

CHAPTER 118

HOUSE BILL No. 2293  
(Amended by Chapter 180)

AN ACT concerning sheriffs; fees for services; special deputies; multijurisdictional agreements; amending K.S.A. 28-110 and 28-170 and K.S.A. 2003 Supp. 19-805a, 19-805b, 19-828, 60-2001 and 60-2003 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 2003 Supp. 19-805a is hereby amended to read as follows: 19-805a. In all counties ~~having a population in excess of 100,000,~~ the sheriff shall have authority to appoint so many special deputies as the sheriff deems proper and for whose official acts the sheriff shall be responsible. Before an appointment shall be made the sheriff or marshal of the district court shall have the right to demand an indemnity bond before any commission as special deputy shall be issued. The appointments may be revoked at the pleasure of the appointing officer, except that all appointments made by a sheriff pursuant to this section shall automatically be revoked at the time that such appointing sheriff's service as sheriff concludes. Except as provided by K.S.A. 2003 Supp. 19-827, *and amendments thereto*, a special deputy appointed under this section shall not receive any payment, for services rendered, from public funds.

Sec. 2. K.S.A. 2003 Supp. 19-805b is hereby amended to read as follows: 19-805b. Except as provided by K.S.A. 2003 Supp. 19-827, *and amendments thereto*, special deputies appointed pursuant to K.S.A. 19-805a, and amendments thereto, may be limited in their authority to perform the acts of a peace officer in or about certain specified premises or relating thereto *or to provide crime prevention or security services on or about any public facility or property when so directed by the sheriff*, but shall have a general right in event of riot, sabotage, *terroristic attack* or serious disturbances or breach of the peace to call upon and deputize any other peace officer or private citizen to assist such special deputy in quelling such ~~riot or disturbance events~~.

Sec. 3. K.S.A. 2003 Supp. 19-828 is hereby amended to read as follows: 19-828. Any county in the state of Kansas which borders another state, with the agreement of the sheriff, may enter into agreement with the political subdivisions in such other state's contiguous county to form a multijurisdictional law enforcement group for the enforcement of drug and controlled substances laws *or for the prevention, detection or investigation of any terroristic activity*. Such other state's law enforcement officers may be deputized as officers of the counties of this state participating in such an agreement and shall be deemed to have met all requirements of law enforcement training and certification required under K.S.A. 74-5601 *et seq.* and amendments thereto if such officers have satisfied the applicable law enforcement officer training and certification standards in force in such other state. Such other state's law enforcement officers shall have the same powers and immunities as law enforcement officers certified and commissioned in Kansas while conducting investigations to enforce drug and controlled substances laws *or engaged in the prevention, detection or investigation of terroristic activity* with the multijurisdictional enforcement group.

Sec. 4. K.S.A. 28-110 is hereby amended to read as follows: 28-110. The sheriffs of each county in the state shall charge *the following fees* for the services required by law to be performed by them ~~the following fees~~:

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| Serving or executing and returning any writ, process, order or notice, <del>or tax warrant</del> , including a copy of the same, whenever a copy is required by law, except as otherwise provided, for the first person ..... | <del>\$1.00</del> \$5.00 |
| For each additional person .....  | .50                      |
| Serving warrants and making return thereof .....  | 1.00                     |
| Making arrests as law enforcement officer .....   | 1.00                     |
| Serving order of attachment, arrest or replevin and returning same .....  | 2.00                     |
| Making levy under execution .....   | 2.00                     |
| Appraisal of property .....   | 2.00                     |
| Return of "no property found" .....   | 2.00                     |
| <del>Return of "not found" each person .....</del>  | <del>1.00</del>          |
| Approving and returning undertaking bond or recognizance .....  | 1.00                     |
| Advertising property for sale .....   | 2.00                     |
| Offering for sale or selling property .....   | 2.50                     |
| Taking inventory of personal property, each day .....   | 10.00                    |
| Sheriff's deed and acknowledgment, to be paid out of the proceeds of the sale of real estate conveyed .....   | 5.00                     |

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|---|------|
| Issuing certificates of sale and recording same ..... | 2.00 |
| Summoning talesman, each .....                        | .50  |

The sheriff shall charge, for witnesses whose attendance is procured under attachment and who are unable to pay their fare, actual expenses and mileage in an amount set in accordance with K.S.A. 75-3203a, and amendments thereto, and rules and regulations adopted pursuant thereto. ~~The sheriff shall charge, for miles actually and necessarily traveled each way in serving or endeavoring to serve any writ, process, order, venire, notice or tax warrant, mileage in an amount set in accordance with K.S.A. 75-3203a, and amendments thereto, and rules and regulations adopted pursuant thereto. No mileage shall be charged when the distance does not exceed one mile. All fees provided by this section, except those expressly given to the sheriff, are to be paid into the county general fund. If the writ, process, order or notice contains the names of more than one person, no mileage fee shall be taxed or allowed and no person shall be required to pay any mileage fee unless at the time of making returns the sheriff makes and files with the returns, or as a part thereof, a statement showing the distance actually and necessarily traveled in making service on the first person named by the sheriff and the distance actually and necessarily traveled from the place of making the first service to the place of making service on the second person named by the sheriff and so on for each person served. If more than one process is served in the same case or on the same person, not requiring more than one journey from the office, the sheriff shall charge mileage a fee for one service only. If more than one process for the same person, or in the same case, is issued and is in the hands of the sheriff at one time, it shall be the duty of the sheriff to make service of the processes, if possible, on the one trip. Where service is not affected or timely return made pursuant to K.S.A. 60-312 or 61-3005, and amendments thereto, no fee shall be taxed or allowed on subsequent alias, writ, process, order or notice as required to effect service and the return of service. Except as provided by K.S.A. 19-269, and amendments thereto, the sheriff shall be reimbursed for the necessary transportation and board expenses incurred while serving under requisition made by the governor.~~

Sec. 5. K.S.A. 28-170 is hereby amended to read as follows: 28-170.

(a) The docket fee prescribed by K.S.A. 60-2001 and amendments thereto *and the fees for service of process*, shall be the only costs assessed for services of the clerk of the district court and the sheriff in any case filed under chapter 60 or chapter 61 of the Kansas Statutes Annotated, *and amendments thereto, except that no fee shall be charged for an action filed under K.S.A. 60-3101 et seq., and under K.S.A. 60-31a01 et seq., and amendments thereto.* For services in other matters in which no other fee is prescribed by statute, the following fees shall be charged and collected by the clerk. Only one fee shall be charged for each bond, lien or judgment:

1. For filing, entering and releasing a bond, mechanic's lien, notice of intent to perform, personal property tax judgment or any judgment on which execution process cannot be issued..... \$5
2. For filing, entering and releasing a judgment of a court of this state on which execution or other process can be issued ..... 15
3. For a certificate, or for copying or certifying any paper or writ, such fee as shall be prescribed by the district court.

(b) The fees for entries, certificates and other papers required in naturalization cases shall be those prescribed by the federal government and, when collected, shall be disbursed as prescribed by the federal government. The clerk of the court shall remit to the state treasurer at least monthly all moneys received from fees prescribed by subsection (a) or (b) or received for any services performed which may be required by law. The state treasurer shall deposit the remittance in the state treasury and credit the entire amount to the state general fund.

(c) In actions pursuant to the Kansas code for care of children (K.S.A. 38-1501 *et seq.* and amendments thereto), the Kansas juvenile justice code (K.S.A. 38-1601 *et seq.* and amendments thereto), the act for treatment of alcoholism (K.S.A. 65-4001 *et seq.* and amendments thereto), the act for treatment of drug abuse (K.S.A. 65-5201 *et seq.* and amendments thereto) or the care and treatment act for mentally ill persons (K.S.A. ~~2000~~ 2003 Supp. 59-2945 *et seq.* and amendments thereto), the clerk shall charge an additional fee of \$1 which shall be deducted from the docket fee and credited to the prosecuting attorneys' training fund as provided in K.S.A. 28-170a and amendments thereto.

(d) In actions pursuant to the Kansas code for care of children (K.S.A. 38-1501 *et seq.* and amendments thereto), the Kansas juvenile justice code (K.S.A. 38-1601 *et seq.* and amendments thereto), the act for treatment of alcoholism (K.S.A. 65-4001 *et seq.* and amendments thereto), the act for treatment of drug abuse (K.S.A. 65-5201 *et seq.* and amendments thereto) or the care and treatment act for mentally ill persons (K.S.A. 2000 2003 Supp. 59-2945 *et seq.* and amendments thereto), the clerk shall charge an additional fee of \$.50 which shall be deducted from the docket fee and credited to the indigents' defense services fund as provided in K.S.A. 28-172b and amendments thereto.

Sec. 6. K.S.A. 2003 Supp. 60-2001 is hereby amended to read as follows: 60-2001. (a) *Docket fee.* Except as otherwise provided by law, no case shall be filed or docketed in the district court, whether original or appealed, without payment of a docket fee in the amount of \$106 during the period commencing July 1, 2003, and ending June 30, 2005, and \$105 on or after July 1, 2005, to the clerk of the district court.

(b) *Poverty affidavit in lieu of docket fee.* (1) *Effect.* In any case where a plaintiff by reason of poverty is unable to pay a docket fee, and an affidavit so stating is filed, no fee will be required. An inmate in the custody of the secretary of corrections may file a poverty affidavit only if the inmate attaches a statement disclosing the average account balance, or the total deposits, whichever is less, in the inmate's trust fund for each month in (A) the six-month period preceding the filing of the action; or (B) the current period of incarceration, whichever is shorter. Such statement shall be certified by the secretary. On receipt of the affidavit and attached statement, the court shall determine the initial fee to be assessed for filing the action and in no event shall the court require an inmate to pay less than \$3. The secretary of corrections is hereby authorized to disburse money from the inmate's account to pay the costs as determined by the court. If the inmate has a zero balance in such inmate's account, the secretary shall debit such account in the amount of \$3 per filing fee as established by the court until money is credited to the account to pay such docket fee. Any initial filing fees assessed pursuant to this subsection shall not prevent the court, pursuant to subsection (d), from taxing that individual for the remainder of the amount required under subsection (a) or this subsection.

(2) *Form of affidavit.* The affidavit provided for in this subsection shall be in the following form and attached to the petition:

State of Kansas, \_\_\_\_\_ County.

In the district court of the county: I do solemnly swear that the claim set forth in the petition herein is just, and I do further swear that, by reason of my poverty, I am unable to pay a docket fee.

(c) *Disposition of docket fee. The docket fee fees. The docket fees and the fees for service of process* shall be the only costs assessed in each case for services of the clerk of the district court and the sheriff. *For every person to be served by the sheriff, the persons requesting service of process shall provide proper payment to the clerk and the clerk of the district court shall forward the service of process fee to the sheriff in accordance with K.S.A. 28-110, and amendments thereto. The service of process fee, if paid by check or money order, shall be made payable to the sheriff. Such service of process fee shall be submitted by the sheriff at least monthly to the county treasurer for deposit in the county treasury and credited to the county general fund.* The docket fee shall be disbursed in accordance with K.S.A. 20-362 and amendments thereto.

(d) *Additional court costs.* Other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall include, but not be limited to, witness fees, appraiser fees, fees for service of process ~~outside the state~~, fees for depositions, alternative dispute resolution fees, transcripts and publication, attorney fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties as directed by the court. ~~No sheriff in this state shall charge any district court in this state a fee or mileage for serving any paper or process. No sheriff in this state shall charge any mileage for serving any papers or process.~~

Sec. 7. K.S.A. 2003 Supp. 60-2003 is hereby amended to read as follows: 60-2003. Items which may be included in the taxation of costs are:

(1) The docket fee as provided for by K.S.A. 60-2001, and amend-

ments thereto.

(2) The mileage, fees, and other allowable expenses of the sheriff ~~or~~, other officer *or private process server* incurred in the service of process ~~outside of this state~~ or in effecting any of the provisional remedies authorized by this chapter.

(3) Publisher's charges in effecting any publication of notices authorized by law.

(4) Statutory fees and mileage of witnesses attending court or the taking of depositions used as evidence.

(5) Reporter's or stenographic charges for the taking of depositions used as evidence.

(6) The postage fees incurred pursuant to K.S.A. 60-303 or subsection (e) of K.S.A. 60-308, and amendments thereto.

(7) Alternative dispute resolution fees shall include fees, expenses and other costs arising from mediation, conciliation, arbitration, settlement conferences or other alternative dispute resolution means, whether or not such means were successful in resolving the matter or matters in dispute, which the court shall have ordered or to which the parties have agreed.

~~(8) The mileage and fees of a private process server incurred in the service of process or in effecting any of the provisional remedies authorized by this chapter.~~

~~(9)~~ Such other charges as are by statute authorized to be taxed as costs.

Sec. 8. K.S.A. 28-110 and 28-170 and K.S.A. 2003 Supp. 19-805a, 19-805b, 19-828, 60-2001 and 60-2003 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 21, 2004.

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