



2025 South Dakota Legislature

Senate Bill 5

SENATE JUDICIARY ENGROSSED

Introduced by: **Senator Duhamel**

1 **An Act to permit a sheriff to charge a fee for service of process, whether service is**
 2 **completed or not.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 7-12-18 be AMENDED:**

5 **7-12-18.** The sheriff shall charge and remit the following:

- 6 (1) For serving an order of arrest with commitment or bail bond and return, twenty-
 7 five dollars;
- 8 (2) For ~~servi~~ng any summons, complaint, warrant of attachment, affidavit, notice and
 9 undertaking in claim and delivery, ~~or~~ injunction, order to show cause, citation, or
 10 other process submitted to be served, whether service is completed or not, and
 11 return of the instrument, no more than fifty dollars. Only one fee may be charged
 12 for all such process to be or instruments served at the same time upon the same
 13 person, regardless of the ~~capacities~~ capacity in which ~~such~~ the person is served or
 14 attempted to be served. ~~However, for all such~~ For all process ~~or instruments~~ served
 15 upon another ~~such~~ person at approximately the same time at the same place, no
 16 more than ten dollars;
- 17 (3) For serving subpoena for witness, each person, twenty dollars;
- 18 (4) For traveling expenses in a motor vehicle, a ten-dollar flat fee, or a mileage
 19 allowance of eight cents above the rate set pursuant to § 3-9-1 for each mile
 20 actually and necessarily traveled by motor vehicle. For traveling expenses in a
 21 private plane, a mileage allowance of ten cents above the rate set pursuant to § 3-
 22 9-1 for each mile actually and necessarily traveled by private plane. ~~However,~~
 23 ~~actual~~ Actual cost may be paid for travel by train, bus, plane, or other commercial
 24 vehicle;
- 25 (5) For serving writ of execution and return of the instrument, whether satisfied or
 26 unsatisfied, ninety-five dollars;

- 1 (6) For levying writ of possession, fifty dollars. ~~However, if~~ If the sale of the property
2 levied upon is not subsequently held, the actual costs or expenses associated with
3 levying writ of possession ~~shall~~ must be paid;
- 4 (7) For advertisement of sale in newspaper, in addition to printing, twenty-five dollars;
- 5 (8) For posting notices of sale of real property, twenty-five dollars, and mileage;
- 6 (9) For executing writ or order of partition, twenty-five dollars;
- 7 (10) For making deed for land sold on execution or order of sale, one hundred dollars
8 except no fee is charged when the deed only requires the sheriff's signature;
- 9 (11) In addition to the applicable fees and expenses, a commission of six percent on all
10 money received and disbursed by the sheriff on execution or order of sale, order
11 of attachment, decree or on sale of real property or personal property. ~~However,~~
12 ~~in~~ In no case may the commission be less than fifty dollars or more than three
13 thousand five hundred dollars. If the execution or order of sale is a foreclosure of
14 a real estate mortgage, the commission may not be more than one thousand five
15 hundred dollars. ~~The commissions shall~~ commission must be included as a part of
16 the cost of execution, order of sale, order of attachment, or decree, or on sale of
17 real or personal property, ~~which shall to~~ be paid by the debtor out of the proceeds.
18 ~~However, in~~ In each case of redemption prior to the sale, the sheriff is entitled to
19 the commission as stated above, to be paid by the redemptioner as a cost of the
20 redemption;
- 21 (12) For a case in ~~the~~ circuit court, if a person, in whose favor an execution or order of
22 sale is issued, bids on the property sold on execution or decree, the sheriff or officer
23 making the sale ~~shall~~ must receive the following compensation: ~~if~~
24 (a) If the amount for which the property is bid on is one thousand dollars or
25 less, the sum of forty dollars; and ~~if~~
26 (b) If the amount for which the property is bid on is more than one thousand
27 dollars, the sum of one hundred dollars;
- 28 (13) For making a sale of real property under a foreclosure of mortgage by
29 advertisement, the same fees as for the sale of real property under a judgment of
30 foreclosure and sale of real property pursuant to subdivision (10); and
- 31 (14) If personal property is taken by the sheriff on execution or warrant of attachment
32 and applied in the satisfaction of the debt without sale, the same percentage on
33 the appraised value of the property as in the case of a sale pursuant to subdivision
34 (10) and all additional reasonable and necessary costs and expenses incurred in

1 executing the duties of sheriff ~~including~~ and expenses associated with the removal
2 of property from the premises.

3 No fee may be charged in any action under § 25-10-3, 25-10-6, 22-19A-8, or 22-
4 19A-12.

5 The fees established pursuant to this section ~~shall be~~ must be used for law
6 enforcement purposes.