

Senate Engrossed

**FILED**

**MICHELE REAGAN  
SECRETARY OF STATE**

State of Arizona  
Senate  
Fifty-second Legislature  
First Regular Session  
2015

CHAPTER 138

# **SENATE BILL 1064**

AN ACT

AMENDING SECTION 11-445, ARIZONA REVISED STATUTES; AMENDING TITLE 12, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 25; AMENDING SECTIONS 28-1593 AND 28-1602, ARIZONA REVISED STATUTES; RELATING TO PRIVATE PROCESS SERVERS.

(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 and  
5 constables; constables' logs  
6 A. The sheriff shall receive the following fees in civil actions:  
7 1. For serving each true copy of the original summons in a civil suit,  
8 sixteen dollars, except that the sheriff shall not charge a fee for service  
9 of any document pursuant to section 13-3602 or any injunction against  
10 harassment pursuant to section 12-1809 if the court indicates the injunction  
11 arises out of a dating relationship.  
12 2. For summoning each witness, sixteen dollars.  
13 3. For levying and returning each writ of attachment or claim and  
14 delivery, forty-eight dollars.  
15 4. For taking and approving each bond and returning it to the proper  
16 court when necessary, twelve dollars.  
17 5. For endorsing the forfeiture of any bond required to be endorsed by  
18 ~~him~~ THE SHERIFF, twelve dollars.  
19 6. For levying each execution, twenty-four dollars.  
20 7. For returning each execution, sixteen dollars.  
21 8. For executing and returning each writ of possession or restitution,  
22 forty-eight dollars plus a rate of forty dollars per hour per deputy or  
23 constable for the actual time spent in excess of three hours.  
24 9. For posting the advertisement for sale under execution, or any  
25 order of sale, twelve dollars.  
26 10. For posting or serving any notice, process, writ, order, pleading  
27 or paper required or permitted by law, not otherwise provided for, sixteen  
28 dollars except that posting for a writ of restitution shall not exceed ten  
29 dollars.  
30 11. For executing a deed to each purchaser of real property under  
31 execution or order of sale, twenty-four dollars.  
32 12. For executing a bill of sale to each purchaser of real and personal  
33 property under an execution or order of sale, when demanded by the purchaser,  
34 sixteen dollars.  
35 13. For services in designating a homestead or other exempt property,  
36 twelve dollars.  
37 14. For receiving and paying money on redemption and issuing a  
38 certificate of redemption, twenty-four dollars.  
39 15. For serving and returning each writ of garnishment and related  
40 papers, forty dollars.  
41 16. For the preparation, including notarization, of each affidavit of  
42 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.

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

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

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



1 the complaint is complete on filing the receipt in the court having  
2 jurisdiction of the violation.

3 B. The original complaint shall be filed in a court having  
4 jurisdiction of the violation within ten court days of the time the complaint  
5 was issued. A peace officer, or duly authorized agent or someone paid to act  
6 on behalf of a traffic enforcement agency, may issue the traffic complaint.

7 ~~C. If a law enforcement agency issues a citation as a result of a  
8 photo enforcement system and serves the citation in a manner other than what  
9 is prescribed by subsection A of this section, the agency shall inform the  
10 person that there is no obligation to identify the driver or respond to the  
11 citation. Failure to respond to the citation will result in the probability  
12 that the person will be formally served pursuant to state law and the Arizona  
13 rules of civil procedure which will likely result in the person being  
14 required to pay the cost of the service.~~

15 Sec. 4. Section 28-1602, Arizona Revised Statutes, is amended to read:

16 28-1602. Photo enforcement violation; service of process; no  
17 duty to identify photo or respond; definitions

18 A. Notwithstanding any other law, if a person receives a notice of  
19 violation in the mail for a violation of chapter 3, article 3 or 6 of this  
20 title or of a city or town ordinance for excessive speed or failure to obey a  
21 traffic control device that is obtained using a photo enforcement system, the  
22 person does not have to do either of the following:

- 23 1. Identify who is in the photo.
- 24 2. Respond to the notice of violation.

25 B. The notice of violation that is described in subsection A of this  
26 section must state the following:

- 27 1. The notice is not a court issued document and the recipient is  
28 under no obligation to identify the person or respond to the notice.
- 29 2. Failure to respond to the notice may result in official service  
30 that may result in an additional fee being levied.

31 C. IN ADDITION TO ANY OTHER MEANS AUTHORIZED BY THE ARIZONA RULES OF  
32 CIVIL PROCEDURE, ALTERNATIVE OR SUBSTITUTE SERVICE OF PROCESS MUST BE SENT BY  
33 CERTIFIED MAIL WITH AN ADDITIONAL COPY BY REGULAR MAIL AND A NOTICE MUST BE  
34 POSTED ON THE FRONT DOOR OF THE BUSINESS OR RESIDENCE AND, IF PRESENT AND  
35 ACCESSIBLE, A RESIDENCE'S GARAGE DOOR. SERVICE OF THE COMPLAINT IS COMPLETE  
36 ON FILING THE MAILING RECEIPT AND PROOF OF POSTING IN THE COURT HAVING  
37 JURISDICTION OF THE VIOLATION.

38 D. IF A LAW ENFORCEMENT AGENCY ISSUES A CITATION AS A RESULT OF A  
39 PHOTO ENFORCEMENT SYSTEM AND SERVES THE CITATION IN A MANNER OTHER THAN WHAT  
40 IS PRESCRIBED BY SECTION 28-1593, SUBSECTION A, THE AGENCY SHALL INFORM THE  
41 PERSON THAT THERE IS NO OBLIGATION TO IDENTIFY THE DRIVER OR RESPOND TO THE  
42 CITATION. FAILURE TO RESPOND TO THE CITATION WILL RESULT IN THE PROBABILITY  
43 THAT THE PERSON WILL BE FORMALLY SERVED PURSUANT TO STATE LAW AND THE ARIZONA  
44 RULES OF CIVIL PROCEDURE WHICH WILL LIKELY RESULT IN THE PERSON BEING  
45 REQUIRED TO PAY THE COST OF THE SERVICE.

- 1           ~~C.~~ E. For the purposes of this section:  
2           1. "Notice of violation" means a notice issued by a photo enforcement  
3 company or municipality that is not a uniform traffic ticket or complaint.  
4           2. "Photo enforcement system" has the same meaning prescribed in  
5 section 28-601.

APPROVED BY THE GOVERNOR APRIL 1, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 2, 2015.

Passed the House March 25, 2015,

by the following vote: 56 Ayes,  
3 Nays, 1 Not Voting

[Signature]  
Speaker of the House

[Signature]  
Chief Clerk of the House

Passed the Senate March 4, 2015,

by the following vote: 16 Ayes,  
13 Nays, 1 Not Voting

[Signature]  
President of the Senate

[Signature]  
Assistant Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this  
30<sup>th</sup> day of March, 2015.

at 2:11 o'clock P. M.

[Signature]  
Secretary to the Governor

Approved this 1<sup>st</sup> day of

April, 2015,

at 1:58 o'clock P. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this 2 day of April, 2015,

at 9:00 o'clock A M.

[Signature]  
Secretary of State

S.B. 1064