MISSISSIPPI LEGISLATURE REGULAR SESSION 2007

By: Senator(s) Thames, Gordon

To: Fees, Salaries and Administration

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2268

AN ACT TO AMEND SECTIONS 25-7-19 AND 25-7-27, MISSISSIPPI CODE OF 1972, TO INCREASE CERTAIN FEES CHARGED BY SHERIFFS AND CONSTABLES FOR SERVICE OF PROCESS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 25-7-19, Mississippi Code of 1972, is amended as follows:

25-7-19. (1) The sheriffs of the various counties of the State of Mississippi shall charge the following fees:

(a) A uniform total fee in all criminal and civil cases for the service of any process, summons, warrant, writ or other notice as may be required by law or the court, each..... $35.00

(b) In all cases where there is more than one (1) defendant residing at the same household, service on each additional defendant..... $1.00

(c) After final judgment has been enrolled, notice of further proceedings involving levy of execution on judgments, and attachment and garnishment proceedings, shall be deemed a new suit and the sheriff shall be entitled to the following fee..... $35.00

(d) Taking bonds of every kind (for purposes of this fee multiple bonds for criminal charges arising out of a single incident or transaction shall be considered a single bond). $25.00

(e) Attendance in habeas corpus proceeding in vacation, eminent domain court and commitment cases..... $25.00

(f) On all money made by virtue of any decree, execution or attachment, or other process, the following commissions, to wit:

On the first One Hundred Dollars ($100.00), five percent (5%),

On the second One Hundred Dollars ($100.00), four percent (4%),

On all sums over Two Hundred Dollars ($200.00), three percent (3%).

(g) For all service of all process of every kind and nature issued from without the county wherein it is to be served, a fee of..... $35.00

In civil cases, all process sent out of the county, where issued to another county for service, shall be accompanied by a fee of Thirty-five Dollars ($35.00) to pay the sheriff's fee for his execution of such process unless the clerk or justice shall endorse on the process that the party at whose instance it issued had filed an affidavit of inability to pay costs thereof. All fees sent and unearned, and the whole of it, shall be unearned if the writ be not legally and properly executed and returned, and shall be remitted by the sheriff with the writ at his own expense.

(2) The sheriff shall keep a complete account of every fee of every nature, commission or charge collected by him, and shall file an itemized statement thereof monthly, under oath, with the clerk of the board of supervisors of his county who shall preserve same as a part of the records of his office, and he shall make a remittance to the clerk of the board of supervisors of his county on or before the fifteenth of each month for deposit into the general fund of the county of all said fees, commissions and charges collected during the preceding month.

(3) Any sheriff who shall knowingly fail to collect any fee established by law which was in fact collectible by him or having collected the fee shall fail to keep account of such fee or fail to deposit the fee with the clerk of the board of supervisors as provided by subsection (2), or such other person or office entitled thereto, shall be guilty of a misdemeanor in office and,

upon conviction therefor, shall be fined in an amount not to exceed double the amount he failed to collect or pay over, or imprisoned for not to exceed six (6) months in the county jail, or be punished by both such fine and imprisonment.

This provision shall in no way lessen the sheriff's civil liability on his bond, but shall be an additional penalty for misfeasance or nonfeasance in office.

SECTION 2. Section 25-7-27, Mississippi Code of 1972, is amended as follows:

25-7-27. (1) Marshals and constables shall charge the following fees:

(a) (i) A uniform total fee in all civil cases, whether contested or uncontested, which shall include all services in connection therewith, except as stated otherwise in this section, each..... $35.00

(ii) A uniform total fee in all criminal cases, whether contested or uncontested, which shall include all services in connection therewith, except as stated otherwise in this section, each..... $35.00

(iii) In all cases where there is more than one (1) defendant, for service on each additional defendant..... $ 5.00

(iv) When a complaining party has provided erroneous information to the clerk of the court relating to the service of process on the defendant or defendants and process cannot be served after diligent search and inquiry, the uniform fee shall be assessed upon subsequent successful service and an additional fee shall be due in the following amount..... $15.00

(v) When a complaining party has provided erroneous information to the clerk of the court relating to the service of process on the defendant or defendants and process cannot be served after diligent search and inquiry, and a defendant is served in a county other than the county in which a

suit was filed, the constable in the county in which the suit was filed shall receive an additional fee, upon successful service of the defendant, in the following amount..... $15.00

(b) After final judgment has been enrolled, further proceedings involving levy of execution on judgments, and attachment and garnishment proceedings shall be a new suit for which the marshal or constable shall be entitled to the following fee..... $35.00

(c) For conveying a person charged with a crime to jail, mileage reimbursement in an amount not to exceed the rate established under Section 25-3-41(2).

To be paid out of the county treasury on the allowance of the board of supervisors, when the state fails in the prosecution, or the person is convicted but is not able to pay the costs.

(d) For other service, the same fees allowed sheriffs for similar services.

(e) For service as a bailiff in any court in a civil case, to be paid by the county on allowance of the court on issuance of a warrant therefor, an amount equal to the per diem compensation provided under Section 25-3-69 for each day, or part thereof, for which he serves as bailiff when the court is in session.

(f) For serving all warrants and other process and attending all trials in state cases in which the state fails in the prosecution, to be paid out of the county treasury on the allowance of the board of supervisors without itemization, subject, however, to the condition that the marshal or constable must not have overcharged in the collection of fees for costs, contrary to the provisions of this section, annually $1,800.00

(2) Marshals and constables shall be paid all uncollected fees levied under subsection (1) of this section in full from the

first proceeds received by the court from the guilty party or from any other source of payment in connection with the case.

(3) In addition to the fees authorized to be paid to a constable under subsection (1) of this section, a constable may receive payments for collecting delinquent criminal fines in justice court pursuant to the provisions of Section 19-3-41(3).

SECTION 3. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

SECTION 4. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, or July 1, 2007, whichever occurs later.