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HOUSE BILL 10-1057

BY REPRESENTATIVE(S) Ryden, Court, Pace, Schafer S., Todd;
also SENATOR(S) Spence, Williams.

CONCERNING FEES CHARGED BY COUNTY SHERIFFS RELATING TO THE
SERVICE OF PROCESS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 30-1-104 (1) (b.5), (1) (d.5), and (1) (h.5), Colorado Revised Statutes, are amended to read:

30-1-104. Fees of sheriff. (1) Fees collected by sheriffs shall be as follows:

(b.5) For making a return on a summons in other than a criminal action not served, for each party, in counties of every class, actual expenses, but not more than ~~sixteen~~ TWENTY dollars;

(d.5) For making A return on a subpoena in other than a criminal action not served, in counties of every class, actual expenses, but not more than ~~sixteen~~ TWENTY dollars;

(h.5) FOR mileage:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(I) NOT TO EXCEED THE MILEAGE RATE AUTHORIZED FOR COUNTY OFFICIALS AND EMPLOYEES PURSUANT TO SECTION 30-11-107 (1) (t), for each mile actually and necessarily traveled in serving each writ, subpoena, or other process in AN ACTION other than a criminal action; ~~thirty-six cents; except that actual and not constructive mileage shall be allowed in all cases; and, where more than one warrant is served by any officer on one trip, the actual mileage only shall be allowed such officer, and the actual mileage shall be apportioned among the several warrants served on the trip; OR~~

(II) A SHERIFF MAY ESTABLISH A ZONE- OR ZIP CODE-BASED MILEAGE FEE STRUCTURE. THE ZONE- OR ZIP CODE-BASED MILEAGE FEE STRUCTURE SHALL ESTABLISH A SINGLE MILEAGE FEE FOR THE SERVICE OF ANY WRIT, SUBPOENA, OR OTHER PROCESS IN AN ACTION, OTHER THAN A CRIMINAL ACTION, IN EACH SEPARATE ZONE OR ZIP CODE, AS APPLICABLE, IN THE COUNTY. THE APPLICABLE SINGLE MILEAGE FEE FOR A ZONE OR ZIP CODE SHALL BE CHARGED FOR ALL PAPERS SERVED IN THE ZONE OR ZIP CODE REGARDLESS OF THE NUMBER OF ATTEMPTS OR ACTUAL MILEAGE TRAVELED BY A SHERIFF WITHIN THE ZONE OR ZIP CODE DURING A SHERIFF'S OPERATIONAL PERIOD. THE SINGLE MILEAGE FEES FOR EACH ZONE OR ZIP CODE SHALL BE SET BY RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS FOR THE COUNTY AND POSTED PURSUANT TO SECTION 30-1-108.

SECTION 2. Repeal. 30-1-105, Colorado Revised Statutes, is repealed as follows:

~~**30-1-105. Constructive mileage not allowed.** When any sheriff serves two or more papers on the same person or on different persons at the same time and place in the same action, he may charge mileage from his office to the place of service for distance necessarily traveled only once each way, and no constructive mileage shall be allowed.~~

SECTION 3. Part 1 of article 1 of title 30, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

30-1-105.5. Two or more papers served on same person or different persons at same time and place in same action. (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, WHEN ANY SHERIFF SERVES TWO OR MORE PAPERS ON THE SAME PERSON, OR SERVES PAPERS ON

DIFFERENT PERSONS AT THE SAME TIME AND PLACE IN THE SAME ACTION, THE SHERIFF SHALL CHARGE THE HIGHEST INDIVIDUAL FEE ALLOWABLE PURSUANT TO SECTION 30-1-104 FOR THE FIRST PROCESS AND AN ADDITIONAL TEN DOLLARS FOR EACH SUBSEQUENT PROCESS SERVED.

(2) IF A COUNTY HAS ADOPTED A ZONE- OR ZIP CODE-BASED MILEAGE FEE STRUCTURE, AS THAT TERM IS DESCRIBED IN SECTION 30-1-104 (1) (h.5) (II), WHEN ANY SHERIFF SERVES TWO OR MORE PAPERS ON THE SAME PERSON, OR SERVES PAPERS ON DIFFERENT PERSONS AT THE SAME TIME AND PLACE IN THE SAME ACTION, THE SHERIFF SHALL CHARGE THE SINGLE ZONE- OR ZIP CODE-BASED MILEAGE FEE FOR THE FIRST PROCESS AND AN ADDITIONAL TEN DOLLARS FOR EACH SUBSEQUENT PROCESS SERVED.

SECTION 4. 30-1-106, Colorado Revised Statutes, is amended to read:

30-1-106. Service must be made upon offer or tender of fees.

(1) No sheriff shall refuse to serve any writ, summons, or notice requested by any person entitled to such service, when offered or tendered the fees allowed by law for such service; nor shall he OR SHE charge, demand, or receive any greater sum or compensation or allowance.

(2) A SHERIFF SHALL HAVE THE AUTHORITY TO ESTABLISH BILLING ACCOUNTS FOR LICENSED ATTORNEYS AND LICENSED COLLECTION AGENCIES THAT HAVE A PRINCIPAL OFFICE LOCATED IN THE STATE.

(3) A SHERIFF SHALL HAVE THE AUTHORITY TO DEVELOP AND PUBLISH STANDARDIZED PROCEDURES FOR BILLING THE ACCOUNTS AUTHORIZED BY SUBSECTION (2) OF THIS SECTION. SUCH PROCEDURES MAY INCLUDE THE ABILITY TO SUSPEND THE BILLING PRIVILEGES OF ANY ENTITY FOR NONPAYMENT OF A FEE UPON DEMAND OR OTHER GOOD CAUSE SHOWN.

SECTION 5. 30-1-107, Colorado Revised Statutes, is amended to read:

30-1-107. Penalty for violation - duties. Any sheriff who violates any of the provisions of sections 30-1-105 and 30-1-106 SECTION 30-1-106 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than five nor more than fifty dollars for each offense and he is liable to any person aggrieved to pay all loss, damage, and

expenses, including attorney fees in prosecuting or suing such officer, which such aggrieved person may sustain by reason of such violation. The sheriff and his THE SHERIFF'S deputies shall be subject to ~~the provisions of sections 30-1-105 and 30-1-106~~ SECTION 30-1-106.

SECTION 6. 30-1-116 (1), Colorado Revised Statutes, is amended to read:

30-1-116. Officers shall collect fees in advance. (1) EXCEPT AS PROVIDED IN SECTION 30-1-106, every officer shall collect every fee, as prescribed, for services performed by him OR HER in advance, if the same can be ascertained, and when any officer negligently or willfully fails to collect any such fee, the same shall be charged against his OR HER salary.

SECTION 7. Act subject to petition - effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor.

(2) The provisions of this act shall apply to fees collected by sheriffs on or after the applicable effective date of this act.

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO