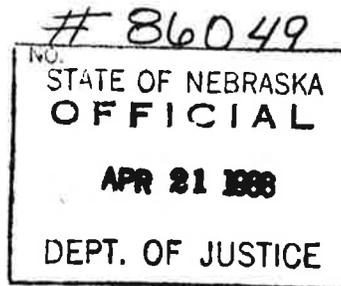


DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509



ROBERT M. SPIRE
Attorney General
A. EUGENE CRUMP
Deputy Attorney General

DATE: April 18, 1986

SUBJECT: Sheriff Fees

REQUESTED BY: Gregory G. Jensen
Valley County Attorney

WRITTEN BY: Robert M. Spire, Attorney General
Yvonne E. Gates, Assistant Attorney General

Neb.Rev.Stat. §33-117(1) (Reissue 1984) requires the sheriff to charge set fees for service of certain legal papers. The statute designates the type of legal paper for which the charge can be made and the amount of the charge. The fee to be charged varies depending on the type of paper served. For instance, the fee for serving a search warrant is two dollars; whereas the charge for service of summons is one dollar for the first defendant and fifty cents for each other defendant in the same case.

The schedule in subsection (1) is all inclusive. The sheriff may not charge for service of items not specified in the statute, State v. Meserve, 58 Neb. 451, 78 N.W. 721 (1899). The statute does provide for a fifty cent charge for making copies of any process, bond or paper not otherwise designated. When the sheriff receives a Summons, Petition, Notice, Restraining Order or other paper he is entitled to charge the one dollar fee for the Summons (assuming only one defendant), one dollar each for the Notice and Restraining Order plus whatever fee is listed for the "other paper." There is no charge for the Petition unless the sheriff must make a copy of it.

In addition the sheriff shall charge traveling expenses at the rate provided by statute (twenty-four cents per mile at present) for each mile actually and necessarily traveled. All papers must be served at one time by the most direct route. However, the statute anticipates a multiplicity of trips in some cases. When more than one trip is required the combined mileage cost of each trip is to be charged.

L. Jay Bartel
John M. Boehm
Dale D. Brodkey
Martel J. Bundy
Janie C. Castaneda

Dale A. Comer
Laura L. Freppel
Lynne R. Fritz
Ruth Anne E. Galter
Yvonne E. Gates

Jill Gradwohl
Calvin D. Hansen
Royce N. Harper
William L. Howland
Marlyn B. Hutchinson

Mel Kammerlohr
Sharon M. Lindgren
Charles E. Lowe
Harold I. Mosher
Bernard L. Packett

Terry R. Schaaf
LeRoy W. Sievers
Mark D. Starr
John R. Thompson
Linda L. Willard

Mr. Gregory G. Jensen
April 18, 1986
Page -2-

But where no service or levy is possible, because the party or property is not found, the sheriff may not charge a fee. The sheriff is only entitled to the fee for actual performance of the duty. See, Red Willow County v. Smith, 67 Neb. 213, 93 N.W. 151 (1903), and Ehlers v. Gallagher, 147 Neb. 97, 22 N.W.2d 396 (1946).

Sincerely,

ROBERT M. SPIRE
Attorney General


Yvonne E. Gates
Assistant Attorney General

YEG/bae

APPROVED:


Attorney General