

By: Senator(s) Thames, Gordon

To: Fees, Salaries and Administration

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2268

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

69 25-7-27. (1) Marshals and constables shall charge the
70 following fees:

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

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

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

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

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

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

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

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

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

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

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

115 (f) For serving all warrants and other process and
116 attending all trials in state cases in which the state fails in
117 the prosecution, to be paid out of the county treasury on the
118 allowance of the board of supervisors without itemization,
119 subject, however, to the condition that the marshal or constable
120 must not have overcharged in the collection of fees for costs,
121 contrary to the provisions of this section, annually
122 \$1,800.00

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

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

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

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

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