



2025 South Dakota Legislature

Senate Bill 5

ENROLLED

AN ACT

ENTITLED An Act to permit a sheriff to charge a fee for service of process, whether service is completed or not.

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

Section 1. That § 7-12-18 be AMENDED:

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

- (1) For serving an order of arrest with commitment or bail bond and return, twenty-five dollars;
- (2) For any summons, complaint, warrant of attachment, affidavit, notice and undertaking in claim and delivery, injunction, order to show cause, citation, or other process submitted to be served, whether service is completed or not, and return of the instrument, no more than fifty dollars. Only one fee may be charged for all process to be served at the same time upon the same person, regardless of the capacity in which the person is served or attempted to be served. For all process served upon another person at approximately the same time at the same place, no more than ten dollars;
- (3) For serving subpoena for witness, each person, twenty dollars;
- (4) For traveling expenses in a motor vehicle, a ten-dollar flat fee, or a mileage allowance of eight cents above the rate set pursuant to § 3-9-1 for each mile actually and necessarily traveled by motor vehicle. For traveling expenses in a private plane, a mileage allowance of ten cents above the rate set pursuant to § 3-9-1 for each mile actually and necessarily traveled by private plane. Actual cost may be paid for travel by train, bus, plane, or other commercial vehicle;
- (5) For serving writ of execution and return of the instrument, whether satisfied or unsatisfied, ninety-five dollars;

- (6) For levying writ of possession, fifty dollars. If the sale of the property levied upon is not subsequently held, the actual costs or expenses associated with levying writ of possession must be paid;
- (7) For advertisement of sale in newspaper, in addition to printing, twenty-five dollars;
- (8) For posting notices of sale of real property, twenty-five dollars, and mileage;
- (9) For executing writ or order of partition, twenty-five dollars;
- (10) For making deed for land sold on execution or order of sale, one hundred dollars except no fee is charged when the deed only requires the sheriff's signature;
- (11) In addition to the applicable fees and expenses, a commission of six percent on all money received and disbursed by the sheriff on execution or order of sale, order of attachment, decree or on sale of real property or personal property. In no case may the commission be less than fifty dollars or more than three thousand five hundred dollars. If the execution or order of sale is a foreclosure of a real estate mortgage, the commission may not be more than one thousand five hundred dollars. The commission must be included as a part of the cost of execution, order of sale, order of attachment, or decree, or on sale of real or personal property to be paid by the debtor out of the proceeds. In each case of redemption prior to the sale, the sheriff is entitled to the commission as stated above, to be paid by the redemptioner as a cost of the redemption;
- (12) For a case in circuit court, if a person, in whose favor an execution or order of sale is issued, bids on the property sold on execution or decree, the sheriff or officer making the sale must receive the following compensation:
 - (a) If the amount for which the property is bid on is one thousand dollars or less, the sum of forty dollars; and
 - (b) If the amount for which the property is bid on is more than one thousand dollars, the sum of one hundred dollars;
- (13) For making a sale of real property under a foreclosure of mortgage by advertisement, the same fees as for the sale of real property under a judgment of foreclosure and sale of real property pursuant to subdivision (10); and
- (14) If personal property is taken by the sheriff on execution or warrant of attachment and applied in the satisfaction of the debt without sale, the same percentage on the appraised value of the property as in the case of a sale pursuant to subdivision (10) and all additional reasonable and necessary costs and expenses incurred in executing the duties of sheriff and expenses associated with the removal of property from the premises.

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

The fees established pursuant to this section must be used for law enforcement purposes.

An Act to permit a sheriff to charge a fee for service of process, whether service is completed or not.

I certify that the attached Act originated in the:

Senate as Bill No. 5

Received at this Executive Office
this ____ day of _____,
2025 at _____ M.

Secretary of the Senate

By _____
for the Governor

President of the Senate

The attached Act is hereby
approved this ____ day of
_____, A.D., 2025

Attest:

Secretary of the Senate

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Speaker of the House

Attest:

Filed _____, 2025
at _____ o'clock ____ M.

Chief Clerk

Secretary of State

Senate Bill No. 5
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State