

SECOND REGULAR SESSION

# SENATE BILL NO. 776

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CUNNINGHAM.

Pre-filed December 11, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4338S.011

## AN ACT

To repeal sections 57.280 and 488.435, RSMo, and to enact in lieu thereof two new sections relating to charges for service of court orders.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 57.280 and 488.435, RSMo, are repealed and two new  
2 sections enacted in lieu thereof, to be known as sections 57.280 and 488.435, to  
3 read as follows:

57.280. 1. Sheriffs shall receive a charge for service of any summons, writ  
2 or other order of court, in connection with any civil case, and making on the same  
3 either a return indicating service, a non est return or a nulla bona return, the  
4 sum of twenty dollars for each item to be served, except that a sheriff shall  
5 receive a charge for service of any subpoena, and making a return on the same,  
6 the sum of ten dollars; however, no such charge shall be collected in any  
7 proceeding when court costs are to be paid by the state, county or municipality.  
8 In addition to such charge, the sheriff shall be entitled to receive for each mile  
9 actually traveled in serving any summons, writ, subpoena or other order of court  
10 the rate prescribed by the Internal Revenue Service for all allowable expenses for  
11 motor vehicle use expressed as an amount per mile, provided that such mileage  
12 shall not be charged for more than one subpoena or summons or other writ served  
13 in the same cause on the same trip. All of such charges shall be received by the  
14 sheriff who is requested to perform the service. Except as otherwise provided by  
15 law, all charges made pursuant to this section shall be collected by the court clerk  
16 as court costs and are payable prior to the time the service is rendered; provided  
17 that if the amount of such charge cannot be readily determined, then the sheriff  
18 shall receive a deposit based upon the likely amount of such charge, and the

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

19 balance of such charge shall be payable immediately upon ascertainment of the  
20 proper amount of said charge. A sheriff may refuse to perform any service in any  
21 action or proceeding, other than when court costs are waived as provided by law,  
22 until the charge provided by this section is paid. Failure to receive the charge  
23 shall not affect the validity of the service.

24         2. The sheriff shall receive for receiving and paying moneys on execution  
25 or other process, where lands or goods have been levied and advertised and sold,  
26 five percent on five hundred dollars and four percent on all sums above five  
27 hundred dollars, and half of these sums, when the money is paid to the sheriff  
28 without a levy, or where the lands or goods levied on shall not be sold and the  
29 money is paid to the sheriff or person entitled thereto, his agent or attorney. The  
30 party at whose application any writ, execution, subpoena or other process has  
31 issued from the court shall pay the sheriff's costs for the removal, transportation,  
32 storage, safekeeping and support of any property to be seized pursuant to legal  
33 process before such seizure. The sheriff shall be allowed for each mile, going and  
34 returning from the courthouse of the county in which he resides to the place  
35 where the court is held, the rate prescribed by the Internal Revenue Service for  
36 all allowable expenses for motor vehicle use expressed as an amount per  
37 mile. The provisions of this subsection shall not apply to garnishment proceeds.

38         3. The sheriff upon the receipt of the charge herein provided for shall pay  
39 into the treasury of the county any and all charges received pursuant to the  
40 provisions of this section. The funds collected pursuant to this section, not to  
41 exceed fifty thousand dollars in any calendar year, shall be held in a fund  
42 established by the county treasurer, which may be expended at the discretion of  
43 the sheriff for the furtherance of the sheriff's set duties. Any such funds in  
44 excess of fifty thousand dollars in any calendar year shall be placed to the credit  
45 of the general revenue fund of the county. Moneys in the fund shall be used only  
46 for the procurement of services and equipment to support the operation of the  
47 sheriff's office. Moneys in the fund established pursuant to this subsection shall  
48 not lapse to the county general revenue fund at the end of any county budget or  
49 fiscal year.

50         4. Notwithstanding the provisions of subsection 3 of this section to the  
51 contrary, the sheriff[, or any other person specially appointed to serve in a county  
52 that receives funds under section 57.278,] shall receive ten dollars for service of  
53 any summons, writ, subpoena, or other order of the court included under  
54 subsection 1 of this section, in addition to the charge for such service that each

55 sheriff receives under subsection 1 of this section. The money received by the  
56 sheriff[, or any other person specially appointed to serve in a county that receives  
57 funds under section 57.278,] under this subsection shall be paid into the county  
58 treasury and the county treasurer shall make such money payable to the state  
59 treasurer. The state treasurer shall deposit such moneys in the deputy sheriff  
60 salary supplementation fund created under section 57.278.

61 **5. Notwithstanding the provisions of subsection 3 of this section**  
62 **to the contrary, the court clerk shall collect ten dollars as a court cost**  
63 **for service of any summons, writ, subpoena, or other order of the court**  
64 **included under subsection 1 of this section when any person other than**  
65 **a sheriff is specially appointed to serve in a county that receives funds**  
66 **under section 57.278. The money received by the clerk under this**  
67 **subsection shall be paid into the county treasury and the county**  
68 **treasurer shall make such money payable to the state treasurer. The**  
69 **state treasurer shall deposit such moneys in the deputy sheriff salary**  
70 **supplementation fund created under section 57.278.**

488.435. 1. Sheriffs shall receive a charge, as provided in section 57.280,  
2 for service of any summons, writ or other order of court, in connection with any  
3 civil case, and making on the same either a return indicating service, a non est  
4 return or a nulla bona return, the sum of twenty dollars for each item to be  
5 served, as provided in section 57.280, except that a sheriff shall receive a charge  
6 for service of any subpoena, and making a return on the same, the sum of ten  
7 dollars, as provided in section 57.280; however, no such charge shall be collected  
8 in any proceeding when court costs are to be paid by the state, county or  
9 municipality. In addition to such charge, the sheriff shall be entitled, as provided  
10 in section 57.280, to receive for each mile actually traveled in serving any  
11 summons, writ, subpoena or other order of court, the rate prescribed by the  
12 Internal Revenue Service for all allowable expenses for motor vehicle use  
13 expressed as an amount per mile, provided that such mileage shall not be charged  
14 for more than one subpoena or summons or other writ served in the same cause  
15 on the same trip. All of such charges shall be received by the sheriff who is  
16 requested to perform the service. Except as otherwise provided by law, all  
17 charges made pursuant to section 57.280 shall be collected by the court clerk as  
18 court costs and are payable prior to the time the service is rendered; provided  
19 that if the amount of such charge cannot be readily determined, then the sheriff  
20 shall receive a deposit based upon the likely amount of such charge, and the

21 balance of such charge shall be payable immediately upon ascertainment of the  
22 proper amount of such charge. A sheriff may refuse to perform any service in any  
23 action or proceeding, other than when court costs are waived as provided by law,  
24 until the charge provided by this section is paid. Failure to receive the charge  
25 shall not affect the validity of the service.

26         2. The sheriff shall, as provided in section 57.280, receive for receiving  
27 and paying moneys on execution or other process, where lands or goods have been  
28 levied and advertised and sold, five percent on five hundred dollars and four  
29 percent on all sums above five hundred dollars, and half of these sums, when the  
30 money is paid to the sheriff without a levy, or where the lands or goods levied on  
31 shall not be sold and the money is paid to the sheriff or person entitled thereto,  
32 his or her agent or attorney. The party at whose application any writ, execution,  
33 subpoena or other process has issued from the court shall pay the sheriff's costs,  
34 as provided in section 57.280, for the removal, transportation, storage,  
35 safekeeping and support of any property to be seized pursuant to legal process  
36 before such seizure. The sheriff shall be allowed for each mile, as provided in  
37 section 57.280, going and returning from the courthouse of the county in which  
38 he or she resides to the place where the court is held, the rate prescribed by the  
39 Internal Revenue Service for all allowable expenses for motor vehicle use  
40 expressed as an amount per mile. The provisions of this subsection shall not  
41 apply to garnishment proceeds.

42         3. As provided in subsection 4 of section 57.280, the sheriff shall receive  
43 ten dollars for service of any summons, writ, subpoena, or other order of the court  
44 included under subsection 1 of section 57.280, in addition to the charge for such  
45 service that each sheriff receives under subsection 1 of section 57.280. The money  
46 received by the sheriff under subsection 4 of section 57.280 shall be paid into the  
47 county treasury and the county treasurer shall make such money payable to the  
48 state treasurer. The state treasurer shall deposit such moneys in the deputy  
49 sheriff salary supplementation fund created under section 57.278.

50         **4. The court clerk shall collect ten dollars as a court cost for**  
51 **service of any summons, writ, subpoena, or other order of the court**  
52 **included under subsection 1 of this section when any person other than**  
53 **a sheriff is specially appointed to serve in a county that receives funds**  
54 **under section 57.278. The money received by the clerk under this**  
55 **subsection shall be paid into the county treasury and the county**  
56 **treasurer shall make such money payable to the state treasurer. The**

57 state treasurer shall deposit such moneys in the deputy sheriff salary  
58 supplementation fund created under section 57.278.

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