

AMENDED IN SENATE JUNE 16, 2014

AMENDED IN SENATE MAY 29, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

AMENDED IN ASSEMBLY MARCH 18, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2256

Introduced by Assembly Member Garcia

February 21, 2014

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~~, 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.

LEGISLATIVE COUNSEL'S DIGEST

AB 2256, as amended, 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 delete those provisions and instead require a county sheriff, marshal, registered process server, or licensed private investigator to be granted access to a gated community for a reasonable period of time to perform service of process or service of a subpoena, regardless of whether there is a guard or other security personnel present. 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.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

- 1 SECTION 1. Section 262.7 of the Code of Civil Procedure is
- 2 amended to read:
- 3 262.7. If an action is begun against a sheriff, all process and
- 4 orders may be served by any person in the manner provided in this
- 5 code.
- 6 ~~SEC. 2. Section 415.21 of the Code of Civil Procedure is~~
- 7 ~~amended to read:~~
- 8 ~~415.21. Notwithstanding any other law, a county sheriff,~~
- 9 ~~marshal, process server registered pursuant to Chapter 16~~

1 ~~(commencing with Section 22350) of Division 8 of the Business~~
2 ~~and Professions Code, or private investigator licensed pursuant to~~
3 ~~Chapter 11.3 (commencing with Section 7512) of Division 3 of~~
4 ~~the Business and Professions Code shall be granted access to a~~
5 ~~gated community for a reasonable period of time for the purpose~~
6 ~~of performing lawful service of process or service of a subpoena.~~

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

9 415.21. (a) Notwithstanding any other law, any person shall
10 be granted access to a gated community for a reasonable period
11 of time for the sole purpose of performing lawful service of process
12 or service of a subpoena, ~~upon identifying to the guard the person~~
13 ~~or persons to be served, and subpoena~~ upon displaying a current
14 driver's license or other identification, and one of the following:

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

18 (2) Evidence of current registration as a process server pursuant
19 to Chapter 16 (commencing with Section 22350) of Division 8 of
20 the Business and Professions Code or of licensure as a private
21 investigator pursuant to Chapter 11.3 (commencing with Section
22 7512) of Division 3 of the Business and Professions Code.

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

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

29 6103.3. (a) (1) For any order or injunction described in
30 paragraph (4) of subdivision (b) of Section 6103.2, the sheriff or
31 marshal may notify the protected person by electronic or telephonic
32 means within 24 hours after service of process that the order or
33 injunction has been served on the restrained person, including the
34 date and time when the order or injunction was served, if the
35 protected person has requested this notification and has registered
36 a telephone number or email address at which the protected person
37 may be contacted for this purpose.

38 (2) The sheriff may provide the notification described in
39 subdivision (a) via an automated statewide victim information and
40 notification system if the sheriff has access to that system, his or

1 her county participates in that system, and local, state, or federal
2 funds are made available for the operation of that system.

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

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

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

14 26720.9. Notwithstanding any other law, the amounts set forth
15 in Sections 26721, 26721.1, 26725, 26728, 26734, 26742, and
16 26743 shall be forty dollars (\$40).

17 ~~SEC. 5. Section 26721 of the Government Code is amended~~
18 ~~to read:~~

19 ~~26721. (a) Except as provided in this article, the fee for serving~~
20 ~~or executing any process or notice required by law or the litigants~~
21 ~~to be served shall be the amount described in Section 26720.9, and~~
22 ~~there shall be no additional fee for substitute service when~~
23 ~~substitute service is authorized.~~

24 ~~(b) In any case where property has been levied upon and,~~
25 ~~pursuant to the levy, a copy of the writ of execution and a notice~~
26 ~~of levy are required by statute to be served either personally or by~~
27 ~~mail upon the judgment debtor or other person, a fee shall not be~~
28 ~~charged for that service.~~

29 ~~SEC. 6.~~

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

32 26721.2. (a) For any action commenced in the superior court,
33 the fee for the service of the summons, the complaint for which
34 the summons is issued, and all other documents or notices required
35 to be served with the summons and complaint, is forty dollars
36 (\$40).

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

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

4 ~~SEC. 7.~~

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

7 26722. The fee for serving, executing, or processing any writ
8 or order where the levying officer is required to take immediate
9 possession of the property levied upon is one hundred dollars
10 (\$100).

11 ~~SEC. 8.~~

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

14 26723. The fee for opening a safe-deposit box pursuant to
15 Sections 488.460 and 700.150 of the Code of Civil Procedure is
16 one hundred thirty-five dollars (\$135).

17 ~~SEC. 9.~~

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

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

23 ~~SEC. 10.~~

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

26 26726. (a) The fee for keeping and caring for property under
27 a writ of attachment, execution, possession, or sale is one hundred
28 forty dollars (\$140) when necessarily employed for any eight-hour
29 period or any part thereof. If an additional keeper or keepers are
30 required during these periods, the fee for the additional keeper or
31 keepers shall be the same as fixed, but, in no event shall any one
32 keeper receive more than three hundred dollars (\$300) during any
33 24-hour period when so employed.

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

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

1 ~~SEC. 11.~~

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

4 26727. The fee for a copy of any writ, process, paper, order,
5 or notice actually made by him or her when required or demanded
6 is one dollar (\$1) per page, except that when correct copies are
7 furnished to him or her for use no charge shall be made for those
8 copies.

9 ~~SEC. 12.~~

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

12 26728.1. The fee for preparing and posting additionally required
13 notices of personal property sales is fifteen dollars (\$15) each.

14 ~~SEC. 13.~~

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

17 26729. The fee for furnishing a notice for publication is fifteen
18 dollars (\$15).

19 ~~SEC. 14.~~

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

22 26730. The fee for conducting or postponing the sale of real
23 or personal property as required by law or the litigant is ninety
24 dollars (\$90).

25 ~~SEC. 15.~~

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

28 26731. (a) Eighteen dollars (\$18) of any fee collected by the
29 sheriff’s civil division or marshal under Sections 26721, 26722,
30 26725, 26726, 26728, 26730, 26733.5, 26734, 26736, 26738,
31 26742, 26743, 26744, and 26750 shall be deposited in a special
32 fund in the county treasury. A separate accounting of funds
33 deposited shall be maintained for each depositor, and funds
34 deposited shall be for the exclusive use of the sheriff’s civil
35 division or marshal.

36 (b) Ninety-five percent of the moneys in the special fund shall
37 be expended to supplement the costs of the depositor for the
38 implementation, maintenance, and purchase of auxiliary equipment
39 and furnishings for automated systems or other nonautomated
40 operational equipment and furnishings deemed necessary by the

1 sheriff's civil division or marshal. Five percent of the moneys in
2 the special fund shall be used to supplement the expenses of the
3 sheriff's civil division or marshal in administering the funds.

4 ~~SEC. 16.~~

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

7 26733.5. The fee for serving a writ of possession of real
8 property on an occupant or the occupants or for posting and serving
9 a copy on the judgment debtor is eighty-five dollars (\$85). The
10 additional fee for removing an occupant or occupants from the
11 premises and putting a person in possession of the premises is sixty
12 dollars (\$60). The fee for reposting a notice to vacate shall be
13 pursuant to Section 26721.

14 ~~SEC. 17.~~

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

17 26736. The fee for cancellation of the service or execution of
18 any process or notice, other than a summons, prior to its completion
19 is forty dollars (\$40). The fee provided by this section shall not be
20 charged if a fee is charged pursuant to any other section of this
21 article in attempting to serve or execute the process or notice.

22 ~~SEC. 18.~~

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

25 26738. The fee for making a not-found return on an affidavit
26 and order, order for appearance, subpoena, writ of attachment, writ
27 of execution, writ of possession, order for delivery of personal
28 property, or other process or notice required to be served, certifying
29 that the person or property cannot be found at the address specified
30 is thirty-five dollars (\$35).

31 ~~SEC. 19.~~

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

34 26740. The fee for the execution and delivery of a deed or
35 certificate of redemption is fifteen dollars (\$15).

36 ~~SEC. 20.~~

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

39 26741. The fee for executing and delivering a certificate or
40 deed of sale is fifteen dollars (\$15).

1 ~~SEC. 21.~~

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

4 26744.5. (a) The fees for processing a warrant issued pursuant
5 to Section 1993 of the Code of Civil Procedure shall be paid by
6 the moving party, as follows:

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

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

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

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

17 (b) The in forma pauperis fee waiver provisions under Rules
18 3.50 to 3.58, inclusive, of the California Rules of Court shall apply
19 to the collection of fees under this section.

20 ~~SEC. 22.~~

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

23 26746. (a) In addition to any other fees required by law, a
24 processing fee of twelve dollars (\$12) shall be assessed for each
25 disbursement of money collected under a writ of attachment,
26 execution, possession, or sale, but excluding any action by the
27 local child support agency for the establishment or enforcement
28 of a child support obligation. The fee shall be collected from the
29 judgment debtor in addition to, and in the same manner as, the
30 moneys collected under the writ. All proceeds of this fee shall be
31 deposited in a special fund in the county treasury. A separate
32 accounting of funds deposited shall be maintained for each
33 depositor, and funds deposited shall be for the exclusive use of the
34 depositor.

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

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

4 ~~SEC. 23.~~

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

7 26746.1. (a) A twenty-dollar (\$20) fee shall be assessed by
8 the sheriff or marshal for certification of correction on each citation
9 that requires inspection for proof of correction of any violation
10 pursuant to Section 40616 of the Vehicle Code.

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

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

23 ~~SEC. 24.~~

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

26 26750. (a) The fee for serving an earnings withholding order
27 under the Wage Garnishment Law (Chapter 5 (commencing with
28 Section 706.010) of Division 2 of Title 9 of Part 2 of the Code of
29 Civil Procedure), including, but not limited to, the costs of postage
30 or traveling, and for performing all other duties of the levying
31 officer under that law with respect to the levy shall be thirty-five
32 dollars (\$35).

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

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