

By Senator Detert

28-00630A-14

2014620__

1 A bill to be entitled
2 An act relating to service of process; amending s.
3 30.231, F.S.; requiring sheriffs to charge a uniform
4 fee for service of process; providing that such
5 uniform fee does not include the cost of docketing;
6 amending s. 48.031, F.S.; requiring an employer to
7 allow an authorized individual to make service on an
8 employee in a private area designated by the employer;
9 providing a civil fine for employers who fail to
10 comply with the process; revising provisions relating
11 to substitute service if a specified number of
12 attempts of service have been made at a business that
13 is a sole proprietorship under certain circumstances;
14 requiring the person requesting service or the person
15 authorized to serve the process to file the return-of-
16 service form; amending s. 48.081, F.S.; revising a
17 provision related to service on a corporation;
18 amending s. 56.27, F.S.; providing that a sheriff may
19 rely on the affidavit submitted by the levying
20 creditor; authorizing a sheriff to apply for
21 instructions from the court regarding the distribution
22 of proceeds from the sale of a levied property;
23 providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Subsection (1) of section 30.231, Florida
28 Statutes, is amended to read:

29 30.231 Sheriffs' fees for service of summons, subpoenas,

28-00630A-14

2014620__

30 and executions.—

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

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

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

42 (c) Witness subpoenas: \$40 for each witness to be served.

43 (d) Executions:

44 1. Forty dollars for processing each writ of execution,
45 regardless of the number of persons involved.

46 2. Fifty dollars for each levy.

47 a. A levy is considered made when any property or any
48 portion of the property listed or unlisted in the instructions
49 for levy is seized, or upon demand of the sheriff the writ is
50 satisfied by the defendant in lieu of seizure. Seizure requires
51 that the sheriff take actual possession, if practicable, or,
52 alternatively, constructive possession of the property by order
53 of the court.

54 b. When the instructions are for levy upon real property, a
55 levy fee is required for each parcel described in the
56 instructions.

57 c. When the instructions are for levy based upon personal
58 property, one fee is allowed, unless the property is seized at

28-00630A-14

2014620__

59 different locations, conditional upon all of the items being
60 advertised collectively and the sale being held at a single
61 location. However, if the property seized cannot be sold at one
62 location during the same sale as advertised, but requires
63 separate sales at different locations, the sheriff may ~~is~~ then
64 ~~authorized to~~ impose a levy fee for the property and sale at
65 each location.

66 3. Forty dollars for advertisement of sale under process.

67 4. Forty dollars for each sale under process.

68 5. Forty dollars for each deed, bill of sale, or
69 satisfaction of judgment.

70 Section 2. Paragraph (b) of subsection (1), paragraph (b)
71 of subsection (2), and subsection (5) of section 48.031, Florida
72 Statutes, are amended to read:

73 48.031 Service of process generally; service of witness
74 subpoenas.—

75 (1)

76 (b) An employer ~~Employers~~, when contacted by an individual
77 authorized to serve ~~make service of~~ process, shall allow ~~permit~~
78 the authorized individual to serve an employee ~~make service on~~
79 ~~employees~~ in a private area designated by the employer. An
80 employer who fails to comply with this paragraph commits a
81 noncriminal violation, punishable by a fine of up to \$1,000.

82 (2)

83 (b) Substitute service may be made on an individual doing
84 business as a sole proprietorship at his or her place of
85 business, during regular business hours, by serving the person
86 in charge of the business at the time of service if two ~~or more~~
87 attempts to serve the owner have been made at the place of

28-00630A-14

2014620__

88 business.

89 (5) A person serving process shall place, on the first page
90 of at least one of the processes served, the date and time of
91 service and his or her identification number and initials for
92 all service of process. The person serving process shall list on
93 the return-of-service form all initial pleadings delivered and
94 served along with the process. The person requesting service or
95 the person authorized to serve ~~issuing~~ the process shall file
96 the return-of-service form with the court.

97 Section 3. Paragraph (b) of subsection (3) of section
98 48.081, Florida Statutes, is amended to read:

99 48.081 Service on corporation.—

100 (3)

101 (b) If the address ~~provided~~ for the registered agent,
102 officer, director, or principal place of business is a residence
103 or private mailbox, service on the corporation may be made by
104 serving the registered agent, officer, or director in accordance
105 with s. 48.031.

106 Section 4. Subsection (5) of section 56.27, Florida
107 Statutes, is amended, and subsection (6) is added to that
108 section, to read:

109 56.27 Executions; payment of money collected.—

110 (5) A sheriff may rely on the affidavit submitted as
111 required under this section, and a sheriff paying money received
112 under an execution in accordance with the information contained
113 in the affidavit required under subsection (4) is not liable to
114 anyone for damages arising from a wrongful levy or wrongful
115 distribution of funds.

116 (6) A sheriff who is uncertain as to whom to disburse the

28-00630A-14

2014620__

117 proceeds from the sale of the levied property may apply for
118 instructions from:

119 (a) The court that entered the judgment that is the basis
120 of the judgment lien; or

121 (b) The appropriate court where the levied property was
122 located at the time of the levy,

123
124 if the sheriff serves, by process pursuant to chapter 48, by
125 certified mail, or by return receipt requested, a copy of his or
126 her application and the notice of hearing on the levying
127 creditor, the judgment debtor, and any other parties identified
128 in the affidavit.

129 Section 5. This act shall take effect July 1, 2014.