

# State of South Dakota

## EIGHTY-SECOND SESSION LEGISLATIVE ASSEMBLY, 2007

429N0104

### SENATE BILL NO. 82

Introduced by: Senators Dempster, Albers, Gray, Hanson (Gary), Heidepriem, Hunhoff, and McCracken and Representatives Hargens, Gillespie, Howie, Moore, Rave, Rhoden, and Rounds

1 FOR AN ACT ENTITLED, An Act to revise certain fees charged by sheriffs.

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

3 Section 1. That § 7-12-18 be amended to read as follows:

4 7-12-18. The sheriff shall charge and remit the following:

5 (1) For serving an order of arrest with commitment or bail bond and return, ~~ten~~ twenty-  
6 five dollars;

7 (2) ~~For each search on a search warrant, four dollars;~~

8 ~~—(3)— For arresting under search warrant, each defendant, six dollars;~~

9 ~~—(4)—~~ For serving summons, complaint, warrant of attachment, affidavit, notice and  
10 undertaking in claim and delivery, or injunction, order to show cause, citation, or  
11 other process, and return ~~thereof, sixteen dollars and fifty cents~~ of the instrument,  
12 fifty dollars for all such process or instruments served at the same time upon the same  
13 person regardless of the capacities in which such person is served, ~~but~~ However, for  
14 all such process or instruments served upon another such person at approximately the  
15 same time at the same place, ~~five~~ ten dollars;



(5)(3) For serving subpoena for witness, each person, ~~seven dollars and fifty cents~~ twenty-five dollars;

~~(6)~~ For taking and filing undertaking in claim and delivery or other indemnification to be furnished to and approved by the sheriff, ~~six dollars~~;

(7)(4) For traveling expenses in cars or planes owned by the sheriff, or necessary emergency vehicles a motor vehicle, a minimum mileage allowance ~~of at least three cents over~~ and above the rate set for state employees by the State Board of Finance but not more than ~~six cents above the rate set for state employees by the State Board of Finance,~~ as shall be determined by the board of county commissioners, ~~for each mile actually and necessarily traveled by car, ten cents above. The board of county commissioners shall provide for a minimum mileage charge, not to exceed ten dollars, for any travel less than ten miles. If the distance traveled is ten miles or more, the sheriff shall receive the minimum mileage charge plus an additional amount for each mile or part of a mile traveled over ten miles based on a mileage allowance that does not exceed the rate set for state employees by the State Board of Finance by more than ten cents per mile. For traveling expenses in a private plane, a minimum mileage allowance that does not exceed~~ the rate set for state employees by the State Board of Finance for each mile actually and necessarily traveled by private plane, ~~except by more than ten cents per mile. However,~~ actual cost may be paid for travel by train, bus, plane, or other commercial vehicle;

(8)(5) For serving writ of execution and return ~~thereof~~ of the instrument, whether satisfied or unsatisfied, ~~sixteen~~ fifty dollars;

(9)(6) For levying writ of possession, ~~eleven~~ twenty-five dollars. However, if the sale of the property levied upon is not subsequently held, the actual costs or expenses associated

1           with levying writ of possession shall be paid;

2    ~~— (10) For serving notice upon each juror who refuses or neglects to accept service of~~  
3           ~~summons mailed by the clerk, four dollars, and twenty cents for each mile actually~~  
4           ~~and necessarily traveled;~~

5    ~~— (11) For each person not on the regular panel called as a juror during any term of court by~~  
6           ~~order of the court, two dollars, and fifteen cents for each mile actually and necessarily~~  
7           ~~traveled;~~

8    ~~— (12) For summoning special jury, for each person impaneled, two dollars;~~

9    ~~— (13) For serving notice of motion or other notice or order of court, two dollars;~~

10   ~~— (14) For executing writ of habeas corpus and return, three dollars and twenty-five cents;~~

11   ~~— (15) For serving writ of restitution and return, eight dollars;~~

12   ~~— (16) For calling inquest to appraise any goods and chattels which the sheriff may be~~  
13           ~~required to have appraised, four dollars; and to each appraiser to be taxed as cost, ten~~  
14           ~~dollars;~~

15   ~~(17)~~(7)       For advertisement of sale in newspaper, in addition to printing, ~~seven~~ twenty-  
16                   five dollars;

17   ~~(18)~~(8)       For posting notices of sale of real property, ~~five~~ twenty-five dollars, and  
18                   mileage;

19   ~~(19)~~(9)       For executing writ or order of partition, ~~thirteen~~ twenty-five dollars;

20   ~~(20)~~(10)      For making deed for land sold on execution or order of sale, ~~twenty-six~~ one  
21                   hundred dollars except no fee is charged when the deed only requires the  
22                   sheriff's signature;

23   ~~(21)~~(11)      In addition to the applicable fees and expenses, a commission on all money  
24                   received and disbursed by the sheriff on execution or order of sale, order of

1 attachment, decree or on sale of real property or personal property, for each  
2 dollar not exceeding ~~four hundred dollars, nine cents; for each dollar above~~  
3 ~~four hundred dollars, and not exceeding one thousand dollars, five cents; for~~  
4 ~~each dollar above one thousand dollars, not to exceed fifteen thousand dollars,~~  
5 ~~three~~ two hundred thousand dollars, five cents; but. However, in no case may  
6 the commission be less than ~~fifteen~~ twenty-five dollars. The commissions shall  
7 be included as a part of the cost of execution, order of sale, order of  
8 attachment, decree, or on sale of real or personal property, which shall be paid  
9 by the debtor out of the proceeds. However, in all cases of redemption prior  
10 to the sale, the sheriff is entitled to the commission as stated above, to be paid  
11 by the redemptioner as a cost of the redemption;

12 ~~(22)~~(12) For cases in the circuit court, if persons, in whose favor an execution or order  
13 of sale is issued, bid in the property sold on execution or decree, the sheriff or  
14 officer making the sale shall receive the following compensation: If the  
15 amount for which the property is bid in is one thousand dollars or less, the sum  
16 of twenty dollars; ~~if.~~ If the amount for which the property is bid in is more  
17 than one thousand dollars, the sum of ~~forty~~ one hundred dollars;

18 ~~(23)~~(13) For making a sale of real property under a foreclosure of mortgage by  
19 advertisement, the same fees as for the sale of real property under a judgment  
20 of foreclosure and sale of real property; and

21 ~~(24)~~(14) If personal property is taken by the sheriff on execution or warrant of  
22 attachment and applied in the satisfaction of the debt without sale, the same  
23 percentage on the appraised value of the property as in the case of a sale and  
24 all additional reasonable and necessary costs and expenses incurred in

1                   executing the duties of sheriff ~~under this chapter to the extent that such costs~~  
2                   ~~and expenses are not otherwise reimbursed~~ including expenses associated with  
3                   the removal of property from the premises.

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