

**Assembly Bill No. 1768**

\_\_\_\_\_

Passed the Assembly August 25, 2000

\_\_\_\_\_  
*Chief Clerk of the Assembly*

\_\_\_\_\_

Passed the Senate August 24, 2000

\_\_\_\_\_  
*Secretary of the Senate*

\_\_\_\_\_

This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2000, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*



## CHAPTER \_\_\_\_\_

An act to amend Sections 26720.9, 26721, 26721.1, 26722, 26725, 26726, 26728, 26730, 26731, 26734, 26736, 26738, 26742, 26743, 26746, 26746.1, and 26750 of, and to add Section 26721.2 to, the Government Code, relating to sheriff's fees.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1768, Steinberg. Sheriff's fees.

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 these fees as specified. The bill would delete the per diem compensation for a keeper of property under a writ of attachment, execution, possession, or sale.

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

SECTION 1. Section 26720.9 of the Government Code is amended to read:

26720.9. Notwithstanding any other provision of law, the amounts set forth in Sections 26721, 26721.1, 26725, 26728, 26734, 26742, and 26743 shall be increased to thirty dollars (\$30) on January 1, 2001.

SEC. 2. Section 26721 of the Government Code is amended to read:

26721. Except as provided in this article, the fee for serving or executing any process or notice required by law or the litigants to be served shall be the amount described in Section 26720.9, and there shall be no additional fee for substitute service when substitute service is authorized.

However, no fee shall be charged for serving an emergency protective order, protective order, or restraining order issued pursuant to Division 10 of the Family Code (the Domestic Violence Prevention Act) on a respondent who is in custody.



In any case where property has been levied upon and, pursuant to the levy, a copy of the writ of execution and a notice of levy are required by statute to be served either personally or by mail upon the judgment debtor or other person, no fee shall be charged for that service.

SEC. 3. Section 26721.1 of the Government Code is amended to read:

26721.1. In an action for unlawful detainer, the fee for service of a summons, complaint, and prejudgment claim of right to possession pursuant to Section 415.46 of the Code of Civil Procedure shall be the amount described in Section 26720.9 for all occupants not named in the summons. The fee is not refundable.

SEC. 3.5. Section 26721.2 is added to the Government Code, to read:

26721.2. 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 twenty-eight dollars (\$28).

SEC. 4. 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 eighty-five dollars (\$85).

SEC. 5. Section 26725 of the Government Code is amended to read:

26725. The fee for serving, executing, or processing a writ of attachment, writ of execution, writ of sale, or order on real estate, as to the initial service or posting of a continuous unbroken parcel or tract, and the fee for serving a record owner other than the defendant shall be the amount described in Section 26720.9.

SEC. 6. 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 shall be one hundred ten dollars (\$110) 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 one hundred eighty-five dollars (\$185) 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 thirty dollars (\$30) for each day custody is maintained after the first day.

(c) Notwithstanding any other fee charged, a keeper shall receive thirty dollars (\$30) when, pursuant to Section 26738, a levying officer prepares a not-found return.

SEC. 7. Section 26728 of the Government Code is amended to read:

26728. The fee for preparing and posting the initial notice of personal property sale under a writ of attachment, execution, or sale or order of court shall be the amount described in Section 26720.9.

SEC. 8. 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 eighty-five dollars (\$85).

SEC. 9. Section 26731 of the Government Code is amended to read:

26731. Five dollars (\$5) 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 of the Government Code 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.

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. 10. Section 26734 of the Government Code is amended to read:

26734. The fee for making a levy on personal property already in possession of the officer who is holding it under attachment in the same action shall be the amount described in Section 26720.9.

SEC. 11. 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 prior to its completion shall be twenty-eight dollars (\$28). The fee provided by this section shall not be charged where a charge is made pursuant to any other section of this article in attempting to serve or execute the process or notice.

SEC. 12. Section 26738 of the Government Code is amended to read:

26738. The fee for making a not found return on a summons, 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 shall be twenty-eight dollars (\$28).

SEC. 13. Section 26742 of the Government Code is amended to read:

26742. The fee for executing and delivering any other instrument shall be the amount described in Section 26720.9.

SEC. 14. Section 26743 of the Government Code is amended to read:

26743. The fee for subpoenaing a witness, including a copy of the subpoena and any affidavit required to be served therewith, shall be the amount described in Section 26720.9.



SEC. 15. Section 26746 of the Government Code is amended to read:

26746. In addition to any other fees required by law, a processing fee of eight dollars (\$8) shall be assessed for each disbursement of money collected under a writ of attachment, execution, possession, or sale, but excluding any action by the district attorney's office 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.

Seventy percent of the moneys in the special fund shall be expended to supplement the county's cost for vehicle fleet replacement and equipment for the sheriff and the marshal. Thirty percent of the moneys in the special fund shall be expended to supplement the county's cost of vehicle and equipment maintenance for the sheriff and the marshal, and for the county's expenses in administering the funds.

No fee shall be charged where the only disbursement is the return of the judgment creditor's deposit for costs.

SEC. 16. Section 26746.1 of the Government Code is amended to read:

26746.1. A fifteen dollar (\$15) 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.

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.

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. 17. 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 twenty-five dollars (\$25).

(b) Except as provided in Section 26746, no additional fees, costs, or expenses may be charged by the levying officer 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.



Approved \_\_\_\_\_, 2000

\_\_\_\_\_  
*Governor*

