheriff as provided for in this section or by a  
119 certified process server as provided for in ss. 48.25-48.31.  
120 Civil witness subpoenas may be served by any person authorized  
121 by rules of civil procedure.

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

124 48.27 Certified process servers.—

125 (2) (a) The addition of a person's name to the list  
126 authorizes him or her to serve initial nonenforceable civil  
127 process on a person found within the circuit where the process  
128 server is certified when a civil action has been filed against  
129 such person in the circuit court or in a county court in the  
130 state. Upon filing an action in circuit or county court, a  
131 person may select from the list for the circuit where the  
132 process is to be served one or more certified process servers to  
133 serve initial nonenforceable civil process.

134 (b) The addition of a person's name to the list authorizes  
135 him or her to serve criminal witness subpoenas and criminal  
136 summonses on a person found within the circuit where the process  
137 server is certified. The state in any proceeding or  
138 investigation by a grand jury or any party in a criminal action,  
139 prosecution, or proceeding may select from the list for the  
140 circuit where the process is to be served one or more certified  
141 process servers to serve the subpoena or summons.

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

144 56.041 Executions; collection and return.—

145 (2) All unsatisfied executions in the hands of the sheriff

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146 docketed before October 1, 2001, or 20 years after the date of  
147 issuance of final judgment upon which the execution was issued  
148 may be returned, to the court issuing the execution, ~~20 years~~  
149 ~~after the date of issuance of final judgment upon which the~~  
150 ~~execution was issued.~~ Upon such return, the clerk of the court  
151 of issuance shall provide a receipt, to the sheriff submitting  
152 the return, acknowledging the return of the unsatisfied  
153 execution.

154 Section 5. Section 56.21, Florida Statutes, is amended to  
155 read:

156 56.21 Execution sales; notice.—Notice of all sales under  
157 execution shall be given by advertisement once each week for 4  
158 successive weeks in a newspaper published in the county in which  
159 the sale is to take place. The time of such notice may be  
160 shortened in the discretion of the court from which the  
161 execution issued, upon affidavit that the property to be sold is  
162 subject to decay and will not sell for its full value if held  
163 until date of sale. On or before the date of the first  
164 publication or posting of the notice of sale, a copy of the  
165 notice of sale shall be furnished by the sheriff by certified  
166 mail to the attorney of record of the judgment debtor, or to the  
167 judgment debtor at the judgment debtor's last known address if  
168 the judgment debtor does not have an attorney of record. Such  
169 copy of the notice of sale shall be mailed even though a default  
170 judgment was entered. When levying upon real or personal  
171 property, a notice of such levy and execution sale and a copy of  
172 the affidavit required by s. 56.27(4) shall be sent by the  
173 sheriff to the attorneys of record of all judgment creditors and  
174 other lienholders, or to all judgment creditors and other

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175 lienholders who do not have an attorney of record, who have  
176 acquired a ~~judgment~~ lien as provided in s. 55.10(1) and (2), s.  
177 55.202, ~~or~~ s. 55.204(3), or s. 695.01, and whose liens have not  
178 lapsed at the time of levy, at the address listed in the  
179 judgment lien certificate or other recorded liens, or, if  
180 amended, in any amendment thereto ~~to the judgment lien~~  
181 ~~certificate,~~ and to all secured creditors who have filed  
182 financing statements as provided in part V of chapter 679 in the  
183 name of the judgment debtor reflecting a security interest in  
184 property of the kind to be sold at the execution sale at the  
185 address listed in the financing statement, or, if amended, in  
186 any amendment to the financing statement. Such notice shall be  
187 made in the same manner as notice is made to any judgment debtor  
188 under this section. When levying upon real property, notice of  
189 such levy and execution sale and affidavit required by s.  
190 56.27(4) shall be made to the property owner of record in the  
191 same manner as notice is made to any judgment debtor pursuant to  
192 this section, and shall be made to each other person holding a  
193 mortgage or other lien against the real property as disclosed by  
194 the affidavit. When selling real or personal property, the sale  
195 date shall not be earlier than 30 days after the date of the  
196 first advertisement.

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

199 56.27 Executions; payment of money collected.—

200 (1) All money received under executions shall be paid, in  
201 the order prescribed, to the following: the sheriff, for costs;  
202 the levying creditor in the amount of \$500 as liquidated  
203 expenses; and ~~if the levy is upon real property,~~ the first

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204 priority lienholder under s. 55.10(1) and (2), ~~s. 55.10~~; and if  
205 ~~the levy is upon personal property, the first priority~~  
206 ~~lienholder under s. 55.202, s. 55.204(3), or s. 55.208(2), as~~  
207 set forth in an affidavit required by subsection (4), or his or  
208 her attorney, in satisfaction of the judgment lien, if provided  
209 ~~that~~ the judgment lien has not lapsed at the time of the levy.  
210 The receipt of the attorney shall be a release of the officer  
211 paying the money to him or her. If ~~When~~ the name of more than  
212 one attorney appears in the court file, the money shall be paid  
213 to the attorney who originally commenced the action or who made  
214 the original defense unless the file shows that another attorney  
215 has been substituted.

216 (2)(a) If ~~When~~ property sold under execution brings more  
217 than the amount needed to satisfy the provisions of subsection  
218 (1), the surplus shall be paid in the order of priority to any  
219 judgment lienholders whose judgment liens have not lapsed,  
220 unless the affidavit required by subsection (4) discloses that  
221 the property is also subject to any recorded mortgage, financing  
222 statement, tax warrant, or other lien, other than a judgment  
223 lien, which is junior in priority to the levying creditor's  
224 judgment lien. For the purpose of the sheriff's distribution of  
225 the surplus to judgment lienholders under this paragraph,  
226 priority of judgment liens on personal property shall be based  
227 on the effective date of the judgment lien acquired under s.  
228 55.202, s. 55.204(3), or s. 55.208(2), and priority of judgment  
229 liens on real property shall be based on the effective date of  
230 the judgment lien acquired under s. 55.10(1) and (2), as set  
231 forth in an affidavit required under subsection (4). If there is  
232 a surplus after all valid judgment liens and execution liens



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233 have been satisfied under this paragraph, the surplus must be  
234 paid to the owner of the property sold ~~defendant~~.

235 (b) If the affidavit required by subsection (4) discloses  
236 that the property is also subject to any recorded mortgage,  
237 financing statement, tax warrant, or other lien, other than a  
238 judgment lien, which is junior in priority to the levying  
239 creditor's judgment lien, any surplus from the sale of the  
240 property shall be paid over to the registry of the court from  
241 which the execution issued for further proceedings to determine  
242 the priority in which such surplus shall be distributed among  
243 judgment lienholders, other lienholders, and the owner of the  
244 property sold.

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

250 (a) For a personal property levy, an attestation by that  
251 the levying creditor or the creditor's attorney of record that  
252 he or she has reviewed the database or judgment lien records  
253 established in accordance with ss. 55.201-55.209 and that the  
254 information contained in the affidavit based on that review is  
255 true and correct. For a real property levy in accordance with s.  
256 55.10(1) and (2), an attestation by the levying creditor or his  
257 or her attorney of record that he or she has reviewed the  
258 records of the clerk of the court of the county where the  
259 property is situated, or that he or she has performed or  
260 reviewed a title search, and that the information contained in  
261 the affidavit, including a disclosure of all judgment liens,

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262 mortgages, financing statements, tax warrants, and other liens  
263 against the real property, based on that review or title search  
264 is true and correct.‡

265 (b) The information required under s. 55.203(1) and (2) for  
266 each judgment lien certificate indexed under the name of the  
267 judgment debtor as to each judgment creditor; the file number  
268 assigned to the record of the original and, if any, the second  
269 judgment lien; and the date of filing for each judgment lien  
270 certificate under s. 55.202 or s. 55.204(3). For each judgment  
271 lien recorded on real property, the information contained in the  
272 certified copy of recordation of lien under s. 55.10(1) and (2),  
273 and for each other lien recorded on real property, the name and  
274 address of the lienholder as shown in the copy of the recorded  
275 lien disclosed by the title search.‡ ~~and~~

276 (c) A statement that the levying creditor either does not  
277 have any other levy in process or, if another levy is in  
278 process, the levying creditor believes in good faith that the  
279 total value of the property under execution does not exceed the  
280 amount of outstanding judgments.

281 Section 7. Paragraph (a) of subsection (8) of section  
282 741.30, Florida Statutes, is amended to read:

283 741.30 Domestic violence; injunction; powers and duties of  
284 court and clerk; petition; notice and hearing; temporary  
285 injunction; issuance of injunction; statewide verification  
286 system; enforcement.—

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

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

316 2. When an injunction is issued, if the petitioner requests  
317 the assistance of a law enforcement agency, the court may order  
318 that an officer from the appropriate law enforcement agency  
319 accompany the petitioner and assist in placing the petitioner in

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320 possession of the dwelling or residence, or otherwise assist in  
321 the execution or service of the injunction. A law enforcement  
322 officer shall accept a copy of an injunction for protection  
323 against domestic violence, certified by the clerk of the court,  
324 from the petitioner and immediately serve it upon a respondent  
325 who has been located but not yet served.

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

341  
342 If the respondent has been served previously with the temporary  
343 injunction and has failed to appear at the initial hearing on  
344 the temporary injunction, any subsequent petition for injunction  
345 seeking an extension of time may be served on the respondent by  
346 the clerk of the court by certified mail in lieu of personal  
347 service by a law enforcement officer.

348 Section 8. Paragraph (a) of subsection (8) and subsection

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349 (13) of section 784.046, Florida Statutes, are amended to read:

350 784.046 Action by victim of repeat violence, sexual  
351 violence, or dating violence for protective injunction; dating  
352 violence investigations, notice to victims, and reporting;  
353 pretrial release violations.—

354 (8) (a) 1. The clerk of the court shall furnish a copy of the  
355 petition, notice of hearing, and temporary injunction, if any,  
356 to the sheriff or a law enforcement agency of the county where  
357 the respondent resides or can be found, who shall serve it upon  
358 the respondent as soon thereafter as possible on any day of the  
359 week and at any time of the day or night. When requested by the  
360 sheriff, the clerk of the court may transmit a facsimile copy of  
361 an injunction that has been certified by the clerk of the court,  
362 and this facsimile copy may be served in the same manner as a  
363 certified copy. Upon receiving a facsimile copy, the sheriff  
364 must verify receipt with the sender before attempting to serve  
365 it upon the respondent. In addition, if the sheriff is in  
366 possession of an injunction for protection that has been  
367 certified by the clerk of the court, the sheriff may transmit a  
368 facsimile copy of that injunction to a law enforcement officer  
369 who shall serve it in the same manner as a certified copy. The  
370 clerk of the court shall be responsible for furnishing to the  
371 sheriff such information on the respondent's physical  
372 description and location as is required by the department to  
373 comply with the verification procedures set forth in this  
374 section. Notwithstanding any other provision of law to the  
375 contrary, the chief judge of each circuit, in consultation with  
376 the appropriate sheriff, may authorize a law enforcement agency  
377 within the chief judge's jurisdiction to effect this type of

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378 service and to receive a portion of the service fee. No person  
379 shall be authorized or permitted to serve or execute an  
380 injunction issued under this section unless the person is a law  
381 enforcement officer as defined in chapter 943.

382 2. When an injunction is issued, if the petitioner requests  
383 the assistance of a law enforcement agency, the court may order  
384 that an officer from the appropriate law enforcement agency  
385 accompany the petitioner and assist in the execution or service  
386 of the injunction. A law enforcement officer shall accept a copy  
387 of an injunction for protection against repeat violence, sexual  
388 violence, or dating violence, certified by the clerk of the  
389 court, from the petitioner and immediately serve it upon a  
390 respondent who has been located but not yet served.

391 (13) Whenever a law enforcement officer determines upon  
392 probable cause that an act of dating violence has been committed  
393 within the jurisdiction, or that a person has violated a  
394 condition of pretrial release as provided in s. 903.047 and the  
395 original arrest was for an act of dating violence, the officer  
396 may arrest the person or persons suspected of its commission and  
397 charge such person or persons with the appropriate crime. The  
398 decision to arrest and charge shall not require consent of the  
399 victim or consideration of the relationship of the parties.

400 Section 9. Subsection (13) of section 901.15, Florida  
401 Statutes, is amended to read:

402 901.15 When arrest by officer without warrant is lawful.—A  
403 law enforcement officer may arrest a person without a warrant  
404 when:

405 (13) There is probable cause to believe that the person has  
406 committed an act that violates a condition of pretrial release

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407 provided in s. 903.047 when the original arrest was for an act  
408 of domestic violence as defined in s. 741.28, or when the  
409 original arrest was for an act of dating violence as defined in  
410 s. 784.046.

411 Section 10. Paragraph (d) is added to subsection (1) of  
412 section 939.185, Florida Statutes, to read:

413 939.185 Assessment of additional court costs and  
414 surcharges.—

415 (1)

416 (d) The clerk of court shall cause a certified copy of the  
417 court order imposing such costs to be recorded in the public  
418 records. Such record shall constitute a lien against the person  
419 upon whom the costs are imposed and shall attach as a lien on  
420 any real and personal property owned by such person. A lien  
421 created under this paragraph does not attach to, or make subject  
422 to execution of levy or foreclosure, any real or personal  
423 property otherwise exempt under s. 4, Art. X of the State  
424 Constitution. A lien created under this paragraph is enforceable  
425 in the same manner as provided by law.

426 Section 11. This act shall take effect July 1, 2009.