

ACT 61

S. B. 412.

A Bill for an Act Relating to Sheriffs' and Police Officers' Fees.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act is hereby declared to be an urgency measure

deemed necessary in the public interest within the meaning of section 11 of Article III of the Constitution of the State of Hawaii.

The following is a statement of the facts constituting such urgency:

The sheriffs' or police officers' fee paid for the service of process, such as summons, warrant or attachment, is \$2, and the mileage allowance is set at 10 cents per mile by section 219-4 and 219-8. The service of process fees and mileage allowance have remained the same since 1949 despite the fact that there has been a tremendous increase in the cost of living as well as in the wages of public and private employees. Sheriffs who perform this vital public service as a full-time occupation earn only the fees they receive from servicing papers. They do not receive any set salary from the State and, as a result, they have been required to expend the same amount of time and effort for the same pay since 1949. It is, therefore, urgent and necessary in the public interest that sheriffs' or police officers' fees under section 219-4 and 219-8 be adjusted immediately.

SECTION 2. Section 219-4, Revised Laws of Hawaii 1955, is amended to read as follows:

“§ 219-4. District court costs. For all services of the district court, magistrate or clerk in any one cause, \$3, including the issuance of summons, warrant, attachment or other process and supplementary proceedings, if any; entering of adjournment; administering any oath; issuing subpoena; filing any paper at the request of any party; rendering and entering up judgment; transcript or certificate of judgment; bond or other security drawn by the magistrate; noting an appeal and filing and making a return thereof; and entering any discontinuance.

For the filing of any motion for an order of examination of a judgment debtor, for the allowance of a writ of possession, or for the issuance of a garnishee summons after judgment, \$1.

Whenever the plaintiff in any civil action in the district court fails to sustain his action, and it appears to the magistrate that such action was brought unfairly, maliciously, or without adequate cause, the magistrate may assess against the plaintiff, not only the costs of court, but also all reasonable and necessary expenses to which the defendant was put, including attorney's fees.

Sheriff's or police officer's fees:

For serving any criminal summons, warrant, attachment or other criminal process, \$4.

For serving any civil summons, warrant, attachment or other civil process, \$2.

For every copy of an attachment and inventory of the property attached, served upon the defendant, \$1.50.

For serving any execution, 12 cents for every \$1 collected up to \$50, and 7 cents for every \$1 over \$50.

For serving subpoena, \$2 for each witness.

For every mile of travel, more than one, in serving any process, 12 cents; provided that (a) no such allowance shall be made where such serving officer uses a conveyance furnished him by the State, or any political or mu-

unicipal subdivision thereof; (b) where the serving officer serves more than one person in the course of one trip, he shall not charge, in the aggregate for all such services, more than the mileage for the entire trip; and (c) as far as practicable, in order to minimize the mileage fees for such service, the sheriff or other chief of the serving officers, where service of process is to be made upon an island other than that upon which is situated the court issuing such process, shall cause such process to be transmitted to a deputy, the chief of police or other serving officer upon the island of service, who shall make such service upon receipt of such process; and such service shall be valid, notwithstanding that the process may not be addressed to the officer actually making such service or to his superior.

For taking care of any property seized under an attachment, his reasonable and necessary expenses.

Anything in this section or any other law to the contrary notwithstanding, when any process or subpoena is served by a subordinate of the sheriff or chief of police, it shall be illegal for the sheriff or chief of police, (a) if and so long as he is being paid a salary by the State or the county to receive or collect from such subordinate any portion of the fees, mileage or other expenses collected by such subordinate, or (b) if and so long as he is not being paid any such salary, to collect or receive from such subordinate more than ten per cent of the fees accruing from such service, or any portion of the mileage or other expenses collected by such subordinate. Where a subpoena is served in behalf of the State or any county by a nonsalaried subordinate of the sheriff or chief of police, the regular fee for such service shall be payable to such subordinate. Nothing herein contained shall be deemed to prohibit the police commission of any county from requiring all such fees, mileage and expenses to be paid into a police benefit fund."

SECTION 3. Section 219-8, Revised Laws of Hawaii 1955, is amended to read as follows:

"§ 219-8. Sheriff's or serving or levying officer's fees in circuit or supreme courts. For all necessary travel in making such service, per mile for every mile more than one . . . 12 cents provided, that: (a) no such allowance shall be made where such serving officer uses a conveyance furnished him by the State, or any political or municipal subdivision thereof; (b) where the serving officer serves more than one person in the course of one trip, he shall not charge, in the aggregate for all such services more than the mileage for the entire trip; and (c) as far as practicable, in order to minimize the mileage fees for such service, the sheriff or other chief of the serving officers, where service of process is to be made upon an island other than that upon which is situated the court issuing such process, shall cause such process to be transmitted to a deputy, the chief of police or other serving officer upon the island of service who shall make such service upon receipt of such process; and such service shall be valid, notwithstanding that the process may not be addressed to the officer actually making such service or to his superior.

For serving criminal summons or any other criminal process except a subpoena, for each person served therewith\$4.

For serving civil summons or any other civil process except a subpoena, for each person served therewith\$2.

For serving subpoena, for each witness\$2.

For returning as unserved after due and diligent search any process when it has been found that the person to be served has left the State ...\$2.

For serving any execution or other process for the collection of money, for every dollar collected up to \$5005 cents.

And for every dollar over \$5002½ cents.

All fees paid to any printer for publishing an advertisement of the sale of any property;

For every bill of sale\$1.

For executing and acknowledging a deed pursuant to a sale of real estate to be paid by the grantee in such deed\$5.

For drawing any bond required by law\$1.

For serving writ of possession or restitution, putting any person entitled into the possession of premises, and removing a tenant pursuant to order of court\$1.

Together with all necessary expenses incurred by the officer serving the writ, incident to the eviction.

For selling any property on an order from the court other than an execution, the same allowance as for service and sales by execution.

The fees for service of executions, attachments and collection of judgments, together with all other costs incurred, not included in the judgment, shall, in all the courts of the State, be collected in addition to the sum directed to be levied and collected in the writ.

Anything in this section or any other law to the contrary notwithstanding, when any process or subpoena is served by a subordinate of the sheriff or chief of police, it shall be illegal for the sheriff or chief of police (a) if and so long as he is being paid a salary by the State or the county to receive or collect from such subordinate any portion of the fees, mileage or other expenses collected by such subordinate, or (b) if and so long as such sheriff or chief of police is not being paid any such salary, to collect or receive from such subordinate more than ten per cent of the fees accruing from such service, or any portion of the mileage or other expenses collected by such subordinate. Where a subpoena is served in behalf of the State or any county a non-salaried subordinate of the sheriff or chief of police, the regular fee for such service shall be payable to such subordinate. Nothing herein contained shall be deemed to prohibit the police commission of any county from requiring all such fees, mileage and expenses be paid into a police benefit fund.”

SECTION 4. This Act shall take effect on July 1, 1968.

(Approved May 9, 1968.)