

Senate Engrossed House Bill

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
Second Regular Session  
2010

CHAPTER 230

# **HOUSE BILL 2608**

AN ACT

AMENDING SECTIONS 11-445 AND 22-131, ARIZONA REVISED STATUTES; RELATING TO  
CONSTABLES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

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; fine surcharge

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.

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

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

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

37 13. For services in designating a homestead or other exempt property,  
38 twelve dollars.

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

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

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

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

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

7           C. The sheriff may charge:

8           1. Fifty-six dollars plus disbursements for any skip tracing services  
9 performed.

10          2. A reasonable fee for executing a civil arrest warrant ordered  
11 pursuant to court rule by a judge or justice of the peace. The fee shall  
12 only be charged to the party requesting the issuance of the civil arrest  
13 warrant.

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

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

24          E. For collecting money on an execution when it is made by sale, the  
25 sheriff and the constable shall receive eight dollars for each one hundred  
26 dollars or major portion thereof not to exceed a total of two thousand  
27 dollars, but when money is collected by the sheriff without a sale, only  
28 one-half of such fee shall be allowed. When satisfaction or partial  
29 satisfaction of a judgment is received by the judgment creditor after the  
30 sheriff or constable has received an execution on the judgment, the  
31 commission is due the sheriff or constable and is established by an affidavit  
32 of the judgment creditor filed with the officer. If the affidavit is not  
33 lodged with the officer within thirty days of the request, the commission  
34 shall be based on the total amount of judgment due as billed by the officer  
35 and may be collected as any other debt by that officer.

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

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

43          H. Notwithstanding subsection G of this section, in a county with a  
44 population of more than three million persons, if an office of a justice of  
45 the peace is located outside of the precinct boundaries, the mileage for a

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

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

34 J. Constables shall maintain a log of work related activities  
35 including a listing of all processes served and the number of processes  
36 attempted to be served by case number, the names of the plaintiffs and  
37 defendants, the names and addresses of the persons to be served except as  
38 otherwise precluded by law, the date of process and the daily mileage.

39 K. The log maintained in subsection ~~I~~ J of this section is a public  
40 record and shall be made available by the constable at the constable's office  
41 during regular office hours. Copies of the log shall be filed monthly with  
42 the clerk of the justice court and with the clerk of the board of  
43 supervisors.

1 L. IF THE SHERIFF OR CONSTABLE SERVES A WARRANT ISSUED BY A JUSTICE OR  
2 SUPERIOR COURT JUDGE FOR FAILURE TO PAY A FINE, THE COURT SHALL COLLECT A TEN  
3 PER CENT SURCHARGE ON THE AMOUNT OF THE FINE OWED BY THE DEFENDANT AND SHALL  
4 TRANSMIT THE MONIES COLLECTED TO THE COUNTY TREASURER FOR DEPOSIT IN THE  
5 COUNTY GENERAL FUND.

6 Sec. 2. Section 22-131, Arizona Revised Statutes, is amended to read:

7 22-131. Constables; powers and duties

8 A. Constables shall attend the courts of justices of the peace within  
9 their precincts when required, and within their counties execute, serve and  
10 return all processes and notices directed or delivered to them by a justice  
11 of the peace of the county or by competent authority. In addition to any  
12 other provision of law these duties may be enforced by the presiding judge of  
13 the superior court in the county, including the use of the power of contempt.

14 B. Constables shall attend the training prescribed in section 22-137.

15 C. Constables, with the consent of and at salaries fixed by the board  
16 of supervisors, may appoint deputies who are certified pursuant to section  
17 41-1822, subsection A, paragraph 3, stenographers, clerks and assistants  
18 necessary to conduct the affairs of their offices. The appointments shall be  
19 in writing and filed in the office of the county recorder.

20 D. The provisions of law relating to sheriffs, as far as applicable,  
21 shall govern the powers, duties and liabilities of constables.

22 E. A constable who is duly elected or who is appointed by the board of  
23 supervisors has the authority of a peace officer only in the performance of  
24 the constable's official duties.

25 F. A CONSTABLE MAY EXECUTE, SERVE AND RETURN PROCESSES AND NOTICES AS  
26 PRESCRIBED IN SUBSECTION A OF THIS SECTION WITHIN ANY PRECINCT IN ANOTHER  
27 COUNTY IF THAT PRECINCT ADJOINS THE PRECINCT IN WHICH THE CONSTABLE WAS  
28 ELECTED OR APPOINTED.

APPROVED BY THE GOVERNOR MAY 6, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 6, 2010.

Passed the House March 17, 2010

Passed the Senate April 27, 2010

by the following vote: 56 Ayes,

by the following vote: 27 Ayes,

0 Nays, 4 Not Voting

2 Nays, 1 Not Voting

[Signature]  
Speaker of the House

[Signature]  
President of the Senate

[Signature]  
Chief Clerk of the House

[Signature]  
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR**

This Bill received by the Governor this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of

\_\_\_\_\_

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE**

This Bill received by the Secretary of State

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State

H.B. 2608

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

April 28, 2010,

by the following vote: 56 Ayes,

0 Nays, 4 Not Voting

Alan B. Gold

Speaker of the House

Cheryl Laube  
Pro Tempore  
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this  
29 day of April, 2010

at 11:50 o'clock A.M.

Alfred Rendle  
Secretary to the Governor

Approved this 6 day of  
May, 2010,

at 11:00 o'clock A.M.

Janice K. Brewer  
Governor of Arizona

H.B. 2608

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this 6<sup>th</sup> day of May, 2010,

at 3:08 o'clock P.M.

Ken Blumenthal  
Secretary of State