



**Bill Number: S.B. 1443**

**Gray L Floor Amendment**

**Reference to: printed bill**

**Amendment drafted by: Amber O'Dell**

## **FLOOR AMENDMENT EXPLANATION**

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- **Allows an off-duty law enforcement officer to serve all process, writs, orders, pleadings or papers required or permitted by law to be served, including state photo enforcement traffic complaints.**
- **Outlines limitations to officers' service ability.**
- **Permits the officer to charge fees that may be agreed on between the officer and the party engaging the officer.**

**Amendment explanation prepared by Amber O'Dell**

**3/18/2010**

GRAY L FLOOR AMENDMENT

SENATE AMENDMENTS TO S.B. 1443

(Reference to printed bill)

1 Page 1, between lines 1 and 2 insert:

2 "Section 1. Section 11-445, Arizona Revised Statutes, is amended to  
3 read:

4 11-445. Fees chargeable in civil actions by sheriffs,  
5 constables and private process servers; authority of  
6 private process servers; background investigation;  
7 constables' logs

8 A. The sheriff shall receive the following fees in civil actions:

9 1. For serving each true copy of the original summons in a civil suit,  
10 sixteen dollars, except that the sheriff shall not charge a fee for service  
11 of any document pursuant to section 13-3602 or any injunction against  
12 harassment pursuant to section 12-1809 if the court indicates the injunction  
13 arises out of a dating relationship.

14 2. For summoning each witness, sixteen dollars.

15 3. For levying and returning each writ of attachment or claim and  
16 delivery, forty-eight dollars.

17 4. For taking and approving each bond and returning it to the proper  
18 court when necessary, twelve dollars.

19 5. For endorsing the forfeiture of any bond required to be endorsed by  
20 him, twelve dollars.

21 6. For levying each execution, twenty-four dollars.

22 7. For returning each execution, sixteen dollars.

23 8. For executing and returning each writ of possession or restitution,  
24 forty-eight dollars plus a rate of forty dollars per hour per deputy or  
25 constable for the actual time spent in excess of three hours.

26 9. For posting the advertisement for sale under execution, or any  
27 order of sale, twelve dollars.

1           10. For posting or serving any notice, process, writ, order, pleading  
2 or paper required or permitted by law, not otherwise provided for, sixteen  
3 dollars except that posting for a writ of restitution shall not exceed ten  
4 dollars.

5           11. For executing a deed to each purchaser of real property under  
6 execution or order of sale, twenty-four dollars.

7           12. For executing a bill of sale to each purchaser of real and personal  
8 property under an execution or order of sale, when demanded by the purchaser,  
9 sixteen dollars.

10          13. For services in designating a homestead or other exempt property,  
11 twelve dollars.

12          14. For receiving and paying money on redemption and issuing a  
13 certificate of redemption, twenty-four dollars.

14          15. For serving and returning each writ of garnishment and related  
15 papers, forty dollars.

16          16. For the preparation, including notarization, of each affidavit of  
17 service or other document pertaining to service, eight dollars.

18          17. For every writ served on behalf of a justice of the peace, a fee  
19 established by the board of supervisors not to exceed five dollars per  
20 writ. Monies collected from the writ fees shall be deposited in the  
21 constable ethics standards and training fund established by section 22-138.

22           B. The sheriff shall also collect the appropriate recording fees if  
23 applicable and other appropriate disbursements.

24           C. The sheriff may charge:

25           1. Fifty-six dollars plus disbursements for any skip tracing services  
26 performed.

27           2. A reasonable fee for executing a civil arrest warrant ordered  
28 pursuant to court rule by a judge or justice of the peace. The fee shall  
29 only be charged to the party requesting the issuance of the civil arrest  
30 warrant.

1           3. A reasonable fee for storing personal property levied on pursuant  
2 to title 12, chapter 9.

3           D. For traveling to serve or on each attempt to serve civil process,  
4 writs, orders, pleadings or papers, the sheriff shall receive two dollars  
5 forty cents for each mile actually and necessarily traveled but, in any  
6 event, not to exceed two hundred miles, nor to be less than sixteen  
7 dollars. Mileage shall be charged one way only. For service made or  
8 attempted at the same time and place, regardless of the number of parties or  
9 the number of papers so served or attempted, only one charge for travel fees  
10 shall be made for such service or attempted service.

11           E. For collecting money on an execution when it is made by sale, the  
12 sheriff and the constable shall receive eight dollars for each one hundred  
13 dollars or major portion thereof not to exceed a total of two thousand  
14 dollars, but when money is collected by the sheriff without a sale, only  
15 one-half of such fee shall be allowed. When satisfaction or partial  
16 satisfaction of a judgment is received by the judgment creditor after the  
17 sheriff or constable has received an execution on the judgment, the  
18 commission is due the sheriff or constable and is established by an affidavit  
19 of the judgment creditor filed with the officer. If the affidavit is not  
20 lodged with the officer within thirty days of the request, the commission  
21 shall be based on the total amount of judgment due as billed by the officer  
22 and may be collected as any other debt by that officer.

23           F. The sheriff shall be allowed for all process issued from the  
24 supreme court and served by the sheriff the same fees as are allowed the  
25 sheriff for similar services on process issued from the superior court.

26           G. The constable shall receive the same fees as the sheriff for  
27 performing the same services in civil actions, except that mileage shall be  
28 computed from the office of the justice of the peace originating the civil  
29 action to the place of service.

30           H. Notwithstanding subsection G of this section, in a county with a  
31 population of more than three million persons, if an office of a justice of

1 the peace is located outside of the precinct boundaries, the mileage for a  
2 constable shall be calculated pursuant to subsection D of this section,  
3 except that the distance between the precinct boundaries and the office of  
4 the justice of the peace, as determined by the county and certified by the  
5 board of supervisors of that county, shall be subtracted from the mileage  
6 calculation. This certified mileage calculation shall be transmitted to the  
7 justice courts and the clerks of those courts shall calculate the mileage  
8 between the office of the justice of the peace and the location where the  
9 civil process, writ, order, pleading or paper was served and reduce the  
10 mileage used to calculate the mileage fee according to the certified mileage  
11 calculation for that respective jurisdiction.

12 I. Private process servers WHO ARE duly appointed or registered  
13 pursuant to rules established by the supreme court may serve all process,  
14 writs, orders, pleadings or papers required or permitted by law to be served  
15 before, during or independently of a court action, including all ~~such as~~ THAT  
16 are required or permitted to be served by a sheriff or constable, except  
17 writs or orders requiring the service officer to sell, deliver or take into  
18 the officer's custody persons or property, or ~~as~~ THAT may otherwise be  
19 limited by rule established by the supreme court. A private process server  
20 is an officer of the court. As a condition of registration, the supreme  
21 court shall require each private process server applicant to furnish a full  
22 set of fingerprints to enable a criminal background investigation to be  
23 conducted to determine the suitability of the applicant. The completed  
24 applicant fingerprint card shall be submitted with the fee prescribed in  
25 section 41-1750 to the department of public safety. The applicant shall bear  
26 the cost of obtaining the applicant's criminal history record information.  
27 The cost shall not exceed the actual cost of obtaining the applicant's  
28 criminal history record information. Applicant criminal history records  
29 checks shall be conducted pursuant to section 41-1750 and Public Law 92-544.  
30 The department of public safety is authorized to exchange the submitted  
31 applicant fingerprint card information with the federal bureau of

1 investigation for a federal criminal records check. A private process server  
2 may charge ~~such~~ fees for services ~~as may be~~ THAT ARE agreed on between the  
3 process server and the party engaging the process server.

4 J. A PERSON WHO SERVES AS A LAW ENFORCEMENT OFFICER IN THIS STATE AND  
5 WHO IS CERTIFIED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD  
6 MAY, WHEN THE PERSON IS OFF DUTY, SERVE ALL PROCESS, WRITS, ORDERS, PLEADINGS  
7 OR PAPERS PERMITTED BY LAW TO BE SERVED BEFORE, DURING OR INDEPENDENTLY OF A  
8 COURT ACTION, INCLUDING ALL THAT ARE PERMITTED TO BE SERVED BY A SHERIFF OR  
9 CONSTABLE, AND INCLUDING TRAFFIC COMPLAINTS RESULTING FROM THE STATE PHOTO  
10 ENFORCEMENT SYSTEM AS DEFINED IN SECTION 28-1602. THE LAW ENFORCEMENT  
11 OFFICER MAY NOT SERVE WRITS OR ORDERS REQUIRING THE LAW ENFORCEMENT OFFICER  
12 TO SELL, DELIVER OR TAKE INTO THE OFFICER'S CUSTODY PERSONS OR PROPERTY. THE  
13 SUPREME COURT MAY ESTABLISH OTHER LIMITATIONS BY RULE. A LAW ENFORCEMENT  
14 OFFICER MAY CHARGE FEES FOR SERVICES THAT ARE AGREED ON BETWEEN THE LAW  
15 ENFORCEMENT OFFICER AND THE PARTY ENGAGING THE LAW ENFORCEMENT OFFICER.

16 ~~J.~~ K. Constables shall maintain a log of work related activities  
17 including a listing of all processes served and the number of processes  
18 attempted to be served by case number, the names of the plaintiffs and  
19 defendants, the names and addresses of the persons to be served except as  
20 otherwise precluded by law, the date of process and the daily mileage.

21 ~~K.~~ L. The log maintained in subsection ~~J.~~ K of this section is a public  
22 record and shall be made available by the constable at the constable's office  
23 during regular office hours. Copies of the log shall be filed monthly with  
24 the clerk of the justice court and with the clerk of the board of  
25 supervisors.”

26 Renumber to conform

27 Amend title to conform

3/17/10  
4:51 PM  
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