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GOVERNMENT CODE - GOV

TITLE 3. GOVERNMENT OF COUNTIES [23000 - 33205] (Title 3 added by Stats. 1947, Ch. 424.)

DIVISION 2. OFFICERS [24000 - 28085] (Division 2 added by Stats. 1947, Ch. 424.)

PART 3. OTHER OFFICERS [26500 - 27773] (Part 3 added by Stats. 1947, Ch. 424.)

CHAPTER 2. Sheriff [26600 - 26778] (Chapter 2 added by Stats. 1947, Ch. 424.)

ARTICLE 3. Process and Notices [26660 - 26666.10] (Article 3 added by Stats. 1947, Ch. 424.)

26660. As used in this title:

(a) "Process" includes all writs, warrants, summons, and orders of courts of justice, or judicial officers.

(b) "Notice" includes all papers and orders required to be served in any proceedings before any court, board, or officer, or when required by law to be served independently of such proceeding.

(Added by Stats. 1947, Ch. 424.)

26661. When process or notices are returnable to another county the sheriff may enclose the process or notice in an envelope, addressed to the officer from whom it emanated, and deposit it in the post office prepaying postage.

(Added by Stats. 1947, Ch. 424.)

26662. The return of the sheriff upon process or notices is prima facie evidence of the facts stated in the return.

(Added by Stats. 1947, Ch. 424.)

26663. Any sheriff who does not return a process or notice in his or her possession, with the necessary endorsement thereon, without delay is liable to the person aggrieved for all actual damages sustained by him or her.

(Amended by Stats. 1996, Ch. 120, Sec. 3. Effective January 1, 1997.)

26664. Any sheriff who neglects or refuses to perform the duties under a writ of attachment, execution, possession, or sale, after being required by the creditor's attorney of record or, if the creditor does not have any attorney of record, by the creditor and after the sheriff's fees have been paid or tendered, is liable to the creditor for all actual damages sustained by the creditor.

(Amended by Stats. 1982, Ch. 497, Sec. 104. Operative July 1, 1983, by Sec. 185 of Ch. 497.)

26665. All writs, notices, or other process issued by superior courts in civil actions or proceedings may be served by any duly qualified and acting marshal or sheriff of any county in the state, subject to the Code of Civil Procedure.

(Amended by Stats. 2002, Ch. 784, Sec. 171. Effective January 1, 2003.)

26666. (a) Notwithstanding any other law, a marshal or sheriff, including their department or office, shall comply with this section for service of process and notice. As used in this section, "notice" has the same meaning as defined in Section 26660.

(b) A marshal or sheriff, including their department or office, shall accept an electronic signature and shall not require an original or wet signature on a document requesting the marshal or sheriff, or their department or office, to serve court documents, or on a summons, order, or other notice to be served.

(Added by Stats. 2022, Ch. 417, Sec. 2. (AB 2791) Effective January 1, 2023.)

26666.2. Except for the following criteria, a marshal or sheriff, including their department or office, shall not review the substance of a summons, order, or other notice:

(a) The applicable form or forms described in Section 26666.10 are present and required sections, if any, are complete.

(b) A case number appears on the summons, order, or other notice. Blank forms, such as responsive forms, are not required to include a case number.

(c) An order to be served, including a restraining order, bears the signature of the judge, including, but not limited to, a stamp or other endorsement or representation of the signature of a judge, certification of a clerk, or court endorsement or seal, and the information on the order materially matches the information regarding the person to be served on the form or forms described in Section 26666.10.

(Added by Stats. 2022, Ch. 417, Sec. 3. (AB 2791) Effective January 1, 2023.)

26666.5. (a) A marshal or sheriff, including their department or office, shall accept transmission by email, fax, or in-person delivery of the form or forms described in Section 26666.10, and of a summons, order, or other notice to be served in any case in which the court has granted a fee waiver by an order on court fee waiver or the litigant is otherwise exempt from paying fees for service of a summons, order, or other notice under any law, including, but not limited to, subdivision (y) of Section 527.6, subdivision (x) of Section 527.8, or subdivision (x) of Section 527.85 of the Code of Civil Procedure, Division 10 (commencing with Section 6200) of the Family Code, paragraph (4) of subdivision (b) of Section 6103.2, Section 26721 or 70617 of the Government Code, Section 18121 of the Penal Code, 34 U.S.C. Sec. 10450(a)(1), or 34 U.S.C. Sec. 10461(c)(1)(D). Any person may deliver the forms for service to the marshal or sheriff, including their department or office, on behalf of a litigant.

(b) A marshal or sheriff, including their department or office, shall not charge or collect a fee for the electronic transmission of documents described in subdivision (a).

(c) This section shall not be construed to impede a private process server's rights or obligations, including, but not limited to, the ability to serve a summons, order, or other notice as requested by a client.

(d) This section shall become operative on January 1, 2024.

(e) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

(Amended (as added by Stats. 2022, Ch. 417, Sec. 4) by Stats. 2023, Ch. 131, Sec. 84. (AB 1754) Effective January 1, 2024. Repealed as of January 1, 2026, by its own provisions. See later operative version, as amended by Sec. 85 of Stats. 2023, Ch. 131.)

26666.5. (a) A marshal or sheriff, including their department or office, shall accept transmission by email, fax, or in-person delivery of the form or forms described in Section 26666.10, and of a summons, order, or other notice to be served. Any person may deliver the forms for service to the marshal or sheriff, including their department or office, on behalf of a litigant.

(b) (1) Subject to paragraph (2), a marshal or sheriff, including their department or office, shall not charge or collect a fee for the electronic transmission of documents described in subdivision (a) that exceeds the actual cost incurred in processing the transmission.

(2) No fee for the electronic transmission of documents shall be imposed on a litigant who has been granted a fee waiver by an order on court fee waiver or is otherwise exempt from paying fees for service of a summons, order, or other notice under any law, including, but not limited to, subdivision (y) of Section 527.6, subdivision (x) of Section 527.8, or subdivision (x) of Section 527.85 of the Code of Civil Procedure, Division 10 (commencing with Section 6200) of the Family Code, paragraph (4) of subdivision (b) of Section 6103.2, Section 26721 or 70617 of the Government Code, Section 18121 of the Penal Code, 34 U.S.C. Sec. 10450(a)(1), or 34 U.S.C. Sec. 10461(c)(1)(D).

(c) This section shall not be construed to require a marshal or sheriff, including their department or office, to attempt service of documents prior to receipt of any fees owed pursuant to this chapter.

(d) This section shall not be construed to impede a private process server's rights or obligations, including, but not limited to, the ability to serve a summons, order, or other notice as requested by a client.

(e) This section shall become operative on January 1, 2026.

(Amended (as added by Stats. 2022, Ch. 417, Sec. 5) by Stats. 2023, Ch. 131, Sec. 85. (AB 1754) Effective January 1, 2024. Operative January 1, 2026, by its own provisions.)

26666.10. (a) On or before January 1, 2024, the Judicial Council shall create a statewide form or forms to be used by litigants in civil actions or proceedings to request service of process or notice by a marshal or sheriff, including their department or office.

(b) A marshal or sheriff, including their department or office, shall accept an electronic signature and shall not require an original or wet signature on the form or forms created pursuant to this section.

(c) The Judicial Council form or forms shall do all of the following:

(1) Require the name, address, and description of the person to be served and the signature of the litigant requesting service, or their attorney of record, and may require any other pertinent information for service.

(2) Indicate on the form which fields on the form, if any, are required.

(3) Allow the litigant's or their attorney of record's signature to be made electronically.

(d) Upon completion of the forms described in subdivision (a), requests to a marshal or sheriff, including their department or office, to serve a notice or other process pursuant to Section 26666 shall be made on the Judicial Council form or forms. No sheriff or marshal, including their department or office, shall require completion of a form or request other than the Judicial Council form or forms described in this section.

(e) Pursuant to Section 7927.430, the Judicial Council form or forms and the information contained therein shall not be subject to disclosure and shall be kept confidential.

(Added by Stats. 2022, Ch. 417, Sec. 6. (AB 2791) Effective January 1, 2023.)