

HOUSE BILL REPORT

SB 5233

As Reported By House Committee On:
Judiciary

Title: An act relating to costs allowed to a prevailing party.

Brief Description: Specifying the fees allowed to prevailing parties for costs related to service of process.

Sponsors: Senators A. Smith, McCaslin, Spanel, Nelson and Hargrove.

Brief History:

Reported by House Committee on:
Judiciary, March 30, 1993, DPA.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 15 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Forner; Johanson; Long; Mastin; H. Myers; Riley; Scott; Tate; and Wineberry.

Staff: Patricia Shelledy (786-7149).

Background: The prevailing party in a civil action is entitled to recover certain costs including "fees for service of process." Process may be served by the sheriff, registered "process servers" who are engaged in the business of serving process for a fee, an attorney or an attorney's employee, a person who is court-appointed to serve the court's process, and persons who do not receive a fee or wage for serving process.

A plaintiff may use a registered process server who is engaged in the business of serving process, rather than the sheriff, for a variety of reasons.

The amount of money the sheriff may charge for the costs of service are set in statute. For example, a sheriff may charge \$10 for service of each summons and complaint on one defendant, plus mileage, which is recoverable at 35 cents per mile. The sheriff may charge \$7 for making a return of service.

The amount of money a process server may charge for the costs of service is not set in statute. Apparently, some courts only allow a prevailing party to recover costs for service of process at the amount set in statute for service by a sheriff. Additionally, apparently some courts do not allow recovery for services which do not have a specified statutory authorization and fee. Consequently, a prevailing party may be unable to recover the full costs of service.

Summary of Amended Bill: A prevailing party in a civil action may recover the costs of service of process as follows: (1) If the process server is a public officer, the recoverable cost is the amount the public officer is allowed by statute to charge for the service; and (2) If the process server is a registered process server or other person authorized to serve process, the recoverable cost for fees established in statute if performed by a sheriff is the amount reasonably incurred in effecting service. In addition to reasonable costs for services designated in statute, recoverable costs may include costs for: (1) "skip-tracing;" (2) "stakeouts;" (3) forwarding costs; and (4) costs incurred in making multiple service attempts.

Amended Bill Compared to Original Bill: Only four additional designated services may be recovered by the prevailing party, not the costs for any service performed in effecting service of process.

Fiscal Note: Not requested.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Some courts do not allow clients of process servers to recover some costs at all if the service is not delineated in the list of statutorily set sheriff's fees. In addition, some courts limit the amount of recovery to the amount a sheriff may charge for the service.

Testimony Against: None.

Witnesses: Walt Corneille, Washington State Process Servers (pro); and Gary Ramey, Washington State Process Servers Association (pro).