

Assembly Bill No. 2256

CHAPTER 470

An act to amend Sections 262.7 and 415.21 of the Code of Civil Procedure, and to amend Sections 6103.3, 26720.9, 26721.2, 26722, 26723, 26725.1, 26726, 26727, 26728.1, 26729, 26730, 26731, 26733.5, 26736, 26738, 26740, 26741, 26744.5, 26746, 26746.1, and 26750 of the Government Code, relating to civil procedure.

[Approved by Governor September 19, 2014. Filed with
Secretary of State September 19, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2256, Garcia. Civil procedure: service and fees: sheriffs.

(1) In an action against a sheriff, existing law provides that any person who is a citizen of the United States over the age of 18 years is authorized to serve all process and orders in that action, as specified.

This bill would instead authorize any person to serve all process and orders in an action against a sheriff.

(2) Existing law requires, when a gated community is staffed by a guard or other security personnel assigned to control access to the community, that a person be granted access to the gated community for a reasonable period of time to perform service of process or service of a subpoena, upon identifying to the guard the person or persons to be served, as specified.

This bill would remove the requirement that a person identify the person or persons to be served to the guard or security personnel before being granted access to the gated community.

(3) Existing law authorizes a sheriff or marshal, for any order or injunction relating to harassment, workplace violence, domestic violence, or elder abuse, for which the sheriff or marshal provides service of process, to notify the protected person by electronic or telephonic means that the order or injunction has been served on the restrained person, as specified.

This bill would remove the requirement that an order or injunction be related to harassment, workplace violence, domestic violence, or elder abuse, and would authorize the sheriff to provide the notification by publishing notice of service of process on the sheriff's Internet Web site.

(4) Existing law prescribes fees for serving, executing, and processing required court notices, writs, orders, and other services provided by sheriffs and marshals.

This bill would revise and increase the fees for services provided by sheriffs or marshals, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 262.7 of the Code of Civil Procedure is amended to read:

262.7. If an action is begun against a sheriff, all process and orders may be served by any person in the manner provided in this code.

SEC. 2. Section 415.21 of the Code of Civil Procedure is amended to read:

415.21. (a) Notwithstanding any other law, any person shall be granted access to a gated community for a reasonable period of time for the sole purpose of performing lawful service of process or service of a subpoena upon displaying a current driver's license or other identification, and one of the following:

(1) A badge or other confirmation that the individual is acting in his or her capacity as a representative of a county sheriff or marshal.

(2) Evidence of current registration as a process server pursuant to Chapter 16 (commencing with Section 22350) of Division 8 of the Business and Professions Code or of licensure as a private investigator pursuant to Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code.

(b) This section shall only apply to a gated community that is staffed at the time service of process is attempted by a guard or other security personnel assigned to control access to the community.

SEC. 3. Section 6103.3 of the Government Code is amended to read:

6103.3. (a) (1) For any order or injunction described in paragraph (4) of subdivision (b) of Section 6103.2, the sheriff or marshal may notify the protected person by electronic or telephonic means within 24 hours after service of process that the order or injunction has been served on the restrained person, including the date and time when the order or injunction was served, if the protected person has requested this notification and has registered a telephone number or email address at which the protected person may be contacted for this purpose.

(2) The sheriff may provide the notification described in subdivision (a) via an automated statewide victim information and notification system if the sheriff has access to that system, his or her county participates in that system, and local, state, or federal funds are made available for the operation of that system.

(b) Notwithstanding subdivision (a), the sheriff may provide the notification described in subdivision (a) by publishing the notice of service of process on the sheriff's Internet Web site.

(c) If the sheriff participates in the notification program authorized under this section and the service of process is provided by a marshal, the marshal shall promptly inform the sheriff of the date and time when the order or injunction was served, and the sheriff shall provide the notice described in subdivision (a) to the protected person.

SEC. 4. Section 26720.9 of the Government Code is amended to read:

26720.9. Notwithstanding any other law, the amounts set forth in Sections 26721, 26721.1, 26725, 26728, 26734, 26742, and 26743 shall be forty dollars (\$40).

SEC. 5. Section 26721.2 of the Government Code is amended to read:

26721.2. (a) For any action commenced in the superior court, the fee for the service of the summons, the complaint for which the summons is issued, and all other documents or notices required to be served with the summons and complaint, is forty dollars (\$40).

(b) The fee for cancellation of the service of a summons prior to its completion is forty dollars (\$40).

(c) The fee for making a not-found return on a summons certifying that the person cannot be found at the address specified is forty dollars (\$40).

SEC. 6. Section 26722 of the Government Code is amended to read:

26722. The fee for serving, executing, or processing any writ or order where the levying officer is required to take immediate possession of the property levied upon is one hundred dollars (\$100).

SEC. 7. Section 26723 of the Government Code is amended to read:

26723. The fee for opening a safe-deposit box pursuant to Sections 488.460 and 700.150 of the Code of Civil Procedure is one hundred thirty-five dollars (\$135).

SEC. 8. Section 26725.1 of the Government Code is amended to read:

26725.1. The fee for serving or posting any additionally required notices or orders on other parcels is twenty dollars (\$20) each.

SEC. 9. Section 26726 of the Government Code is amended to read:

26726. (a) The fee for keeping and caring for property under a writ of attachment, execution, possession, or sale is one hundred forty dollars (\$140) when necessarily employed for any eight-hour period or any part thereof. If an additional keeper or keepers are required during these periods, the fee for the additional keeper or keepers shall be the same as fixed, but, in no event shall any one keeper receive more than three hundred dollars (\$300) during any 24-hour period when so employed.

(b) In addition to the fees provided by Section 26721, the fee for maintaining custody of property under levy by the use of a keeper is forty dollars (\$40) for each day custody is maintained after the first day.

(c) Notwithstanding any other fee charged, a keeper shall receive sixty dollars (\$60) when, pursuant to Section 26738, a levying officer prepares a not-found return.

SEC. 10. Section 26727 of the Government Code is amended to read:

26727. The fee for a copy of any writ, process, paper, order, or notice actually made by him or her when required or demanded is one dollar (\$1) per page, except that when correct copies are furnished to him or her for use no charge shall be made for those copies.

SEC. 11. Section 26728.1 of the Government Code is amended to read:

26728.1. The fee for preparing and posting additionally required notices of personal property sales is fifteen dollars (\$15) each.

SEC. 12. Section 26729 of the Government Code is amended to read:

26729. The fee for furnishing a notice for publication is fifteen dollars (\$15).

SEC. 13. Section 26730 of the Government Code is amended to read:

26730. The fee for conducting or postponing the sale of real or personal property as required by law or the litigant is ninety dollars (\$90).

SEC. 14. Section 26731 of the Government Code is amended to read:

26731. (a) Eighteen dollars (\$18) of any fee collected by the sheriff's civil division or marshal under Sections 26721, 26722, 26725, 26726, 26728, 26730, 26733.5, 26734, 26736, 26738, 26742, 26743, 26744, and 26750 shall be deposited in a special fund in the county treasury. A separate accounting of funds deposited shall be maintained for each depositor, and funds deposited shall be for the exclusive use of the sheriff's civil division or marshal.

(b) Ninety-five percent of the moneys in the special fund shall be expended to supplement the costs of the depositor for the implementation, maintenance, and purchase of auxiliary equipment and furnishings for automated systems or other nonautomated operational equipment and furnishings deemed necessary by the sheriff's civil division or marshal. Five percent of the moneys in the special fund shall be used to supplement the expenses of the sheriff's civil division or marshal in administering the funds.

SEC. 15. Section 26733.5 of the Government Code is amended to read:

26733.5. The fee for serving a writ of possession of real property on an occupant or the occupants or for posting and serving a copy on the judgment debtor is eighty-five dollars (\$85). The additional fee for removing an occupant or occupants from the premises and putting a person in possession of the premises is sixty dollars (\$60). The fee for reposting a notice to vacate shall be pursuant to Section 26721.

SEC. 16. Section 26736 of the Government Code is amended to read:

26736. The fee for cancellation of the service or execution of any process or notice, other than a summons, prior to its completion is forty dollars (\$40). The fee provided by this section shall not be charged if a fee is charged pursuant to any other section of this article in attempting to serve or execute the process or notice.

SEC. 17. Section 26738 of the Government Code is amended to read:

26738. The fee for making a not-found return on an affidavit and order, order for appearance, subpoena, writ of attachment, writ of execution, writ of possession, order for delivery of personal property, or other process or notice required to be served, certifying that the person or property cannot be found at the address specified is thirty-five dollars (\$35).

SEC. 18. Section 26740 of the Government Code is amended to read:

26740. The fee for the execution and delivery of a deed or certificate of redemption is fifteen dollars (\$15).

SEC. 19. Section 26741 of the Government Code is amended to read:

26741. The fee for executing and delivering a certificate or deed of sale is fifteen dollars (\$15).

SEC. 20. Section 26744.5 of the Government Code is amended to read:

26744.5. (a) The fees for processing a warrant issued pursuant to Section 1993 of the Code of Civil Procedure shall be paid by the moving party, as follows:

(1) Forty dollars (\$40) to receive and process the warrant, which shall include the issuance and mailing of a notice advising the person to be arrested of the issuance of the warrant and demanding that the person appear in court.

(2) Forty dollars (\$40) to cancel the service of the warrant.

(3) Eighty-five dollars (\$85) if unable to find the person at the address specified using due diligence.

(4) One hundred dollars (\$100) to arrest the person, which shall include the arrest and release of the person on a promise to appear pursuant to Section 1993.2 of the Code of Civil Procedure.

(b) The in forma pauperis fee waiver provisions under Rules 3.50 to 3.58, inclusive, of the California Rules of Court shall apply to the collection of fees under this section.

SEC. 21. Section 26746 of the Government Code is amended to read:

26746. (a) In addition to any other fees required by law, a processing fee of twelve dollars (\$12) shall be assessed for each disbursement of money collected under a writ of attachment, execution, possession, or sale, but excluding any action by the local child support agency for the establishment or enforcement of a child support obligation. The fee shall be collected from the judgment debtor in addition to, and in the same manner as, the moneys collected under the writ. All proceeds of this fee shall be deposited in a special fund in the county treasury. A separate accounting of funds deposited shall be maintained for each depositor, and funds deposited shall be for the exclusive use of the depositor.

(b) The special fund shall be expended to supplement the county's cost for vehicle fleet replacement and equipment, maintenance, and civil process operations, including data systems and consultant services.

(c) A processing fee shall not be charged pursuant to this section if the only disbursement is the return of the judgment creditor's deposit for costs.

SEC. 22. Section 26746.1 of the Government Code is amended to read:

26746.1. (a) A twenty-dollar (\$20) fee shall be assessed by the sheriff or marshal for certification of correction on each citation that requires inspection for proof of correction of any violation pursuant to Section 40616 of the Vehicle Code.

(b) All proceeds of the fee shall be deposited in a special fund in the county treasury. A separate accounting of funds deposited shall be maintained for each depositor, and funds deposited shall be for the exclusive use of the sheriff's civil division or marshal.

(c) Ninety-five percent of the moneys in the special fund shall be expended to supplement the costs of the depositor for the implementation, maintenance, and purchase of auxiliary equipment and furnishings for automated systems or other nonautomated operational equipment and furnishings deemed necessary by the sheriff's civil division or marshal. Five percent of the moneys in the special fund shall be used to supplement the expenses of the sheriff's civil division or marshal in administering the funds.

SEC. 23. Section 26750 of the Government Code is amended to read:

26750. (a) The fee for serving an earnings withholding order under the Wage Garnishment Law (Chapter 5 (commencing with Section 706.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure), including, but not limited to, the costs of postage or traveling, and for performing all other duties of the levying officer under that law with respect to the levy shall be thirty-five dollars (\$35).

(b) Except as provided in Section 26746, the levying officer shall not charge additional fees, costs, or expenses for performing the duties under the Wage Garnishment Law (Chapter 5 (commencing with Section 706.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure).