

CIVIL RULES GUIDE

For all 50 United States and the District of Columbia



prepared by the
National Association of Professional Process Servers
*A worldwide organization founded on the principles
of professionalism and high ethical standards*

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Rules of Civil Procedure—Disclaimer

The civil rules governing the service of process appears in this publication for each state. These civil rules were compiled and edited by Gary A. Crowe, NAPPS Administrator, and represent his best effort to extract from the civil rules and statutes the relevant laws for serving process both within and without the individual states. The material published herein is only a guide and the editor's comments are not intended as legal advice. Limited space has caused some rules to be materially abbreviated or, in some instances, omitted entirely. The complete text of all rules and statutes may be found in your local law library or on the Internet. Consult an attorney if a legal opinion is required.

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TABLE OF CONTENTS

Alabama	1
Alaska	2
Arizona	3
Arkansas	5
California	6
Colorado	8
Connecticut	9
Delaware	10
District of Columbia	11
Florida	12
Georgia	15
Hawaii	16
Idaho	17
Illinois	18
Indiana	20
Iowa	21
Kansas	23
Kentucky	25
Louisiana	26
Maine	27
Maryland	28
Massachusetts	30
Michigan	31
Minnesota	33
Mississippi	34
Missouri	35
Montana	37
Nebraska	39
Nevada	40
New Hampshire	41
New Jersey	42
New Mexico	43
New York	44
North Carolina	46
North Dakota	47
Ohio	48
Oklahoma	49
Oregon	50
Pennsylvania	53
Rhode Island	54
South Carolina	55
South Dakota	56
Tennessee	57
Texas	59
Utah	61
Vermont	62
Virginia	63
Washington	64
West Virginia	66
Wisconsin	67
Wyoming	68





Prepared by the National Association of Professional Process Servers



ALABAMA

State Capital: Montgomery
Population: 4.9 million
67 counties

ALABAMA RULES OF CIVIL PROCEDURE

Rule 4. Process

- (c) **Upon whom process served.** Service of process, except service by publication...shall be made as follows:

- (1) *Individual.* ...by serving the individual or by leaving a copy of the summons and the complaint at the individual's dwelling house usual place of abode with some person of suitable age and discretion then residing therein or by delivering a copy ...to an agent authorized by appointment or by law to receive service of process.
- (2) *Infant...*
- (3) *Incompetent not confined...*
- (4) *Incompetent confined...*
- (5) *Incarcerated person...*
- (6) *Corporation.* Upon a corporation either domestic or foreign by serving the agent authorized by appointment or by law to receive service of process or by serving the corporation by certified mail at any of its usual places of business or by serving an officer or an agent of the corporation;
- (7) *Partnership...*by serving a partner, limited partner, manager or member;
- (8) *Unincorporated organization* by serving an officer or agent of such organization or an officer or agent of any branch...

Rule 4.1. Methods of in-state service.

- (a) **Methods of service.** All service of process within this state shall be made as provided in this rule except when service by publication is available pursuant to Rule 4.3. Service within this state under this rule shall include delivery by a process server and service by certified mail...Unless otherwise requested or permitted by these rules, service of process within this state shall be made by delivery by a process server.

(b) **Delivery by a process server.**

- (1) *By sheriff or constable.* ...
- (2) *By designated person.* As an alternative to delivery by the sheriff, process ... may be delivered by the clerk to any person not less than 18 years of age, who is not a party and who has been designated by order of the court to make service of process.
- (3) *Return.* When the copy of the process has been delivered, the person serving process shall endorse that fact on the process and return it to the clerk... The return ... shall be

prima facie evidence that process has been served.

- (4) *Failure of service.* When ... process is unable to [be served] within 30 days, [the process server] shall endorse that fact and the reason therefor on the process and return ... to the clerk... Failure to make service within the 30-day period and failure to make proof of service do not affect the validity of service.

(c) **Service by certified mail** (restricted delivery)...

Rule 4.2 (b) Methods of out-of-state service. ...

- (1) *Certified mail.* ...
- (2) *Delivery by a process server.* ...Service herein may be made by any person not less than 18 years of age who is not a party and who has been designated by order of the court. On request, the clerk shall deliver the summons to the ...plaintiff's attorney for transmission to the person who will make the service. Proof of service may be made as prescribed by Rule 4.1(b)(3) or by order of the court.

Rule 4.4 (b) Methods of service in a foreign country.

- (1) *Certified mail or its equivalent.*
- (2) *Delivery by a process server* ... in the manner prescribed by Rule 4.2 (b) (2) provided that either the court in which the action is pending or a foreign court may designate the person to make service of process.
- (3) *Letter Rogatory* ...
- (4) *Pursuant to law of foreign country.* ...
- (5) By order of court.
- (6)

Committee comments to October 1, 1995, Amendment to Rule 4.4

The procedure for service in a foreign country set forth in this rule cannot be followed if it would conflict with the provisions of a treaty between the foreign country and the United States of America. For example, where mail service of process was rejected as a means of service in Germany pursuant to the Hague Convention, the provisions for such service contained in Rule 4.4 were overridden. See *Rivers v. Stihl*, 434 So. 2d 766 (Ala. 1983). Rule 4.4(b) has been amended to acknowledge the prospect for service in a manner inconsistent with Rule 4.4 where a treaty so requires.



ALASKA

State Capital: Juneau

Population: 738,000

There are no county governments in Alaska

ALASKA RULES OF COURT (excerpts)

Rule 4 (c) Methods of Service.

- (1) Service of all process shall be made by a peace officer, **by a person specially appointed by the Commissioner of Public Safety for that purpose** or, where a rule so provides, by registered or certified mail.
- (2) A subpoena may be served as provided in Rule 45 without special appointment.

Rule 4 (d) Summons - Personal Service.

- (1) *Individuals.* ...by delivering a copy of the summons and of the complaint to the individual personally, or by leaving copies thereof at the individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by delivering a copy of the summons and of the complaint to an agent authorized by appointment or by law to receive service of process.
- (4) *Corporations.* ... by delivering ... to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.
- (12) *Personal Service Outside State.* Upon a party outside the state in the same manner as if service were made within the state, except that service shall be made by a sheriff, constable, bailiff, peace officer or other officer having like authority in the jurisdiction where service is made, or by a person specifically appointed by the court to make service...

Rule 4 (f) Return. The person serving the process shall give proof of service thereof ... promptly and in any event within the time during which the person served must respond to the process. ... If service is made by a person other than a peace officer, the person shall make affidavit thereof, proof of service shall be in writing and shall set forth the manner, place, date of service, and all pleadings or other papers served with the process. Failure to make proof of service does not affect the validity of the service.

ALASKA STATUTES

Title 22. Judiciary

22.20.120. General Authority and Duty of the Commissioner.

The authority necessary for the lawful performance of the duties of execution of service of process, seizure and detention of property, the sale of property forfeited or levied upon, and arrest of persons, in connection with civil matters, is vested in the commissioner. Any court of the state issuing any process may direct the process for execution of service to the commissioner or the designee of the commissioner.

ALASKA ADMINISTRATIVE CODE

Title 13. Public Safety

067.5. In accordance with AS 22.20, it is the duty of the commissioner of public safety to provide for the proper service of process issued by the supreme court and all lower state courts. The supreme court, in Rule 11(b) of the Rules of Administration, Rules 4(c)(3) and 45 of the Rules of Civil Procedure, and Rule 17 of the Rules of Criminal Procedure, has specifically provided that process may be served by private persons appointed or designated by the commissioner. **A civilian process server is a private person who, by virtue of holding a license issued under this chapter, may serve process under AS 22.20.120.** The provisions of 067.010 – 067.990 address the application and licensing requirements, disciplinary guidelines, and standards of professional conduct that the commissioner finds are necessary to assure that the civilian service of process is done in accordance with the rules of the supreme court and in a manner that protects the public.

067.30. Process Server Application and Supporting Documents.

- (a) An application for a process server license must be submitted to the department on a form provided by the department printed legibly or typewritten. An application must include the following information about the applicant: [enumerates 18 items of personal information].
- (b) The application must include: [three sworn statements and notarized signature].
- (c) The following items must accompany the application: two sets of fingerprints, fee for processing fingerprints, proof of surety bond, \$25 nonrefundable application fee, and copy of applicant's valid Alaska business license.

067.70. Process Server License.

067.80. Application for Renewal of ...License.

067.100. Examination Content.



ARIZONA

State Capital: Phoenix
Population: 6.8 million -- 15 counties

ARIZONA RULES of CIVIL PROCEDURE

RULE 4 (d). Process; By Whom Served.

Service of process shall be by a sheriff, a sheriff's deputy, a certified private process server pursuant to subpart (e) of this Rule, or any other person specially appointed by the court, except that a subpoena may be served as provided in Rule 45. ... A private process server or specially appointed person shall be not less than 21 years of age and shall not be a party, an attorney, or the employee of an attorney in the action whose process is being served. ... Special appointments shall be granted freely, are valid only for the cause specified in the motion, and do not constitute an appointment as a certified private process server.

RULE 4 (e). Statewide Certification of Process Servers

A person who files with the clerk of the court an application approved by the Supreme Court, stating that the applicant will well and faithfully serve process in accordance with the law, who has a high school diploma or equivalent and who otherwise complies with the procedures set forth by the Supreme Court in its Administrative Order regarding this subsection, shall, upon approval of the court or presiding judge thereof, in the county where the application is filed, be registered with the clerk as a certified private process server until such approval is withdrawn by the court in its discretion. The clerk shall maintain a register for this purpose. Such certified private process server shall be entitled to serve in such capacity for any court of the state anywhere within the state.

RULE 4 (g). Return of Service

If service is not accepted or waived, then the person effecting service shall make proof thereof to the court. When the process is served by a sheriff..., the return shall be officially endorsed on or attached thereto and returned to the court promptly. If served by a person other than the sheriff..., return and proof of service shall be made promptly by affidavit thereof. Each such affidavit of a certified private process server shall include clear reference to the county where that private process server is registered. ... Proof of service in a place not within any judicial district of the United States shall, if elected under paragraph (1) of Rule 4.2(h), be made pursuant to the applicable treaty or convention; and shall, if effected under paragraph (2) or (3) thereof, include a receipt signed by the addressee or other evidence of delivery to the addressee satisfactory to the court. In any event the return shall be made within the time during which the person served must respond to process. Failure to make proof of service does not affect the validity thereof.

Important Note: Rule 80(i) of the RCP (eff 12/1/96) permits a person, when subscribing to a proof of service, to provide an unsworn declaration under penalty of perjury in lieu of the sworn affidavit stated in Rule 4(g) above. It recommends the following form:

"I declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.
Executed on (date) (Signature)"

RULE 4 (h) Amendment

At any time in its discretion ... the court may allow any process or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process is issued.

RULE 4.1 Service of Process Within Arizona

(d) Service of Summons Upon Individuals.

Service upon an individual from whom a waiver has not been obtained and filed, other than those specified in paragraphs (e), (f) and (g) of this Rule, shall be effected by delivering a copy of the summons to that individual personally or by leaving copies thereof at that individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or by delivering a copy ... to an agent authorized by appointment or by law to receive service of process.

(e) Service ..Upon Minors.

(f) Service ..Upon A Minor With Guardian ...

(g) Service ..Upon Incompetent Person.

(h) Service ..Upon the State.

(i) Service ..Upon a County, Municipal Corp...

(j) Service ..Upon Other Governmental Entities

(k) Service ..Upon Corporations, Partnerships..

Service upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit in a common name, and from which a waiver has not been obtained and filed, shall be effected by delivering a copy of the summons and of the pleading to a partner, an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the party on whose behalf the agent accepted or received service.

RULE 4.2 Service of Process Outside The State

(b) Direct Service. Service of process may be made outside the state but within the United States in the same manner provided in Rule 4.1(d)-(1) of these Rules by a person authorized to serve process under the law of the state where such service is made. ...

(c) Waiver of Service; Duty to Save Costs...

(d) ...

(e) ...

(f) ...



(g) Service of Summons Upon Corporations, Partnerships ... Located Outside Arizona but Within the United States. In case of a corporation or partnership or unincorporated association located outside the state but within the United States, service under this Rule shall be made on one of the persons specified in Rule 4.1(k)

(h) Service Upon Individuals in a Foreign Country. Unless otherwise provided by federal law, service upon an individual from whom a waiver has not been obtained and filed, ... may be effected in a place not within any judicial district of the United States:

- (1) by any internationally agreed means reasonably calculated to give notice, such as those means authorized by the *Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents*, or
- (2) if there is not internationally agreed means of service or the applicable international agreement allows other means of service, provided that service is reasonably calculated to give notice:
 - (A) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or
 - (B) as directed by the foreign authority in response to a letter rogatory or letter of request; or
 - (C) Unless prohibited by the law of the foreign country, by
 - (i) delivery to the party to be served personally of a copy of the summons and of the pleading; or
 - (ii) any form of mailing requiring a return receipt, to be addressed and dispatched by the clerk of the court to the party to be served; or
- (3) by other means not prohibited by international agreement as may be directed by the court.
- (4)

State Bar Committee Notes

New Rule 4.2(h), dealing with the service of process in a foreign country, is adapted from a preliminary draft of proposed amendments to provisions of the Federal Rules of Civil Procedure on the same subject. The principal purpose of these amendments is to call attention to the Hague [Service Convention], which entered into force for the United States on February 10, 1969. The procedure for foreign services specified in the convention must be employed where they are available and where service requires the transmittal of documents for service abroad. See Volkswagenwerk Aktiengesellschaft v. Schlunk, 486 U.S. 694, 108 S.Ct. 2104, 100 L.Ed.2d 722 (1988).

ARKANSAS

State Capital: Little Rock
Population: 2.9 million
75 counties

ARKANSAS RULES of CIVIL PROCEDURE

RULE 4. Summons

(c) By Whom Served: Service of summons shall be made by

- (1) a sheriff of the county where the service is made, or his or her deputy;
- (2) any person not less than 18 years of age specially appointed by the court for the purpose of serving a summons; and
- (3) in the event of service by mail pursuant to subdivision (d) (8) of this rule, by the plaintiff or an attorney ... for the plaintiff.

(d) Personal Service Inside the State:

- (1) Upon an individual .. by delivering a copy of the summons and complaint to him personally, or if he refuses to receive it, by offering a copy thereof to him, or by leaving a copy at his dwelling house or usual place of abode with some person residing therein who is at least 14 years of age, or by delivering a copy to an agent authorized by appointment or by law to receive service of summons.
- (2) [Upon a] defendant under 14 years...
- (3) [Upon a] defendant ..for whom a plenary, limited or temporary guardian has been appointed...
- (4) [Upon a] defendant ..confined in a state or federal penitentiary...
- (5) Upon a domestic or foreign corporation or partnership or any unincorporated association subject to suit under a common name, by delivering a copy of the summons and complaint to an officer, partner other than a limited partner, managing or general agent, or any agent authorized by appointment or by law to receive service of summons.
- (6) Upon the United States or any officer...
- (7) Upon a state or municipal corporation...
- (8) (A) Service ... upon a defendant of any class referred to in paragraphs (1) through (5), and (7) of this subdivision may be made by the plaintiff or [plaintiff's attorney] by any form of mail addressed to the person to be served with a return receipt requested and delivery restricted to the addressee...

(B) Alternatively,... [statute describes service by notice and acknowledgment by first-class mail, and if acknowledgment not returned to sender within 20 days after the date of mailing, service shall be made pursuant to subdivision (c) (1) - (3) of this rule and defendant will be responsible for costs of personal service.]

(e) Other Service: Whenever the law of this state authorizes service outside this state, the service, when reasonably calculated to give actual notice, may be made:

- (1) By personal delivery in the same manner prescribed for service within this state;
- (2) In any manner prescribed by the law of the place in which service is made in that place in an action in any of its courts of general jurisdiction;
- (3) By any form of mail addressed to the person to be served with a return receipt requested and delivery restricted to the addressee or the agent of the addressee;
- (4) As directed by a foreign authority in response to a letter rogatory or pursuant to the provisions of any treaty or convention pertaining to the service of a document in a foreign country;
- (5) As directed by the court.

(g) Proof of Service: The person serving the summons shall make proof of service to the clerk within the time during which the person served must respond to the summons. If service is made by a sheriff...proof may be made by executing a certificate of service...in the same document as the summons. If service is made by a person other than a sheriff or his deputy, he shall make affidavit thereof...

(h) Amendment: At any time in its discretion and upon such terms as it deems just, the court may allow any summons or proof of service to be amended unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the summons is issued.

(i) Time Limit for Service: If service of the summons is not made upon a defendant within 120 days after the filing of the complaint, the action shall be dismissed as to that defendant without prejudice upon motion or upon the court's initiative. If a motion is made within 120 days of the filing of the suit, the time for service may be extended by the court upon a showing of good cause... This paragraph shall not apply to service in a foreign country pursuant to Rule 4 (e) or to complaints filed against unknown tortfeasors.

CALIFORNIA

State Capital: Sacramento
Population: 39.1 million -- 58 counties

CALIFORNIA CODE OF CIVIL PROCEDURE

CHAPTER 4. SERVICE OF SUMMONS

§ 413.10 Law governing service

Except as otherwise provided by statute, a summons shall be served on a person:

- (a) *Within this state*, as provided in this chapter.
- (b) *Outside this state but within the United States*, as provided in this chapter or as prescribed by the law of the place where the person is served.
- (c) *Outside the United States*, as provided in this chapter or as directed by the court in which the action is pending, or, if the court before or after service finds that the service is reasonably calculated to give actual notice, as prescribed by the law of the place where the person is served or as directed by the foreign authority in response to a letter rogatory. These rules are subject to the provisions of the Convention on the "Service Abroad of Judicial and Extrajudicial Documents" in Civil or Commercial Matters (Hague Service Convention).

Case Note

☞ Noncompliance with the service of process requirements of the Hague Convention precluded exercise of jurisdiction over German automobile manufacturer in wrongful death action. Dr. Ing. H.C.F. Porsche A.G. v. Superior Court Sacramento County (App.3 Dist. 1981) 177 Cal.Reptr. 156, 123 Cal.App.3d 755.

§ 413.30. Except as otherwise provided by statute, a summons shall be served on a person:

- (a) Within this state, as provided in this chapter.
- (b) Outside this state but within the United States, as provided in this chapter or as prescribed by the law of the place where the person is served.

§ 413.40. Service in violation of law governing process servers

Any service of summons which complies with the provisions of this chapter shall not be rendered invalid or ineffective because it was made by a person in violation of Chapter 16 (commencing with Sec. 22350) of Division 8 of the Business and Professions Code [pertaining to registration of process servers].

§ 414.10. Authorized persons

A summons may be served by any person who is at least 18 years of age and not a party to the action.

[*Comment:* The 1997 legislature enacted substantial changes in Section 22350, et seq. of the Business and Professions Code, requiring that all process servers who serve process for compensation—and also any corporation or partnership that derives compensation for service of process within California—be registered with the country clerk in the county where he or she resides or has a principal place of business. Licensed private

investigators and their employees are among those exempted from registration.]

§ 415.20 Leaving copy of summons and complaint at office, dwelling house, usual place of abode or business or usual mailing address...

- (a) In lieu of personal delivery of a copy of the summons and of the complaint to the person to be served as specified in Section 416.10, 416.20, 416.30, 416.40, or 416.50, a summons may be served by leaving a copy ... during usual office hours in his or her office or, if no physical address is known, at his or her usual mailing address, other than a United States Postal Service post office box, with the person who is apparently in charge thereof, and by thereafter mailing a copy ... by first-class mail, postage prepaid to the person to be served at the place where a copy of the summons and complaint were left. When service is effected by leaving a copy of the summons and complaint at a mailing address, it shall be left with a person at least 18 years of age, who shall be informed of the contents thereof. Service of a summons in this manner is deemed complete on the 10th day after the mailing.

- (b) If a copy ... cannot with reasonable diligence be personally delivered to the person to be served, as specified in Section 416.60, 416.70, 416.80, or 416.90, a summons may be served by leaving a copy ... at the person's dwelling house, usual place of abode, usual place of business, or usual mailing address other than a United States Postal Service post office box, in the presence of a competent member of the household or a person apparently in charge of his or her office, place of business, or usual mailing address other than a U.S. Postal Service post office box, at least 18 years of age, who shall be informed of the contents thereof, and by thereafter mailing a copy ... by first-class mail, postage prepaid to the person to be served at the place where a copy of the summons and complaint were left. Service of a summons in this manner is deemed complete on the 10th day after the mailing. [Subsections A and B amended July 2003]

§ 415.21 Access to gated communities...

- (a) Notwithstanding any other provision of law, any person shall be granted access to a gated community for ... the purpose of performing lawful service of process, upon identifying to the guard the person or persons to be served, and upon displaying a current driver's license or other identification, and one of the following:
 - (1) A badge [applies to sheriffs and marshals].
 - (2) Evidence of current registration as a process server...
- (b) This section shall only apply to a gated community which is staffed, at the time service of process is attempted, by a guard or other ... personnel assigned to control access...

§ 415.30. Service by mail

[describes mail service by sending copy of summons and complaint by first-class mail or airmail to the defendant,



together with 2 copies of notice and acknowledgment form; service is complete on date defendant executes a written acknowledgment; if form not returned within 20 days from mailing, defendant will be liable for reasonable costs in being served by another permitted method.]

§ 415.40. Service on person outside state

A summons may be served on a person outside this state in any manner provided in this article or by sending a copy of the summons and complaint to the person to be served by first class mail, postage prepaid, requiring a return receipt. Service of a summons by this form of mail is deemed complete on the 10th day after such mailing.

§ 415.95. Service on business – form unknown

- (a) A summons may be served on a business organization, form unknown, by leaving a copy of the summons and complaint during usual office hours with the person who is apparently in charge of the office of that business organization, and by thereafter mailing a copy...by first-class mail, postage prepaid, to the person to be served at the place where a copy of the summons and complaint was left. Service of a summons in this manner is deemed complete on the 10th day after the mailing.
- (b) Service of a summons pursuant to this section is not valid for a corporation with a registered agent for service of process listed with the Secretary of State.
[New section added July 2003]

§ 416.10. Corporations

A summons may be served on a corporation by delivering a copy of the summons and complaint:

- (a) To the person designated as agent for service of process as provided by any provision in...
- (b) To the president or other head of the corporation, a vice president, a secretary or assistant secretary, a treasurer or assistant treasurer, a general manager, or a person authorized by the corporation to receive...

§ 417.10. Proof of Service—Service within state

Proof that a summons was served on a person within this state shall be made:

- (a) If served under §§ 415.10, 415.20, or 415.30, by the affidavit of the person making such service showing the time, place, and manner of service and facts showing that service was made in accordance with this chapter. [It] shall recite ... the name of the person to whom a copy ... was delivered, and, if appropriate, his title or the capacity in which he is served, and that the notice required by § 412.30 appeared on the copy ... served, if in fact it did appear.
- (f) All proof of personal service shall be made on a form adopted by the Judicial Council.

§ 417.20 Service outside state; manner

Proof that a summons was served on a person outside this state shall be made:

- (a) If served in a manner specified in a statute of this state, as prescribed by § 417.10 ... proof of service shall include evidence ... establishing actual delivery to the [defendant];
- (b) In the manner prescribed by the court order pursuant to which the service is made;

- (c) ...in the manner prescribed by the law of the place where the person is served for proof of service in an action in its courts of general jurisdiction; or
- (d) By the written admission of the party.

§ 2015.5 Certification or declaration under penalty of perjury

Whenever, under any law of this state ... any matter is required or permitted to be supported, evidenced, established, or proved by the sworn statement, declaration, verification, certificate, oath, or affidavit, in writing of the person making same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may with like force and effect be ... proved by the unsworn statement, declaration, verification, or certificate, in writing of such person... The certificate or declaration may be in substantially the following form:

- (a) If executed within this state:

"I certify (or declare) under penalty of perjury that the foregoing is true and correct":

(Date and place)

(Signature)

- (b) If executed ... within or without this state:

"I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.":

(Date and place)

(Signature)

CALIFORNIA PENAL CODE

§240. An assault is an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another.

§241.

- (a) An assault is punishable by a fine not exceeding \$1,000, or by imprisonment in the county jail not exceeding 6 months, or by both the fine and imprisonment.
- (b) When an assault is committed against the person of a peace officer, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, **process server**, traffic officer, or animal control officer engaged in the performance of his or her duties ... and the person committing the offense knows or reasonably should know that the victim is a ...**process server**....the assault is punishable by a fine not exceeding \$2,000, or by imprisonment in the county jail not exceeding one year...
- (c) As used in this section, the following definitions apply:
 - (6) "**Process server**" means any person who meets the standards or is expressly exempt from the standards set forth in Section 22350 of the Business and Professions Code.

COLORADO

State Capital: Denver
Population: 5.5 million
64 counties

COLORADO RULES OF CIVIL PROCEDURE

RULE 4 Process

(d) By Whom Served. Process may be served inside or outside this state by the sheriff of the county where the service is made, or by a deputy, or by any other person over the age of 18 years, not a party to the action.

(e) Personal Service. Personal service shall be as follows:

Upon a natural person over the age of 18 years by delivering a copy thereof to the person, or by leaving a copy at the person's

- (1) usual place of abode, with any person over the age of 18 years who is a member of the person's family, or at the person's usual place of business, with the person's secretary, bookkeeper, manager, or chief clerk; or by delivering a copy to an agent authorized by appointment or by law to receive service of process;
- (2) Upon a natural person between the ages of 13 years and 18 years...;
- (3) Upon a person [who has] a conservator;
- (4) Upon a partnership of other unincorporated association, by delivering a copy thereof to one or more of the partners or associates, or a managing or general agent thereof;
- (5) Upon a private corporation, by delivering a copy thereof to any officer, manager, general agent, or registered agent...;
- (6) Upon a municipal corporation...
- (7) Upon a county...
- (8) Upon a school district...

(h) Manner of Proof.

- (1) If served in a state or territory of the United States by a sheriff or U.S. Marshall, or a deputy, by such person's certificate with a statement as to date, place, and manner of service;
- (2) If by any other person, by the person's affidavit thereof, with the same statement;
- (3) If by mail, by the certificate of the clerk showing the date of the mailing, and the date the clerk received the return receipt;
- (4) If by publication, by the affidavit of publication, together with the certificate of the clerk as to the mailing of copy of the process where required;

(5) By the written admission or waiver of service by the person or persons to be served, duly acknowledged.

(j) Amendment. At any time in its discretion..., the court may allow any process or proof of service to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process is issued.

(k) Refusal of Copy. If a person to be served refuses to accept a copy of the process, service shall be sufficient if the person serving the process knows or has reason to identify the person who refuses to be served, identifies the documents being served and offers to deliver a copy of the documents to the person who refuses to be served.

CONNECTICUT

State Capital: Hartford
Population: 3.6 million
8 counties

CONNECTICUT GENERAL STATUTES

Chapter 896

Sec. 52-46a. Return of process

Process in civil actions returnable to the Supreme Court shall be returned to its clerk at least 20 days before the return day and, if returnable to the Superior Court, except process in summary process actions and petitions for paternity and support, to the clerk of such court at least 6 days before the return day.

Sec. 52-50. Persons to whom process shall be directed

- (a) All process shall be directed to a state marshal, a constable or other proper officer authorized by statute, or, subject to the provisions of subsection (b) of this section, to an **indifferent person**....
...[Comment: An "indifferent person" must be of full age. Also, the previous reference to sheriff and deputy sheriff in this subsection was replaced with "state marshal" effective December 1, 2000.]
- (b) Process shall not be directed to an indifferent person unless more defendants than one are named in the process and are described to reside in different counties in the state, or unless, in case of a writ of attachment, the plaintiff or ... his ... agent or attorney, makes oath ... that the affiant truly believes the plaintiff is in danger of losing his debt or demand unless an indifferent person is deputed for the immediate service of the writ or other process... Any process directed to an **indifferent person** by reason of such an affidavit shall be abatable on proof that the party making the affidavit did not have reasonable grounds, at the time of making it, for believing the statements in the affidavit to be true.
- (e) Borough bailiffs may, within their respective boroughs, execute all legal process which sheriffs and constables may execute.

Sec. 52-54. Service of Summons.

The service of a writ of summons shall be made by the officer reading it and the complaint accompanying it in the hearing of the defendant or by leaving an attested copy thereof with him or at his usual place of abode. When service is made by leaving an attested copy at the defendant's usual place of abode, the officer making service shall note in his return the address at which such attested copy was left.

Sec. 52-57. Manner of service upon individuals, municipalities, corporations...

- (a) Except as otherwise provided, process in any civil action shall be served by leaving a true and attested copy of it, including the declaration or complaint, with the defendant, or at his usual place of abode, in this state.
- (b) Process...against a town...city...borough...
- (c) In actions against a private corporation, service of process shall be made either upon the president, vice president, asst. vice pres., the secretary, asst. secretary, the treasurer, asst. treasurer, the cashier, asst. cashier, the teller, asst. teller or its general or managing agent or manger or upon any director resident in this state, or the person in charge of the business of the corporation or upon any person who is at the time of service in charge of the office of the corporation in the town in which its principal office or place of business is located...
- (d) In actions against a partnership...

Sec. 52-57a. Service of process without state...

A person domiciled in or subject to the jurisdiction of the courts of this state ... may be served with process without the state, in the same manner as service made within the state, by any person authorized to make service by the laws of the state, territory, possession or country in which service is to be made or by any duly qualified attorney, solicitor, barrister or equivalent in such jurisdiction.

Sec. 52-59d. Service of process outside country to be in accordance with treaty or convention or court order

- (a) Notwithstanding any provision of the general statutes relating to the service of process, civil process shall not be served outside of the United States of America in violation of any applicable treaty or convention, including without limitation, the Hague Convention on Service of Process Abroad.
- (b) If service of process cannot be made under the applicable treaty or convention within sixty days, the superior court may, upon application, order service of process upon such terms as the court deems reasonably calculated to give the defendant actual notice of the proceedings in sufficient time to enable the defendant to defend.

Sec. 52-143. Subpoenas for witnesses....

- (a) Subpoenas for witnesses shall be signed by the clerk of the court or a commissioner of the Superior Court and shall be served by an officer [or an] **indifferent person**... The subpoena shall be served not less than 18 hours prior to the time designated for the summoned person to appear, unless the court orders otherwise. ...

DELAWARE

State Capital: Dover
Population: 946,000
3 counties

CIVIL RULES GOVERNING THE DELAWARE COURT of COMMON PLEAS

RULE 4. Process

- (d) **By Whom Served.** Service of process shall be made by the sheriff ...or by some person specially appointed by the Court for that purpose, except that a subpoena may be served as provided in Rule 45.
- (e) **Process and Complaint to Be Served....** The process, complaint and affidavits, if any, shall be served together...
- (f) **Service of Process; How Made.**
- (1) **Summons.** Service shall be made as follows:
- (I) Upon an individual ... by delivering a copy of the summons, complaint and affidavit, to that individual personally or by leaving copies ... at that individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by delivering copies to an agent authorized by appointment or by law to receive service of process.
- (II) (a) upon an infant of 18 years of age or more...(b) Upon an infant under 18 years... (c) Upon an incompetent person...
- (III) Upon a domestic or foreign corporation or upon a partnership or unincorporated association which is subject to suit under a common name by delivering copies of the summons, complaint and affidavit, if any, to an officer, a managing or general agent or to any other agent authorized by law to receive service of process and if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant.
- (IV) Upon a municipal corporation...
- (g) **Return of Process.** Original process, whether an original, alias or pluries writ shall be returnable 20 days after the issuance of the writ... The person serving the process shall make return .. to the Court promptly after service and in any event on the return day thereof. Process which cannot be served before the return day thereof shall be returned on the return day and such return shall set forth the reasons why service could not be had. If service is made by a person other than by an officer or his deputy his return shall be verified. Failure to make a return or proof of service shall not affect the validity of service.
- (h) **Actions in Which Service of Process is Secured Pursuant to 10 Delaware Code Sec. 3104, 3112 or 3113.** In an action in which the plaintiff serves process pursuant to 10 Del.C. Sec. 3104 [service on nonresident doing business within state], Sec. 3112 [service on nonresident operator of motor vehicle], or Sec. 3113 [service on resident owner/operator who departs from state after accident], the defendant's return receipt and the affidavit of the plaintiff or the plaintiff's attorney of the defendant's nonresidence and the sending of a copy of the complaint with the notice required by the statute shall be filed as an amendment to the complaint within 10 days of the receiving by the plaintiff of the defendant's return receipt; provided, however, that the amendment shall not be served upon the parties in accordance with the provisions of Rule 5(a)
- (i) **Amendment of Process.** At any time in its discretion ... the Court may allow any process or return of proof of service to be amended unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process is issued.
- (j) **Summons: Time Limit for Service.** If service of the summons and complaint is not made upon defendant within 120 days after the filing of the complaint and the party on whose behalf such service was required cannot show good cause why such service was not made within that period, the action shall be dismissed as to that defendant without prejudice upon the court's own initiative with notice to such party or upon motion.

DISTRICT OF COLUMBIA
(Washington)
Site of the United States Capitol
Population: 672,000

**SUPERIOR COURT
CIVIL PROCEDURE RULES**

RULE 4. Summons

(c) *Service with complaint; by whom made.*

- (2) Service may be effected by any person who is not a party and who is at least 18 years of age...
- (3) As to any defendant described in subdivisions (e), (f), (h), or (j), service may also be effected by mailing a copy of the summons and complaint to the person to be served by registered or certified mail, return receipt requested.
- (4) As to any defendant described in subdivisions (e), (f), or (h), service may be made by mailing a copy of the summons and complaint by first-class mail, postage prepaid, to the person to be served, together with two copies of a Notice and Acknowledgment conforming substantially to Form 1-A and a return envelope, postage prepaid, addressed to the sender. Unless good cause is shown for not doing so, the Court shall order the payment by the party served of the costs incurred in securing an alternative method of service authorized by this Rule if the person served does not complete and return within 20 days after mailing, the Notice and Acknowledgment of receipt of the summons.

(e) *Service upon individuals within United States.*

Unless otherwise provided by law, service upon an individual from whom an acknowledgment has not been obtained and filed, other than an infant or an incompetent person, may be effected in any part of the United States:

- (1) pursuant to District of Columbia law, or the law of the state or territory in which service is effected, for the service of a summons upon the defendant in an action brought in the courts of general jurisdiction of that state or territory; or
 - (2) by delivering a copy of the summons and... complaint to the individual personally or by leaving copies thereof at the individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or by delivering a copy of the summons and... complaint to an agent authorized by appointment or by law to receive service...
- (f) *Service upon individuals in a foreign country.* Unless otherwise provided by applicable law, service upon an individual... may be effected in a place not within the United States:
- (1) by any internationally agreed means reasonably calculated to give notice, such as those means authorized by the Hague

Convention on the Service Abroad of Judicial and Extra-judicial Documents; or

- (2) if there is no internationally agreed means of service, provided that service is reasonably calculated to give notice:

(A) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or

(B) as directed by the foreign authority in response to a letter rogatory or letter of request; or

(C) unless prohibited by the law of the foreign country, by

(i) delivery to the individual personally of a copy of the summons...; or

(ii) any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the party to be served; or

(3) by other means not prohibited by international agreement as... directed by the Court.

(g) *Service upon infants... incompetent persons.*

(h) *Service upon corporations and associations.*

(i) *Service upon the United States...*

(j) *Service upon the District of Columbia...*

(k) *Territorial limits of effective service.*

(l) *Proof of service.* If service is not acknowledged, the person effecting service shall make proof of service to the Court. If service is made by a person other than a United States Marshal..., the person shall make affidavit thereof...

(m) *Time limit for service.* Within 60 days of the filing of the complaint, the plaintiff must file either an acknowledgment of service or proof of service of the summons.. complaint and any order directed by the Court... Prior to the expiration of the foregoing time period, a motion may be made to extend the time for service... The Court shall extend the period for such time as may be warranted by circumstances set forth in the motion... This subdivision does not apply to service in a foreign country pursuant to (f) or (h)(2)...

DISTRICT OF COLUMBIA CODE

Title 22 Criminal Offenses

Sec. 22-722. Prohibited Acts; Penalty

(a) A person commits the offense of obstruction of justice if that person:

(2) Knowingly uses intimidating or physical force , threatens or corruptly persuades another person, or by threatening letter or communication, endeavors to influence, intimidate, or impede a witness or officer in any official proceeding , with intent to:

(c) Evade a legal process that summons the person to appear as a witness or to produce a document in an official proceeding; ...



FLORIDA

Capital: Tallahassee
Population: 20 million - 67 counties

FLORIDA RULES OF CIVIL PROCEDURE

RULE 1.070. Process

- (b) **Service; By whom Made.** Service of process may be made by an officer authorized by law to serve process, but the court may appoint any competent person not interested in the action to serve the process. When so appointed, the person serving process shall make proof of service by affidavit promptly and in any event within the time during which the person served must respond to the process. Failure to make proof of service shall not affect the validity of the service.

FLORIDA STATUTES

Title VI - CIVIL PRACTICE AND PROCEDURE

48.011 Process: how directed

Summons, subpoenas, and other process in civil actions run throughout the state. All process except subpoenas shall be directed to all and singular the sheriffs of the state.

48.021. Process; by whom served

- (1) All process shall be served by the sheriff of the county where the person to be served is found, except initial nonenforceable civil process may be served by a special process server appointed by the sheriff as provided for in this section or by a certified process server as provided for in ss. 48-25—48.31. Witness subpoenas may be served by any person authorized by rules of procedure.
- (2) (a) The sheriff of each county may, in his or her discretion, establish an approved list of natural persons designated as special process servers...Each natural person whose name has been added to the approved list is subject to annual recertification and reappointment by the sheriff. The sheriff shall prescribe an appropriate form for application for appointment. A reasonable fee for the processing of the application shall be charged.
- (b) A person applying to become a special process server shall:
- (1) Be at least 18 years of age.
 - (2) Have no mental or legal disability.
 - (3) Be a permanent resident of the state.
 - (4) Submit to a background investigation..
 - (5) Obtain and file with the application a certificate of good conduct...
 - (6) Submit to an examination...
 - (7) Execute a bond in amount of \$5,000...
 - (8) Take an oath...

- (c) The sheriff may prescribe additional rules and requirements...regarding eligibility...
- (d) An applicant who completes the requirements set forth in this section shall be designated as a special process server provided that the sheriff of the county has determined that the appointment of special process servers is necessary or desirable. Each special process server shall be issued an ID card bearing his or her identification number, printed name, signature and photograph, and an expiration date. Each ID card shall be renewable annually upon proof of good standing and current bond.
- (e) The sheriff shall have the discretion to revoke an appointment at any time that he or she determines a special process server is not fully and properly discharging the duties as a special process server...
- (3) A special process server appointed in accordance with this section shall be authorized to serve process in only the county in which the sheriff who appointed him or her resides and may charge a reasonable fee for his or her services.
- (4) Any special process server shall be disinterested in any process he or she serves; and if the special process server willfully and knowingly executes a false return of service or otherwise violates the oath of office, he or she shall be guilty of a felony of the third degree, punishable as provided for in sec. 775.082 or sec. 775.084, and shall be permanently barred from serving process in Florida.

48.031. Service of process generally; Service of witness subpoenas

(1)(a) Service of original process is made by delivering a copy of it to the person to be served ... or by leaving the copies at his or her usual place of abode with any person residing therein who is 15 years of age or older and informing the person of their contents. Minors who are or have been married shall be served as provided in this section.

(1)(b) Employers when contacted by an individual authorized to make service of process, shall permit the authorized individual to make service on employees in a private area designated by the employer.

(2)(a) Substitute service may be made on the spouse of the person to be served at any place in the county, if the cause of action is not an adversary proceeding between the spouse and the person to be served, if the spouse requests such service, and if the spouse and the person to be served are residing together at the same dwelling.

(2)(b) Substitute service may be made on an individual doing business as a sole proprietorship at his or her place of business, during regular business hours, by serving the person in charge of the business at the time of service if two or more attempts to serve the owner have been made at the place of business.

(3)(a) The service of process of **witness subpoenas** whether in criminal cases or civil actions, shall be made as provided in subsection (1)....



(5) A person serving process shall place on the copy served, the date and time of service and his or her identification number and initials for all service of process.

(6) If the only address for a person to be served, which is discoverable through public records, is a private mailbox, substitute service may be made by leaving a copy of the process with the person in charge of the private mailbox, but only if the process server determines that the person to be served maintains a mailbox at that location.

(Note: Subsections (5) and (6) were added by 2004 legislature and became effective 7/1/04.)

48.081. Service on corporations

(1) Process against any private corporation, domestic or foreign, may be served:

- (a) On the president, vice president, or other head of the corporation;
- (b) In the absence of any person described in (a), on the cashier, treasurer, secretary or general manager;
- (c) In the absence of any person described in (a) or (b), on any director;
- (d) In the absence of (a), (b), or (c), on any officer or agent residing in the state...

(2) If a foreign corporation has none of the foregoing officers or agents in this state, service may be made on any agent transacting business for it in this state.

(3)(a) As an alternative to all of the foregoing, process may be served on the agent designated by the corporation under sec. 48.091. However, if service cannot be made on a registered agent because of a failure to comply with sec. 48.091, service of process shall be permitted on any employee at the corporation's principal place of business or on any employee of the registered agent.

(3)(b) If the address provided for the registered agent, officer, director, or principal place of business is a residence or private mailbox, service on the corporation may be made by serving the registered agent, officer, or director in accordance with sec. 48.031.

(Note: Subsection (3)(a) was amended and new subsection (3)(b) added in 2004 and became effective 7/1/04.)

48.194 Personal service outside state

- (1) Except as otherwise provided herein, service of process on persons outside of this state shall be made in the same manner as service within this state by any officer authorized to serve process in the state where the person is served. No order of court is required. An affidavit of the officer shall be filed, stating the time, manner, and place of service. The court may consider the affidavit, or any other competent evidence, in determining whether service has been properly made. Service of process on persons outside the United States may be required to conform to the provisions of the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters.
- (2) Where in rem or quasi in rem relief is sought in a foreclosure proceeding as defined by sec. 702.09, service of process on a person outside of this state where the address of the person to be served is known may be by registered mail as follows....

(3)

Case Notes

☞ Out-of-state service is permitted under law of Florida if it is made in the same manner as in-state service and is made by an officer authorized to serve process in the state where the process is served.

Thompson v. King, D.C. 523 F.Supp. 180 (1981).

☞ This section [48.194] permitting extraterritorial service of process to be served by officers of sister states is not in conflict with § 48.011 directing that all process be directed to sheriffs of state. Electro Engineering Products Co. Inc. v. Lewis, 352 So.2d 862 (1977).

48.20. Service of process on Sunday

Service or execution on Sunday of any writ, process, warrant, order, or judgment is void and the person serving...or causing it to be served...is liable to the party aggrieved for damages for so doing...

Case Note

☞ A summons is "process" within meaning of statute providing that civil process cannot be served on Sunday. Miller v. Johnson, 466 So.2d 340 (1985).

48.21. Return of execution of process

Each person who effects service of process shall note on a return of service form attached thereto, the date and time when it comes to hand, the date and time when it was served, the manner of service, the name of the person on whom it was served and, if the person served is served in a representative capacity, the position occupied by the person. A failure to state the foregoing facts invalidates the service, but the return is amendable to state the truth at any time on application to the court from which the process issued. On amendment, service is as effective as if the return had originally stated the omitted facts. A failure to state all the facts in the return shall subject the person effecting service to a fine not exceeding \$10, in the court's discretion.

48.27. Certified process servers

- (1) The chief judge of each judicial circuit may establish an approved list of natural persons designated as certified process servers. ... Each person whose name has been added to the approved list is subject to annual recertification and reappointment by the chief judge of a judicial circuit. The chief judge shall prescribe appropriate forms for application for inclusion on the list of certified process servers. A reasonable fee for the processing of any such application must be charged.
- (2) The addition of a person's name to the list authorizes him to serve initial nonenforceable civil process on a person found within the circuit where the process server is certified when a civil action has been filed against such person in the circuit court or in a county court in the state. Upon filing an action in circuit or county court, a person may select from the list for the circuit where the process is to be served one or more certified process servers to serve initial nonenforceable civil process.

- (3) Nothing herein shall...exclude a person from appointment by individual motion and order to serve process in any civil action in accordance with Rule 1.070(b) of the Florida Rules of Civil Procedure.

48.29. Certification of process servers

[This section enumerates the requirements for becoming certified by the court, which is essentially the same as the requirements in Sec. 48.021(2) for being appointed a special process server by the sheriff.]

Removal of certified process servers

- (1) A certified process server may be removed from the list of certified process servers for any malfeasance, misfeasance, neglect of duty, or incompetence, as provided by court rule.
- (2) A certified process server must be disinterested in any process he or she serves; if the certified process server willfully and knowingly executes a false return of service, he or she is guilty of a felony of the 3rd degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and shall be permanently barred from serving process in this state.

2000 FLORIDA STATUTES

Title XLVI – Crimes

Chapter 843 – Obstructing Justice

843.01 – Resisting officer with violence ...

843.02 – Resisting officer without violence to his or her person. – Whoever shall resist, obstruct, or oppose any officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); member of the parole commission or any administrative aide or supervisor; personnel or representative of the Dept. of Law Enforcement; **or other person legally authorized to execute process in the execution of legal process** or in the lawful execution of any legal duty, without offering or doing violence to the person of the officer, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.



GEORGIA

State Capital: Atlanta
Population: 10.2 million
159 counties

CODE OF GEORGIA Title 9. Civil Practice

Sec. 9-10-94 Service Outside State

A person subject to the jurisdiction of the courts of the state...may be served with a summons outside the state in the same manner as service is made within the state by any person authorized to make service by the laws of the state, territory, possession, or country in which service is made or by any duly qualified attorney, solicitor, barrister, or the equivalent in such jurisdiction.

Sec. 9-11-4. Process

(c) By Whom Served.. Process shall be served by the sheriff of the county where the action is brought or where the defendant is found ... or by any citizen of the United States specially appointed by the court for that purpose or by someone who is not a party and is not younger than 18 years of age and has been appointed as a permanent process server by the court in which the action is brought. Where the service of process is made outside of the United States, after an order of publication, it may be served either by any citizen of the United States or by any resident of the country, territory, colony, or province who is specially appointed by the court for that purpose. When service is made within this state, the person making such service shall make the service within 5 days from the time of receiving the summons and complaint; but failure to make service within the 5-day period will not invalidate a later service.

(d) Personal Service. ...Service shall be made by delivering a copy of the summons attached to a copy of the complaint as follows:

- (1) In action against a corporation..., to the president or other officer..., secretary, cashier, managing agent, or other agent thereof...
- (7) In all other cases to the defendant personally, or by leaving copies at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by delivering a copy to an agent authorized by appointment or by law to receive service of process.

(g) Return. The person serving the process shall make proof of service thereof to the court promptly and, in any event, within the time during which the person served must respond to the process. Proof of service shall be as follows:

- (1) If served by the sheriff or marshal, the affidavit or certificate of the sheriff or marshal;
- (2) If by any other proper person, his affidavit.

(h) Amendment. At any time in its discretion and upon such terms as it deems just, the court may allow any process or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.

Case Notes

☞ Georgia process served in Illinois by employee of Illinois process serving company, who filed affidavit stating that he was “appointed by the court” to serve process in this case. Court held the purported service was a nullity. “It is the plaintiff’s duty to ensure that the person retained to serve process is authorized to do so, especially when the plaintiff employs a private process server instead of a government service authority.” Heis v. Young, (May 1997), Georgia Court of Appeals.

HAWAII

Capital: Honolulu

Population: 1.4 million - 4 counties

Honolulu County - Island of Oahu

Hawaii County - Island of Hawaii

Kauai County - Islands of Kauai and Niihau

Maui County - Islands of Maui, Lanai,
Molokai

HAWAII RULES OF CIVIL PROCEDURE

RULE 4. Process

(c) **By Whom Served.** Service of all process shall be made anywhere in the State by the sheriff..., by the chief of police..., by some other person specially appointed by the court for that purpose, or by any person who is not a party and is not less than 18 years of age. A subpoena, however, may be served as provided in Rule 45.

(d) **Personal Service.** ... Service shall be made as follows:

- (1) Upon an individual...(A) by delivering a copy of the summons and complaint to that individual personally or in case the individual cannot be found by leaving copies thereof at the individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or (B) by delivering a copy... to an agent authorized by appointment or by law to receive service of process.
- (2) Upon an infant...
- (3) Upon a domestic or foreign corporation or upon a partnership..., by delivering a copy of the summons and complaint to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant.

(e) **Same: Other service.** Whenever a statute or an order of court provides for service upon a party not an inhabitant of or found within the State...service shall be made under the circumstances and in the manner prescribed by the statute or order...

(f) **Territorial limits of effective service.** All process may be served anywhere within the State and, when a statute or order so provides, beyond the limits of the State.

(g) **Return.** The person serving the process shall make proof of service thereof to the court promptly and in any event within the time during which the person served must respond to process. When service is made by any person specially appointed by the court, or by an authorized process server, that person shall make affidavit of such service.

(h) **Amendment.** At any time in its discretion and upon such terms as it deems just, the court may allow any process or proof of service to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.

RULE 77(f) [Applicable only to District Court—where amount in controversy does not exceed \$25,000]

(f) Costs awarded by the court.

In addition to any other costs allowed by statute or rule, the court may award to a prevailing plaintiff...the actual cost of service of process, whether service is made by a public or private process server, provided the amount shall not exceed the statutory amount(s) allowed for service of process by sheriffs or police officers.

HAWAII REVISED STATUTES

Sec. 634-25 Personal service on resident outside the State. Whenever a defendant, being a resident of the State, cannot be served within the State personal service may be made upon the defendant outside the State by any person authorized to serve process in the place in which the defendant may be found or specially appointed by the court to make the service which service shall be evidenced by the return of the serving officer or by affidavit and shall be of the same legal force and validity as if made within the State.

IDAHO
State Capital: Boise
Population: 1.7 million
44 counties

RULE 4 (h) Amendment. At any time in its discretion and upon such terms as it deems just, the court may allow any process or proof of service to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.

IDAHO RULES OF CIVIL PROCEDURE

RULE 4 (c) Process

- (1) By whom served.** Service of all process shall be made by an officer authorized by law to serve process, or by some person over the age of 18, not a party to the action. A subpoena may be served as provided in Rule 45.
- (2) Executing process.** The officer or other person executing process need not have in his or her possession the original process, summons, writ, order or subpoena at the time of service of the document.
- (3) Service of facsimile copy.** Any summons, writ, order or other paper requiring service may be transmitted by facsimile machine process...and the copy transmitted may be served...by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority and liability as the original. The original must be filed in the court from which issued.

RULE 4 (d) Personal Service

- (2) Service upon individuals.** ...by delivering a copy of the summons and complaint to the individual personally or by leaving copies thereof at the individual's dwelling house or usual place of abode with some person over the age of 18 years then residing therein or by delivering a copy... to an agent authorized by appointment or by law to receive service of process.
- (3) Service upon infants and incompetents...**
- (4) Service upon ... corporations.** (A) Upon a domestic or foreign corporation by delivering a copy of the summons and complaint to an officer, managing or general agent, or to any other agent authorized by appointment or by statute of this state to receive service of process...
- (5) Service upon state, agencies...**
- (6) Receipt of service.** In lieu of service upon an individual as provided above in this rule, service may be accomplished by an acknowledged written admission by the individual that the individual has received service of process, stating the capacity in which such service of process was received.

RULE 4 (g) Return. Proof of service shall be in writing specifying the manner of service, the date and place of service and unless the party served files an appearance the return must be filed with the court:

- (1)** If service is made by a sheriff...or any peace officer or court marshal, anywhere within the state of Idaho, then by certificate of the officer...
- (2)** If service is by any person other than those specified in (1) above, then by affidavit of such person indicating the person is over the age of 18 years and service as required by these rules.
- (3)** If service is by mailing, not requiring proof of receipt, then by affidavit of mailing by a person over the age of 18 years who mailed such service...
- (4)** If service is by certified or registered mail, then by affidavit of a person over the age of 18 who mailed such process together with postal receipts...



ILLINOIS

State Capital: Springfield
Population: 12.9 million
102 counties

5/2-202. Persons Authorized to Serve Process

- (a) Process shall be served by a sheriff... A sheriff of a county with a population of less than 1-million may employ civilian personnel to serve process. In counties with population of less than 2,000,000, process may be served, without special appointment, by a person who is licensed or registered as a private detective under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 or by a registered employee of a detective agency certified under that Act. **[Note: This would apply to all counties except Cook County. Cook County covers the greater Chicago area and has a population of 5.2 million.]** A private detective or licensed employee must supply the sheriff of that any county in which he serves process with a copy of his license or certificate, however, failure ... to supply the copy shall not in any way impair the validity of process served by the person. The court may, in its discretion upon motion, order services to be made by a private person over 18 years of age and not a party to the action. It is not necessary that service be made by a sheriff ... of the county in which service is made. If served ... by a private person the return shall be by affidavit.

(a-5) Upon motion and in its discretion, the court may appoint as a special process server a private detective agency certified under the Private Detective ... Act of 2004. Under the appointment, any employee of the private detective agency who is registered under that act may serve the process. The motion and the order of appointment must contain the number of the certificate issued to the private detective agency by the Department of Professional Regulation under the Private Detective ... Act of 2004.

Case Notes

☞ Illinois statute permitting process to be served “either by a sheriff or by a disinterested person appointed by the court” did not require appointment of process server by Illinois court, and permitted service of process in Illinois by private investigator specially appointed to serve process by Florida Circuit Court. Takiff v. Takiff, 683 So.2d 595 (1996).

☞ Fact that lawsuit was filed in Du Page County, whose population is less than 1 million so that service by private detectives is permitted, did not authorize service of process on defendant in Cook County by private detective. Schorsch v. Fireside Chrysler-Plymouth (1988), 527 N.E.2d 693, appeal denied 535 N.E.2d 411.

☞ Service of process within the state by a private individual not appointed to do so by the court is invalid. Lake County v. X-Po Sec. Police Service, Inc.(1975), 327 N.E.2d 96.

5/2-203. Service on Individuals

- (a) Except as otherwise provided, service of summons upon an individual defendant shall be made
- (1) by leaving a copy of the summons with the defendant personally,
 - (2) by leaving a copy at the defendant’s usual place of abode with some person of the family or a person residing there, of the age of 13 years or upwards, and informing that person of the contents of the summons, provided the officer or other person making service shall also send a copy of the summons in a sealed envelope with postage fully prepaid, addressed to the defendant at his or her usual place of abode...
 - (3) No employee of a facility licensed under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act of 2013, the ID/DD Community Care Act, or the MC/DD Act shall obstruct an officer or other person making service in compliance with this Section. An employee of a gated residential community shall grant entry into the community, including its common areas and common elements, to a process server under Section 2-202 of the Code who is attempting to serve process on a defendant or witness who resides within or is known to be within the community. As used in this Section, “gated residential community” includes a condominium association, housing cooperative, or private community.
- (b) The officer, in his or her certificate... or other person making service, in his or her affidavit ... shall
- (1) identify as to sex, race, and approximate age the defendant or other person with whom the summons was left and
 - (2) state the place where (whenever possible in terms of an exact street address) and the date and time of the day when the summons was left.
- (c) Any person who knowingly sets forth in the certificate or affidavit any false statement, shall be liable in civil contempt. When the court holds a person in civil contempt..., it shall award such damages as it determines to be just and, when the contempt is prosecuted by a private attorney, may award reasonable attorney’s fees.

Case Notes

☞ Return of officer or other authorized person making service of summons on defendant by delivering copy to another person must show strict compliance with every requirement of statute authorizing substituted service.



Dec and Aque v. Manning, (1993), 618 N.E.2d 367, appeal denied 624 N.E.2d 805.

☞ Under this paragraph, strict adherence to technical requirements is a necessity when substituted service of process is attempted upon a nonresident of Illinois. Taylor v. Landsman (1981), 422 N.E.2d 403, rehearing denied 425 N.E.2d 218.

5/2-208. Personal Service Outside State

- (b)** The service of summons shall be made in like service within this State, by any person over 18 years of age not a party to the action. No order of court is required. An affidavit of the server shall be filed stating the time, manner and place of service...

Case Note

☞ Attempted service by mail to Taiwanese corporation in Taiwan and to its sales representative in Indiana were insufficient; no federal statute authorized territorial service of Taiwanese corporation, and, according to Illinois statutory law, parties located outside of the forum state had to be personally served. Electronic Signals Products, Inc. v. Eastern Electronic Co. Ltd., N.D. Ill (1992), 783 F.Supp. 1135.

ILLINOIS COMPILED STATUTES

Criminal Offenses

Criminal Code of 1961

(720 ILCS 5/12-2)

Sec 12-2. Aggravated Assault

(b) Offense based on status of victim. A person commits aggravated assault when, in committing an assault, he or she knows the individual assaulted to be any of the following:

10) A person authorized to serve process under Section 2-202 of the Code of Civil Procedure or a special process server appointed by the circuit court, while that individual is in the performance of his or her duties as a process server.

(720 ILCS 5/31-3)

Sec. 31-3. Obstructing service of process.

Whoever knowingly resists or obstructs the authorized service or execution of any civil or criminal process or order of any court commits a Class B misdemeanor.



INDIANA

State Capital: Indianapolis

Population: 6.6 million

92 counties

INDIANA

RULES OF CIVIL PROCEDURE

TRIAL RULE 4. Manner of Service

- (D) The person seeking service or his attorney may designate the manner of service upon the summons. If not so designated, the clerk shall cause service to be made by mail or other public means provided the mailing address of the person to be served is indicated or can be determined. If a mailing address is not furnished or cannot be determined or if service by mail or other public means is returned without acceptance, the complaint and summons shall promptly be delivered to the sheriff or his deputy who, unless otherwise directed, shall serve the summons

TRIAL RULE 4.1 Summons

- (A) **Service on an individual** shall be made by
- (1) sending a copy of the summons and complaint by registered or certified mail or other public means by which a written acknowledgment of receipt may be requested and obtained to his residence, place of business or employment with return receipt requested and returned; or
 - (2) delivering a copy of the summons and complaint to him personally; or
 - (3) leaving a copy of the summons and complaint at his dwelling house or usual place of abode; or
 - (4) serving his agent as provided by rule, statute or valid agreement;
- (B) **Copy Service to Be Followed With Mail.** Whenever service is made under (3) or (4) above, the person making service shall also send by first class mail, a copy of the summons without the complaint to the last known address of person being served, and this fact shall be shown upon the return.

TRIAL RULE 4.6 Service upon organizations

- (A) **Persons to be served.:**
- (1) **Domestic or Foreign organizations:** upon an executive officer or appointed agent.
 - (2) **Partnership:** upon a general partner.
 - (3) **Governmental Entity:** upon executive officer and also the Attorney General.

- (B) **Manner of service.** Service ... shall be made on the proper person in the manner provided by these rules, for service upon individuals, but [an attorney] shall not knowingly direct service to be made at the person's dwelling house or place of abode, unless such is an address furnished under the requirements of a statute..., or unless an affidavit attached to the summons states that service in another manner is impractical.

- (C) **Service at organization's office.** When shown upon an affidavit or in the return, that service...cannot be made as provided in (A) or (B) of this rule, service may be made by leaving a copy of the summons and complaint at any office of such organization located within this state with the person in charge of such office.

TRIAL RULE 4.12 Service by Sheriff

- (A) **In General.** Whenever service is made by delivering a copy to a person personally or by leaving a copy at his dwelling house or place of employment as provided by Rule 4.1, summons shall be issued to and served by the sheriff, his deputy, or some person specially or regularly appointed by the court. Service shall be effective if made by a person not otherwise authorized by these rules, but proof of service by such person must be made by him as a witness or by deposition without allowance of expenses therefor as costs. The person to whom the summons is delivered for service must act promptly and exercise reasonable care to cause service to be made.
- (B) **Special Service by Police Officers...**
- (C) **Service in Other Counties...**
- (D) **Service Outside the State.** Personal service, when permitted by these rules to be made outside the state, may be made there by any disinterested person or by the attorney representing the person seeking such service. The expenses of such person may be assessed as costs only if they are reasonable and if service by mail or other public means cannot be made or is not successful.

TRIAL RULE 4.15 Proof of Service

- (A) **Return.** Person making service shall promptly make his return upon or attach it to a copy of the summons...The return shall include a statement (1) that service was made upon the person as required by law and the time, place, and manner of service; (2) if service not made, the particular manner in which it was thwarted in terms of fact or in terms of law; (3) such other information as is expressly required by these rules.

IOWA
State Capital: Des Moines
Population: 3.1 million
99 counties

IOWA RULES OF CIVIL PROCEDURE

RULE 1.302 Original notice; form and service.

A notice to the defendant, respondent, or other party against whom an action has been filed shall be served in the form and manner provided by this rule...

RULE 1.302(5) Original notices may be served by any person who is neither a party nor the attorney for a party to the action. A party or party's agent may take an acknowledgment of service and deliver a copy of the original notice ... and may mail a copy of the original notice when mailing is required or permitted under any rule or statute.

RULE 1.302(6) If service of the original notice is not made upon the defendant, respondent, or other party to be served within 90 days after filing the petition, the court, upon motion or its own initiative after notice to the party filing the petition, shall dismiss the action without prejudice as to that defendant...or direct an alternate time or manner of service. If the party filing the papers shows good cause for the failure of service, the court shall extend the time for service for an appropriate period.

RULE 1.305 Personal Service. Original notices are "served" by delivering a copy to the proper person. Personal service may be made as follows:

1.305(1) Upon any individual who has attained majority and has not been adjudged incompetent either by taking the individual's signed, dated acknowledgment of service endorsed on the notice; or by serving the individual personally; or by serving, at the individual's dwelling house of usual place of abode, any person residing therein who is at least 18 years old, but if such place is a rooming house, hotel, club or apartment building, the copy shall there be delivered to such a person who is either a member of the individual's family or the manager, clerk, proprietor or custodian of such place; or upon the individual's spouse at a place other than the individual's dwelling house or usual place of abode if probable cause exists to believe that the spouse lives at the individual's dwelling house or usual place of abode.

1.305(2) Upon a minor...

1.305(3) Upon any person adjudged incompetent...

1.305(4) Any person confined in a county care facility...

1.305(6) Upon a partnership...association...or a corporation, by serving any present or acting or last known officer thereof, or any general or managing agent, or any agent or person now authorized by appointment or by law to receive service of original notice, or on the general partner of a partner.

1.305(8) Upon any city by serving its mayor or clerk.

1.305(9) Upon any county by serving its auditor or the chair of its board of supervisors.

1.305(10) Upon any school district, school township or school corporation by serving its president or secretary.

1.305(11) Upon the state, where made a party pursuant to statutory consent or authorization for suit in the manner provided,

1.305(12) Upon any individual, corporation, partnership or association suable under a common name, either as provided in these rules, as provided by any consent to service or in accordance with any applicable statute.

1.305(13) Upon a governmental board, commission or agency, by serving its presiding officer, clerk or secretary.

1.305(14) If service cannot be made by any of the methods provided by this rule, any defendant may be served as provided by court order, consistent with due process of law.

RULE 1.306 Alternate Method of Service

Service may be made on any such corporation, individual, personal representative, partnership or association as provided in Rule 1.305 within or without the state or, if such service cannot be so made, in any manner consistent with due process of law prescribed by order of the court in which the action is brought.

Nothing herein shall limit or affect the right to serve an original notice upon any corporation, individual, personal representative, partnership or association within or without this state in any manner now or hereafter permitted by statute or rule.

RULE 1.308 Returns of Service.

1.308(1) *Signature; fees.* [court can take judicial of the signatures of sheriffs, deputy sheriffs, peace officers, bailiffs, or marshals]. All other returns...shall be proved by the affidavit of the person making the service. If served in the state of Iowa by a person other than such peace officer...or in another state by a person other than a sheriff or peace officer, reasonable fees or mileage, not to exceed those allowed to a sheriff under Iowa Code section 331.655 shall be taxed as costs.

1.308(2) *Contents.* A return of personal service shall state the time, manner, and place thereof and name the person to whom copy was delivered; and if delivered under Rule 1.305(1) to a person other than the defendant...it must also state the facts showing compliance with said rule.

1.308(4) *Proof of service.* The person serving the process shall make proof of service thereof to the court promptly and in any event within the time during which the person served must respond to the process. Failure to make proof of service does not affect the validity of the service.

10308(5) *By mail.* Where service includes notice by mail, proof of such mailing shall be by affidavit. The affidavit, with a duplicate copy of the papers referred to in the affidavit attached thereto, shall be forthwith filed with the court.

RULE 1.309 Amendment of process or proof of service.

The court may allow any process or proof of service thereof to be amended at any time in its discretion...unless it clearly appears that material prejudice would result to the substantial rights of the...[defendant].



Title 78 [Iowa] Judicial Code

Chapter 12a Process Server Act

78-12a-1. This chapter is known as the Process Server Act.

78-12a-2. Process Servers.

(1) Persons who are not peace officers, constables, sheriffs, or lawfully appointed deputies of such officers...may not serve any forms of civil or criminal process other than complaints, summonses, and subpoenas.

(2) The following persons may serve all process issued by court of this state except as limited by Subsection (1):
(a) a police officer employed by any political subdivision...
(b) a sheriff or appointed deputy sheriff...;
(c) a constable serving in compliance with applicable law;
(d) an investigator employed by the state...

(3) Private investigators [licensed by the state] may only serve the following forms of process:

- (a) petitions;
- (b) complaints;
- (c) summonses;
- (d) supplemental orders;
- (e) orders to show cause;
- (f) notices;
- (g) small claims affidavits;
- (h) small claims orders;
- (i) writs of garnishment;
- (j) garnishee orders; and
- (k) subpoenas duces tecum.

(4) Other persons may serve process as prescribed by Subsection (1)

(5) A person serving process shall legibly document the date and time of service and his name and address on the return of service.

78-12a-3. Recoverable Rates.

If the rates charged by private process servers exceed the rates established by law for service of process by persons under Subsection **78-12a-2(1)**, the excess charge may be recoverable...only if the court determines the service and the charge were justifiable under the circumstances.

78-12a-4. Violations of Service of Process Authority

(1) It is a class A misdemeanor for a person serving process to falsify a return of service.

(2) It is a class C misdemeanor for a person to bill falsely for process service.

IOWA STATUTES

Chapter 719 Obstructing Justice

Section 719.1 Interference with Official Acts.

1. A person who knowingly resists or obstructs anyone known by the person to be a peace officer, emergency medical care provider ... or fire fighter, whether paid or volunteer, or who knowingly **resists or obstructs the service or execution by any authorized person of any civil or criminal process or order of any court**, commits a simple misdemeanor. However, if a person commits an interference with official acts, as defined in this subsection, and in so doing inflicts bodily injury other than serious injury, that person commits an aggravated misdemeanor. If a person commits an interference with official acts...and in so doing inflicts or attempts to inflict serious injury, or displays a dangerous weapon, as defined in section 702.7, or is armed with a firearm, that person commits a class "D" felony.
2. A person under custody, control or supervision of the department of corrections.....
3. The terms "*resist*" and "*obstruct*", as used in this section do not include verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.

KANSAS

State Capital: Topeka
Population: 2.9 million
105 counties

KANSAS STATUTES ANNOTATED CODE OF CIVIL PROCEDURE

60-303. Methods of Service of Process

- (a) Methods of service of process within this state are described in this section. Methods of out-of-state service of process are described in K.S.A. 60-308...
- (b) **Who Serves Process.** The sheriff of the county in which the action is filed shall serve any process by any method authorized by this section...unless a party, either personally or through an attorney, elects to undertake the responsibility for service and so notifies the clerk.
- (c) **Service by Return Receipt Delivery.** (1)...shall include service by certified mail, priority mail, commercial courier service, overnight delivery service, or other reliable personal delivery service to the party addressed...
- (d) **Personal and Residence Service.**
 - (1) The party may file a written request with the clerk for personal or residence service. Personal service shall be made by delivering a copy of the process ... to the person to be served. Residence service shall be made by leaving a copy of the process ... at the dwelling house or usual place of abode of the person to be served with some person of suitable age and discretion residing therein. If service cannot be made upon an individual...by personal or residence service, service may be made by leaving a copy of the process...at the defendant's dwelling house or usual place of abode and mailing a notice that such copy has been left at such house or place of abode to the individual by first-class mail.
 - (2) When process is to be served under this subsection, the clerk ... shall deliver the process to the sheriff of the county where the process is to be served or, if requested, to a person appointed to serve process...
 - (3) Service, levy and execution of all process ... including but not limited to, writs of execution, orders of attachment, replevin orders, orders for delivery, writs of restitution and writs of assistance, shall be made by a sheriff ... by an attorney admitted to practice before the supreme court of Kansas **or some person appointed as a process server by a judge or clerk of the district court**, except that a subpoena may also be served by any other person who is not a party and is not less than 18 years of age. Process servers shall be appointed freely and may be authorized either to serve process in a single case or in cases generally during a fixed

period of time. A process server or an authorized attorney may make the service anywhere in or out of the state and shall be allowed the fees prescribed in KSA 28-110... All persons authorized under this subsection to serve, levy and execute process shall be considered an "officer" as used in KSA 60-706 and 60-240-1 and amendments thereto.

- (4) In all cases when the person to be served ... refuses to receive copies thereof, the offer of the duly authorized process server to deliver copies thereof, and the refusal, shall be a sufficient service of the process.

60-308 Service Outside State

(a) Proof and Effect.

- (2) The service of process shall be made
 - (A) in the same manner as service within this state, by any officer authorized to make service of process in this state or in the state where the defendant is served or
 - (B) by sending a copy of the process and of the petition to the person to be served in the manner provided in subsection (e). No order of court is required. An affidavit, or any other competent proofs, of the server shall be filed stating the time, manner and place of service...

(e) **Service by Return Receipt Delivery.** (1) Service of any out-of-state process by return receipt delivery shall include service effected by certified mail, priority mail, commercial courier service, overnight delivery service, or other reliable personal delivery service to the party addressed...

60-312 Proof of Service

(a) Personal and Residence Service.

- (2) If service of process is delivered to a person, other than an officer, for service, such person shall make affidavit as to the time, place and manner of such person's service thereof.

Case Notes

☞ Special process server must be authorized to make service of summons in state where defendant served. Hall v. Quivira Square Dev. Co., 675 P.2d 931 (1984).

☞ Whether service void because out-of-state corporate process server not officer of state in which service made is examined. In re Marriage of Welliver, 869 P.2d 653 (1994).

☞ Untimely return of service does not void an otherwise valid service; the rights of defendant were not impaired. Cook v. Freeman, 825 P.2d 1185 (1992).



KANSAS STATUTES

Chapter 21 – Crimes and Punishments

21-3808. Obstructing legal process or official duty.

(a) Obstructing legal process or official duty is knowingly and intentionally obstructing, resisting or **opposing any person authorized by law to serve process** in the service or execution or in the attempt to serve or execute any writ, warrant, process or order of a court, or in the discharge of any official duty.

(b) (1) Obstructing legal process or official duty in the case of a felony, or resulting from parole or any authorized disposition for a felony, is a severity level 9, nonperson felony.

(2) Obstructing legal process or official duty in a case of misdemeanor, or resulting from any authorized disposition for a misdemeanor, or a civil case is a class a nonperson misdemeanor.

KENTUCKY

State Capital: Frankfort
Population: 4.4 million
120 counties

KENTUCKY RULES OF CIVIL PROCEDURE

Rule 4.01 Summons -- By whom served

- (1) Upon the filing of the complaint the clerk shall forthwith issue the required summons and, at the direction of the initiating party, either:
 - (a) [describes procedure for clerk to follow in serving by registered or certified mail return receipt requested restricted delivery]
 - (b) Cause the summons and complaint ... to be transferred for service to any person authorized...to deliver them, who shall serve [the documents], and his return endorsed thereon shall be proof of the time and manner of service.

Rule 4.04 Personal service

- (2) Service shall be made upon an individual within this Commonwealth ... by delivering a copy of the summons and complaint to him personally...or...to an agent authorized by appointment or by law to receive service of process for such individual.
- (5) Service shall be made upon a corporation by serving an officer or managing agent thereof .. or any other agent authorized by appointment or by law to receive service on its behalf.
- (8) Service may be made upon an individual out of this state ... either by certified mail in the manner prescribed in Rule 4.01 (1) (a) or by personal delivery of a copy of the summons and complaint by a person over 18 years of age. Proof of service shall be made ... by affidavit of the person making such service, upon or appended to the summons, stating the time and place of service and the fact that the individual served was personally known to him. Such service without an appearance shall not authorize a personal judgment...

Case Note

☞ A company is not required by law to admit into its plant or shop a constable, deputy sheriff or any official qualified under the law to serve civil process for the purpose of serving civil process on an employee, and furthermore, if such official stays after a request to leave, he or she could be trespassing, nor does it make a difference if the summons is in connection with a civil or divorce action. Opinion of the Attorney General 79-123.

Rule 45.03 Service [of subpoena]

- (1) A subpoena may be served by any officer by whom a summons might be served. It may also be served by any person over 18 years of age, and the affidavit endorsed thereon by such person shall be proof of service... Service of the subpoena shall be made by delivering a copy thereof to the person to whom it is directed.
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LOUISIANA

State Capital: Baton Rouge
Population: 4.3 million
64 parishes

LOUISIANA CODE OF CIVIL PROCEDURE

Article 1234. Domiciliary service

Domiciliary service is made when a proper officer leaves the citation or other process at the dwelling house or usual place of abode of the person to be served with a person of suitable age and discretion residing in the domiciliary establishment.

Case Notes

☞ Person's domicile of origin continues until another is acquired. Change in domicile requires physical presence of individual in new domicile coupled with present intent to permanently reside in new domicile. In establishing domicile, intent is based on actual state of facts and not what one declares them to be. Pattan v. Fields, La.App. 1 Cir. (1995), 669 So.2d 1233, writ denied 661 So.2d 1341, 1342.

☞ An 11-year-old was of suitable age and discretion to accept service on behalf of his stepfather concerning notice of default judgment where deputy asked questions designed to ascertain if child was of suitable age and understanding before making service. First Nat. Bank of Jefferson Parish v. Rall, App. 4 Cir. (1992), 607 So.2d 716.

Article 1261. Domestic or foreign corporation

Service of citation or other process on a domestic or foreign corporation is made by personal service on any one of its agents for service of process...

Case Note

☞ Service upon Louisiana corporation by leaving copy of petition with wife of corporation's registered agent at agent's residence was insufficient, and proceedings which resulted in default judgment against corporation were null. Service Electric of Louisiana Inc. v. Clifton Briley Inc., App. 3 Cir. (1985) 479 So.2d 691.

Article 1291. Service by Sheriff

Except as otherwise provided by law, service shall be made by the sheriff of the parish where service is to be made or of the parish where the action is pending.

Article 1293. Service by private person

When the sheriff has not made service within 5 days after receipt of process or when a return has been made certifying that the sheriff has been unable to make service, on motion of a party the court may appoint any person not a party over the age of majority, and residing within the state, to make service of process in the same manner as is required of sheriffs. Service of process in this manner must be proved like any other fact in the case.

Case Note

☞ Service was invalid where court appointed president of detective agency as special process server, but defendant was actually served by president's employee. Brickman v. Screven County Hosp. Authority, App 4 Cir. 1992, 599 So.2d 427.

LOUISIANA REVISED STATUTES

13:3204. Service of process

- A. A certified copy of the citation and of the petition in a suit under R.S. 13:3201 shall be sent by counsel for the plaintiff to the defendant by registered or certified mail, or actually delivered to the defendant by an individual designated by the court in which the suit is filed, or by one authorized by the law of the place where the service is made to serve the process of any of its courts of general, limited, or small claims jurisdiction.
- B. If service of process cannot be made on the nonresident by registered or certified mail or by actual delivery, the court shall order that service of process be made on an attorney at law appointed to represent the defendant pursuant to Code of Civil Procedure Art. 5091.
- C. Service of process so made has the same legal force and validity as personal service on the defendant in this state.
- D.

MAINE

State Capital: Augusta
Population: 10 million
16 counties

MAINE RULES OF CIVIL PROCEDURE

RULE 4. PROCESS

- (c) **Service.** Service of the summons and complaint may be made as follows:
- (1) By mailing a copy (by first class mail)... to the person to be served, together with two copies of a notice and acknowledgment form...
 - (2) By a sheriff or a deputy within the sheriff's county, or other person authorized by law, or by some person specially appointed for that purpose. Special appointments to serve process shall be made freely when substantial savings in travel fees will result.
- (d) **Personal Service.** Summons and complaint shall be served together. Personal service within the state shall be made as follows:
- (1) Upon an individual ... by delivering ... to the individual personally or by leaving copies at the individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein...
- (e) **Personal Service Outside State.** A person ... may be served ... in the same manner as if such service were made within the state, by any person authorized to serve civil process by the laws of the place or service or by a person specially appointed to serve it. An affidavit of the person making service shall be filed with the court stating the time, manner, and place of service.
- (h) **Return of service.** The person serving the process shall make proof of service thereof on the original process or a paper attached thereto for that purpose, and shall forthwith return it to the plaintiff's attorney. The plaintiff's attorney shall ... file the proof of service with the court. ... The attorney's filing of such proof with the court shall constitute a representation by the attorney ... that the copy of the complaint mailed to the person served or delivered to the officer for service was a true copy. If service is made by a person other than a sheriff..., that person shall make proof by affidavit. The officer or other person serving the process shall endorse the date of service upon the copy left with the defendant... Failure to endorse the date of service shall not affect the validity of the service.

(j) **Alternative Provisions for Service in a Foreign Country.**

(1) *Manner.* When service is to be effected upon a party in a foreign country, it is also sufficient if service of the summons and complaint is made:

- (A) in the manner prescribed by the law of the foreign country for service in that country

in an action in any of its courts of general jurisdiction; or

- (B) as directed by the foreign authority in response to a letter rogatory when service in either case is reasonably calculated to give actual notice; or
- (C) upon an individual, by delivery to the individual personally, and upon a corporation or partnership or association, by delivery to an officer, a managing or general agent; or
- (D) by any form of mail requiring a return receipt, to be addressed and dispatch-ed by the clerk of the court to the party to be served; or
- (E) as directed by order of the court.

Service under (C) or (E) above may be made by any person who is not a party and is not less than 18 years of age or who is designated by order of the court or by the foreign court. On request, the clerk shall deliver the summons to the plaintiff for transmission to the person or the foreign court or officer who will make the service.

(2) *Return.* Proof of service may be made as prescribed by subdivision (h) of this Rule, or by the law of the foreign country, or by order of the court...

RULE 45. SUBPOENA – (b) Service

- (1) A subpoena may be served by any person who is not a party and is not less than 18 years of age, including the attorney of a party. Service of a subpoena upon a person named therein shall be made by delivering a copy to such person and, if the person's attendance is commanded, by tendering to that person the fees for one day's attendance and the mileage allowed by law...
- (2) A subpoena may be served at any place within the state.
- (3)

MAINE REVISED STATUTES

§ 705. Civil process served on Sunday void.

A person may not serve or execute any civil process on Sunday, but such a service is void and the person executing it is liable in damages to the party aggrieved as if the person had no process. This section does not apply to service of a protection from harassment order ... or protection from abuse order...



MARYLAND

State Capital: Annapolis

Population: 6 million

23 counties

RULES OF CIVIL PROCEDURE

Circuit Court

Rule 2-121. Process - Service -- In Personam

- (a) **Generally.** Service of process may be made within this State or outside this State when authorized by the law of this State, by delivering to the person to be served a copy of the summons, complaint, and all other papers filed with it, or by mailing to the person to be served a copy of the summons, complaint, and all other papers filed with it by certified mail requesting: "Restricted Delivery – show to whom, date address of delivery." Service by certified mail under this Rule is complete upon delivery. Service outside the State may also be made in the manner prescribed by the court or prescribed by the foreign jurisdiction if reasonably calculated to give actual notice.
- (b) **Evasion of Service.** When proof is made by affidavit that a defendant has acted to evade service, the court may order that service be made by mailing a copy of the summons, complaint, and all other papers filed with it to the defendant at the defendant's last known residence and delivering a copy of each to a person of suitable age and discretion at the place of business, dwelling house, or usual place of abode of the defendant.
- (c) **By Order of Court.** When proof is made by affidavit that good faith efforts to serve the defendant pursuant to section (a) of this Rule have not succeeded and that service pursuant to section (b) of this Rule is inapplicable or impracticable, the court may order any other means of service that it deems appropriate in the circumstances and reasonably calculated to give actual notice.

[See next page for text of new law effective October 1, 1999 which authorizes substituted service at place of residence without court order.]

RULE 2-123. Process -- By Whom Served

- (a) **Generally.** Service of process may be made by a sheriff or, except as otherwise provided in this Rule, by a competent person, 18 years of age or older, including an attorney of record, but not by a party to the action.
- (b) **Sheriff.** All process requiring execution other than delivery, mailing, or publication shall be executed by the sheriff of the county where execution takes place, unless the court orders otherwise.
- (c) **Elisor.** [pertains to appointment of elisor to serve process in an action where sheriff is a party of interest or otherwise disqualified from serving or executing process]

RULE 2-124. Process – Persons to be Served

- (a) **Individual.** Service is made upon an individual by serving the individual or agent authorized by appointment or by law to receive service of process...
- (b) **Corporation.** Service is made upon a corporation ... by serving its resident agent, president, secretary, or treasurer. [if good faith effort to serve them has failed], service may be made by serving the manager, any director, vice president, assistant secretary, assistant treasurer, or other person expressly or impliedly authorized to receive service of process.

Rule 2-125 Service on Sundays and Holidays

Process may be served on a Sunday or holiday, except that a writ of distraint or eviction or possession shall not be served on Sunday. (effective Jan 1, 1997)

Rule 2-126. Process – Return

- (a) **Service by Delivery or Mail.** An individual making service of process by delivery or mailing shall file proof of service with the court promptly and in any event within the time during which the person served must respond to the process. The proof shall set out the name of the person served, the date, and the particular place and manner of service. If service is by certified mail, the proof shall include the original return receipt. If service is made by an individual other than a sheriff, the individual shall file proof under affidavit which shall also state that affiant is age 18 or over.
- (b) **Service by Publication or Posting....**
- (c) **Other Process....**
- (d) **Service Not Made.** An individual unable to make service of process in accordance with these rules shall file a return as soon thereafter as practicable and in no event later than 10 days following the termination of the validity of the process.
- (e) **Return to Include Process.** A return shall include a copy of the process if served and the original process if not served.
- (f) **Place of Return....**
- (g) **Effect of Failure to Make Proof of Service.** Failure to make proof of service does not affect the validity of the service.

RULES OF CIVIL PROCEDURE--District Court

Rule 3-121. Process - Service – In Personam

Rule 3-124. Process - Persons to be Served

Rule 3-125: Process – Service on Sundays and Holidays

Rule 3-126. Process - Return

[The above referenced civil procedure rules for District Court are substantially the same as the civil rules printed here for Circuit Court.]



MARYLAND ANNOTATED CODE
Courts and Judicial Proceedings

Section 6-302. Service on Sunday or Holiday

- (a) **When permitted.** The process of a court or administrative office or agency of the State or local government may be served on a Sunday or holiday.
- (b) **Service of certain writs on Sunday prohibited.** A writ of distraint, or for eviction or possession may not be served on Sunday.

Section 6-303. Where Service Resisted

- (a) **Substitute service authorized.** If a person resists service of civil process by threats, violence, or superior force, or by preventing the officer serving the process from entering the premises so that the officer cannot serve the process without force or personal risk, the officer shall leave a copy of the process:
 - (1) With a responsible person at the premises; or if that is not possible
 - (2) Posted as near the premises as practicable.
- (b) **Effect of substitute service.** Service under this section is as effective as actual personal service.

Section 6-305. When witness or party may not be served

- (a) **Action within State.** – A nonresident person who is within the State for the purpose of testifying in or prosecuting or defending an action may not be served with process.
- (b) **Person passing through State.** – A nonresident person passing through this State to or from another state in response to a summons to testify may not be served with process...

Section 6-311

[requires an insurance company to provide, upon written request of a party to the action, the defendant's last known home and business address if known]

Section 6-312

- (a) In this section, "person" has the meaning stated in Rule 1-202 of the Maryland Rules.
- (b) This section applies to a person who is a defendant subject to complaint, counterclaim, cross-claim, or third-party complaint.
- (c) **Service authorized; effectiveness; not exclusive-**
 - (1) Notwithstanding any other provision of law, a party may effect service by delivering a copy of the summons and the complaint to a defendant personally or by leaving copies of the summons and complaint at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion residing at the dwelling house or place of abode or by delivering a copy of the summons and the complaint to an agent authorized by appointment or law to receive service of process.
 - (2) Any service under this subsection is as effective as actual personal service.

- (3) The method of service provided in this subsection is in addition to and not exclusive of any other means of service that may be provided by statute or rule for obtaining jurisdiction of a defendant.
 - (d) This section does not affect any defense, including non-cooperation, available to an insurer or a person who has a self-insurance plan under the terms of the applicable insurance or self-insurance plan.
 - (e) A defendant who is subject to the provisions of this section is deemed to have consented to service of process as described in this section.
-



MASSACHUSETTS

State Capital: Boston

Population: 6.8 million

14 counties

RULES OF CIVIL PROCEDURE

Rule 4. Process

(c) **By Whom Served.** Except as otherwise permitted by paragraph (h) of this rule, service of all process shall be made by a sheriff, by his deputy, or by a special sheriff; by any other person duly authorized by law; by some person specially appointed by the court for that purpose; or in the case of service of process **outside the Commonwealth**, by an individual permitted to make service of process under the law of this Commonwealth or be under the law of the place in which the service is to made, or who is designated by a court of this Commonwealth. A subpoena may be served as provided in Rule 45. Notwithstanding the provisions of this paragraph (c), wherever in these rules service is permitted to be made by certified or registered mail, the mailing may be accomplished by the party or his attorney.

(d) **Personal Service Within the Commonwealth**

- (1) Upon an individual by delivering a copy of the summons...and complaint to him personally; or by leaving copies thereof at his last and usual place of abode; or by delivering a copy...to an agent authorized by appointment or by statute to receive service of process... If the person authorized to serve process makes return that after diligent search he can find neither the defendant, nor defendant's last and usual abode, nor any agent upon whom service may be made in compliance with this subsection, the court may on application of the plaintiff issue an order of notice in the manner and form prescribed by law.
- (2) Upon a domestic corporation (public or private) a foreign corporation..., or an unincorporated association: by delivering a copy of the summons and complaint to an officer, to a managing or general agent, or to the person in charge of the business at the principal place of business thereof within the Commonwealth, if any; or by delivering such copies to any other agent authorized by appointment or by law to receive service of process...

(e) **Personal Service Outside Commonwealth.** When any statute or law of the Commonwealth authorizes service outside the Commonwealth, the service shall be made by delivering a copy of the summons and of the complaint:

- (1) in any appropriate manner prescribed in subdivision (d) of this Rule; or
- (2) in the manner prescribed by the law of the place in which the service is made for service in that place in an action in any of its courts of general jurisdiction; or
- (3) by any form of mail addressed to the person to be served and requiring a signed receipt; or
- (4) as directed by the appropriate foreign authority in response to a letter rogatory; or
- (5) as directed by order of the court.

(f) **Return.** The person serving the process shall make proof of service thereof in writing to the court promptly and in any event within the time during which the person served must respond to the process. If service is made by a person other than a sheriff...he shall make affidavit thereof. Proof of service outside the Commonwealth may be made by affidavit of the individual who made the service or in the manner prescribed by the law of the Commonwealth, or the law of the place in which the service is made for proof of service in any action in any of its courts of general jurisdiction. When service is made by mail, proof of service shall include a receipt signed by the addressee... Failure to make proof of service does not affect the validity of the service.

(g) **Amendment.** At any time in its discretion and upon such terms as it deems just, the court may allow any process or proof of service thereof to be amended., unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process is issued.

(j) **Time Limit for Service.** If a service of the summons and complaint is not made upon a defendant within 90 days after the filing of the complaint and the party on whose behalf such service was required cannot show good cause why such service was not made within that period, the action shall be dismissed as to that defendant without prejudice upon the court's own initiative...or upon motion.

MASSACHUSETTS GENERAL LAW

Chapter 136-8 [prohibits service of process on Sunday]

Chapter 136-13 [sets forth specific holidays on which service of process is permissible]

MICHIGAN

State Capital: Lansing
Population: 9.9 million - 83 counties

NAPPS Chartered State Association
*Michigan Court Officer, Deputy Sheriff &
Process Servers Association (MCODSA)*
President: Tim Sutherland – (586) 939-0880

For membership info contact:
MCODSA Admin. Office – (800) 99-CIVIL
E-mail: president@mcodsa.com

MICHIGAN COURT RULES Chapter 2. CIVIL PROCEDURE

RULE 2.103 PROCESS--WHO MAY SERVE

- (A) **Service Generally.** Process in civil actions may be served by any legally competent adult who is not a party or an officer of a corporate party.
- (B) **Service Requiring Seizure of Property.** A writ of restitution or process requiring the seizure or attachment of property may only be served by
- (1) a sheriff or deputy sheriff, or a bailiff or court officer appointed ... for that purpose,
 - (2) an officer of the Dept. of State Police, or
 - (3) a police officer of an incorporated city...

A writ of garnishment may be served by any person authorized by subrule (A).

RULE 2.104 PROCESS--PROOF OF SERVICE

- (A) **Requirements.** Proof of service may be made
- (1) by written acknowledgment of the receipt of a summons ... by the person to whom the service is directed...
 - (2) a certificate stating the facts of service, including the manner, time, date, and place of service, if service is made within the State of Michigan by
 - (a) a sheriff,
 - (b) a deputy sheriff or bailiff...
 - (c) an appointed court officer,
 - (d) an attorney for a party; or
 - (3) an affidavit stating the facts of service, including the manner, time, date, and place of service, and indicating the process server's official capacity, if any.

The place of service must be described by giving the address where the service was made or, if the service was not made at a particular address, by another description of location.

- (B) **Failure to File.** Failure to file proof of service does not affect the validity of the service.

RULE 2.105 PROCESS—MANNER OF SERVICE

- (A) **Individuals.** Process may be served on a resident or nonresident individual by,
- (1) delivering a summons and a copy of the complaint to the defendant personally; or

- (2) sending a summons ... by registered or certified mail, return receipt requested, and delivery restricted to the addressee. Service is made when the defendant acknowledges receipt of the mail...

(B) **Individuals; Substituted Service.**

- (1) on a nonresident individual, by
 - (a) serving a copy of the summons ... in Michigan on an agent, employee, representative, sales representative, or servant of the defendant, and
 - (b) sending a summons and copy of the complaint by registered mail addressed to defendant at his or her last known address;

(D) **Corporations—Domestic and Foreign**

- (1) by serving a summons and ... complaint on an officer or the resident agent;
- (2) by serving ... on a director, trustee, or person in charge of an office or business establishment of the corporation and sending a summons and a copy of the complaint by registered mail, addressed to the principal office of the corporation;
- (3) by serving ... on the last presiding officer, president, cashier, secretary, or treasurer of a corporation that has ceased to do business by failing to keep up its organization by the appointment of officers ... or whose term of existence has expired;

Case Notes

☞ As a matter of public policy, courts want to avoid overuse of substitute service and default judgment it can cause. Sechler v. Van Hoey (1978) 83 Mich. App. 252, 268 N.W.2d 364

☞ A truly diligent search for an absentee defendant is absolutely necessary to supply a fair foundation for and legitimacy to ordering of substituted service. Kreuger v. Williams (Mich.1981) 300 N.W.2d 910, appeal dismissed 101 S.Ct. 3102, 452 U.S. 956

MICHIGAN COMPILED LAWS

600.1831 Civil process—exemptions

- (1) Civil process shall not be served on any elector entitled to vote at any election during the day that election is held; but upon sufficient cause being shown by affidavit ... a judge in any circuit ... may ... authorize the issuance and service or execution of any writ on any election day, as on other days.
- (2) Civil process shall not be served or executed on a person attending a worship meeting of a religious organization that has tax exempt status under section 501(c)(3) of the internal revenue code, 26 USC 501, on property where the organization normally conducts its worship, or going to or coming from such a meeting within 500 feet of that property. A judge may order service or execution of process notwithstanding this subsection if, to the judge's satisfaction, sufficient cause is shown by affidavit.



Civil process—privileged persons

[Exempts service on persons going to, attending, or returning from any court proceeding, and members of legislature while legislature in session.]

MICHIGAN PENAL CODE

750.479 Resisting or obstructing officer in discharge of duty; penalty.

Any person who shall knowingly and willfully obstruct, resist or oppose any sheriff, coroner, township treasurer, **constable or any other officer or person duly authorized**, in serving, or attempting to serve or execute any process, rule or order made or issued by lawful authority ... or who shall assault, beat or wound any ... constable or other officer duly authorized, while serving, or attempting to serve or execute any such process, rule or order, or for having served, or attempted to serve or execute the same ... shall be guilty of a misdemeanor, punishable by imprisonment in the state prison not more than 2 years, or by a fine of not more than 1,000 dollars.



MINNESOTA

State Capital: St. Paul
Population: 5.5 million
87 counties

MINNESOTA

RULES OF CIVIL PROCEDURE

RULE 4.02. By Whom Served

Unless otherwise ordered by the court, the sheriff or or any other person not less than 18 years of age and not a party to the action, may make service of a summons or other process.

RULE 4.03 Personal Service

Service of summons within the state shall be...

- (a) **Upon an Individual.** ... by delivering a copy to the individual personally or by leaving a copy at the individual's usual place of abode with some person of suitable age and discretion then residing therein.
- (b) **Upon a Corporation.** ... by delivering a copy to an officer or managing agent, or to any other agent authorized expressly or impliedly or designated by statute to receive service of summons, and if the agent is one authorized or designated under statute to receive service any statutory provision for the manner of such service shall be complied with...

RULE 4.04 Personal Service Out of State

- (b) **Personal Service Outside State.** Personal service of such summons outside the state, proved by the affidavit of the person making the same sworn to before a person authorized to administer an oath, shall have the same effect as the published notice provided for herein.
- (c) **Service Outside United States.** Unless otherwise provided by law, service upon an individual ... may be effected in a place not within the state:
 - (1) by any internationally agreed means reasonably calculated to give notice, such as those means authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents; or
 - (2) if there is not internationally agreed means of service or the applicable international agreement allows other means of service, provided that service is reasonably calculated to give notice:
 - (A) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or
 - (B) as directed by the foreign authority in response to a letter rogatory or letter of request; or
 - (C) unless prohibited by the law of the foreign country, by
 - (i) delivery to the individual personally of a copy of the summons and complaint; or
 - (ii) any form of mail requiring a signed receipt, to be addressed and dispatched by the court administrator to the party to be served; or

- (3) by other means not prohibited by international agreement as may be directed by the court.

Advisory Committee Comments

—1996 Amendments—

Rule 4.04 is amended to conform the rule to its federal counterpart, in part. The new provision adopts verbatim the provisions for service of process outside the United States contained in the federal rules. This modification is appropriate because this subject is handled well by the federal rule and because it is advantageous to have the two rules similar. This is particularly valuable given the dearth of state-court authority on foreign service of process. Existing portions of the rule are renumbered for clarity.

RULE 4.05 Service By Mail

In any action service may be made by mailing a copy of the summons and of the complaint (by first- class mail, postage prepaid) to the person to be served, together with two copies of a notice and acknowledgment conforming substantially to Form 22 and a return envelope, postage prepaid, addressed to the sender. If acknowledgment of service under this rule is not received by the sender within the time defendant is required by these rules to serve an answer, service shall be ineffectual.

RULE 4.06 Return

Service of summons and other process shall be proved by the certificate of the sheriff making it, by the affidavit of any other person making it, by the written admission or acknowledgment of the party served, or if served by publication, by the affidavit of the printer... The proof of service in all cases other than by published notice shall state the time, place, and manner of service. Failure to make proof of service shall not affect the validity of the service.

MINNESOTA STATUTES

§ 645.44 (5) -- [prohibits service on holidays]

MISSISSIPPI

State Capital: Jackson

Population: 3 million

82 counties

MISSISSIPPI

RULES OF CIVIL PROCEDURE

RULE 4. SUMMONS

(c) Service

- (1) *By Process Server.* A summons and complaint shall ... be served by any person who is not a party and is not less than 18 years of age. When a summons and complaint are served by process server, an amount not exceeding that statutorily allowed to the sheriff for service of process may be taxed as recoverable costs in the action.
- (2) *By Sheriff.* ... The sheriff shall mark on all summons the date of the receipt by him, and within 30 days of that date the sheriff shall return the same to the clerk of the court from which it was issued.
- (3) *By Mail.* [by sending first-class mail two copies of notice and acknowledgment]
- (5) *Service by Certified Mail on Person Outside State.* [describes an additional method of service on a person outside this state, i.e. by certified mail, return receipt requested, restricted delivery]...

(d) Person to be Served. Service by sheriff or process server shall be made as follows:

- (1) Upon an individual ... (A) by delivering a copy of the summons and complaint to him personally ...; or (B) if service under subparagraph (1) (A) cannot be made with reasonable diligence, by leaving a copy ... at the defendant's usual place of abode with the defendant's spouse or some other person of the defendant's family above the age of 16 years who is willing to receive service, and [by thereafter sending a copy by first class mail to the defendant at the service address]. Service ... is deemed complete on the 10th day after mailing.
- (2) Upon a domestic or foreign corporation ... by delivering a copy ... to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

(f) Return. The person serving the process shall make proof of service thereon to the court promptly and in any event within the time during which the person must respond to the process. If service is made by a person other than a sheriff, such person shall make affidavit thereof...

MISSOURI

State Capital: Jefferson City
Population: 6 million
114 counties

MISSOURI

RULES OF CIVIL PROCEDURE

RULE 54.01 Clerk to Issue Process

Upon the filing of a pleading requiring service of process, the clerk shall forthwith issue the required summons or other process and , unless otherwise provided, deliver it for service to the sheriff **or other person specially appointed** to serve it. If requested in writing by the party whose pleading requires service of process, the clerk shall deliver the summons or other process to such party who shall then be responsible for promptly serving it with a copy of the pleading. Upon written request of such party, separate or additional summons and other process shall be issued.

RULE 54.13 Personal Service Within the State

- (a) **By Whom Made.** Service of process within the state, except as otherwise provided by law, shall be made by the sheriff or a person over the age of 18 years who is not a party to the action.
- (b) **How and on Whom Made.** Personal service within the state shall be made as follows:
 - (1) *On Individual.* Upon an individual including an infant or incompetent person not having a legally appointed guardian, by delivering a copy of the summons and petition personally to the individual or by leaving a copy ... at the individual's dwelling house or usual place of abode with some person of the individual's family over the age of 15 years...
 - (2) *On Corporation...* by delivering a copy ... to an officer, partner, or managing or general agent, or by leaving the copies at any business office of the defendant with the person having charge thereof or ... to its registered agent or to any other agent authorized ... to receive service of process.

RULE 54.14 Personal Service Outside the State

- (a) **By Whom Made.**
 - (1) By a person authorized by law to serve process in civil actions within the state or territory where such service is made, or by the deputy of a person so authorized;
 - (2) By a person appointed by the court in which the action is pending
- (b) **Upon Whom.** The service of process shall be made as provided in Rule 54.13(b).
- (c) **Acknowledgment.** Acknowledgment of service by mail may be made as provided in Rule 54.16.

RULE 54.16 Acknowledgment of Service by Mail

[describes service upon a resident or nonresident of any class by mailing first class mail a copy of summons and petition together with 2 copies of notice and acknowledgment]. Unless good cause is shown for not doing so, the court shall order the payment of costs of service on the person served if such person does not complete and return within 30 days after mailing, the notice and acknowledgment of receipt of summons.

RULE 54.20 Proof of Service

(a) Within the State.

- (1) Every officer to whom summons delivered for service within the state shall make return in writing as to the time, place and manner of service of such writ and shall sign such return.
- (2) If service ... is made by a person other than an officer such person shall make affidavit as to the time, place and manner of service thereof.

(b) Outside the State.

- (1) Every officer [serving process out of state] shall make affidavit before the clerk or judge of the court of which affiant is an officer or other person authorized to administer oaths in such state stating the time, place and manner of service, the official character of the affiant, and the affiant's authority to serve process in civil actions within the state or territory where such service was made. The court may consider the affidavit or any other evidence in determining whether service has been properly made.
 - (2) If service is made by a person appointed by the court in which the action is pending such person shall file an affidavit stating the time, place and manner of service. The court may consider the affidavit or any other evidence in determining whether service has been properly made.
- (f) **Refusal to Receive Service.** When the person to be served or an agent authorized to accept service for the person to be served, either within or outside the state, shall refuse to receive copies... these facts [the server's offer to deliver and the refusal] when shown on the server's return, shall constitute proof of service. When service is made by mail pursuant to Rule 54.12, a notation [by the Postal Service that the certified mail has been refused] shall constitute proof of service.

RULE 54.21 Time For Service and Return

The officer or other person receiving a summons shall serve the same and make return of service promptly. If the process cannot be served it shall be returned to the court within 30 days after the date of issue with a statement of the reason for the failure to serve the same; provided, however, that the time for service may be extended up to 90 days from the date of issue by order of the court.

RULE 54.22 [amendment of proof of service]

[proof may be amended in court's discretion]



RULE 57.09 Subpoena for Taking Deposition

(a) For Attendance of Witnesses...

(b) For Production of Documentary Evidence...

- (c) Service.** A subpoena may be served by the sheriff, by a sheriff's deputy, or by any other person who is not a party and is not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person and by tendering to that person the fees and mileage the witness would have been entitled to receive for attending court pursuant to subpoena.

MISSOURI REVISED STATUTES

Chapter 506—Commencement of Actions and General Provisions

506.120 Upon the filing of the petition, the clerk shall forthwith issue the required summons ... and deliver it for service to the sheriff **or to a person specially appointed** to serve it...

506.140 2. A party may file an application to the court requesting that any fees paid to a **special process server** be awarded in any judgment entered in the action. The court may enter judgment in the reasonable amount of such fees.

506.145 Any person authorized to issue or serve process is authorized to carry a concealed firearm, the provisions of any other law to the contrary notwithstanding.

Chapter 575—Offenses Against the Administration of Justice

575.160 Interference with legal process

1. A person commits the crime of interference with legal process if, knowing any person is authorized by law to serve process, for the purpose of preventing such person from effecting the service of any process, he interferes with or obstructs such person.
2. "Process" includes any writ, summons, subpoena, warrant or other than an arrest warrant, or other process or order of the court.
3. Interference with legal process is a class B misdemeanor.

575.170 Refusing to make an employee available for service of process.

1. Any employer, or any agent who is in charge of a business establishment, commits the crime of refusing to make an employee available for service of process if he knowingly refuses to assist **any officer authorized by law** to serve process who calls at such business establishment during the working hours of an employee for the purpose of serving process on such employee, by failing or refusing to make such employee available for service of process.

2. Refusing to make an employee available for service of process is a Class C misdemeanor.

CITY OF ST. LOUIS

22nd Judicial Circuit Court

The City of St. Louis is a Missouri county unto itself that has its own courts and judges. Effective January 2, 1979, all courts of limited jurisdiction were absorbed into the circuit court system. The 22nd circuit court now has 31 divisions and its judges hear all civil, criminal, family, juvenile and probate cases.

A local rule of court, adopted September 19, 1994, by the 22nd Judicial Circuit Court, requires that all persons wanting to serve process issued out of the 22nd Judicial Circuit Court must take and pass a training course (5 nights of classroom instruction with written examination) administered by the Sheriff of the City of St. Louis, for which there is a non-refundable \$300 fee.

Applicants must be 21 years of age, have a high school diploma or GED and no criminal record, and must have insurance coverage for liability and errors and omissions of at least \$100,000. The policy is required to contain a clause that the Sheriff's Department is to be notified of any cancellation of coverage. Failure to have a valid policy of insurance will cause the process server's license to be revoked. Licenses are renewed every two years.

It is estimated there are approximately 125 licensed process servers in the City of St. Louis.



MONTANA
State Capital: Helena
Population: 1 million
56 counties

MONTANA
RULES OF CIVIL PROCEDURE

RULE 4D. Service

(1) By whom served.

- (a) Service of all process shall be made in the county where the party to be served is found by a sheriff, deputy sheriff, constable, or any other person over the age of 18 and not a party to the action.
- (b) [by sending first class mail a copy of summons and complaint with 2 copies of notice and acknowledgment]

(2) Personal service within the state.

- (a) Upon an individual ... by delivering a copy to the individual personally ... or to an agent authorized by appointment or by law to receive service of process...
- (b) Upon a corporation ... (i) by delivering a copy to an officer, director, superintendent or managing or general agent, or partner, or associate...; or by leaving copies at the office or place of business of the corporation ... within the state with the person in charge at such office; or ...

(3) Personal service outside the state. Where service upon any person cannot, with due diligence, be made personally within the state, service ... may be made outside this state in the manner provided for service within this state, with the same force and effect as though service had been made within this state...

(8) Proof of service. Proof of the service of the summons and complaint... must be as follows:

- (a) If served by the sheriff or other officer, the sheriff's or other officer's certificate thereof
- (b) If by any other person, that person's affidavit

MONTANA CODE ANNOTATED 2000

25-1-1101. Registered Process Server—levying officer.

- (1) Any person who makes more than 10 services of process, as defined in 25-3-101, within this state during 1 calendar year shall file a verified certificate of registration as a process server with the clerk of the district court of the county in which he resides or has his principal place of business.
- (2) This part does not apply to:
 - (a) a sheriff, constable, coroner, elisor, or other government employee who is acting in the course of his employment; or
 - (b) a licensed attorney.
- (3) A registered process server may act as a levying officer under Title 25, chapter 13.

25-1-1102. Contents of registration certificate. The certificate of registration of a process server must contain the following statements:

- (1) the name, age, address and telephone number of the registrant;
- (2) that the registrant has not been convicted of a felony;
- (3) that the registrant has been a resident of the state for a period of 1 year immediately preceding the filing of the certificate; and
- (4) that the registrant will perform his duties as a process server in compliance with the provisions of law governing the service of process in this state.

25-1-1103. Fee—duration of certificate.

- (1) A certificate of registration as a process server must be accompanied by a fee of \$100 at the time the certificate is filed...
- (2) A certificate of registration is effective for a period of 2 years from the date of filing. A new certificate must be filed upon expiration of a certificate and a new registration fee must accompany the new certificate.

25-1-1104. Handbook for process servers.

- (1) The department of commerce shall publish a handbook for process servers and levying officers.
- (2) Each person who applies to the clerk of the district court of any county for registration as a process server must demonstrate that he has passed an examination based on the handbook and administered by the board of private security patrol officers and investigators provided for in 2-15-1891.
- (3) The department of commerce may charge a reasonable examination fee to cover the costs of publishing the handbook and administering the examination provided for in this section.

25-1-1105. List of process servers—identification.

- (1) The clerk of the district court shall maintain a list of all process servers registered in the county. The clerk of the district court shall assign a number to each registered process server. Upon renewal of a certificate of registration, the same number may be reassigned.
- (2) During the course of serving process or acting as a levying officer, a registered process server must have in his possession an identification card with the number assigned under subsection (1) and a photograph of the registered process server. The clerk of the district court shall furnish the identification card, the cost of which must be reimbursed by the process server.

25-1-1106. Revocation or suspension of certificate.

- (1) A certificate of registration of a registered process server may be revoked or suspended by the county attorney of the county of registration whenever the registrant makes a service of process not complying with the law.
- (2) The county attorney may conduct an investigation concerning the revocation or suspension of a certificate based on the complaint of a person alleging injury caused by improper service of process by the registrant.
- (3) The county attorney shall notify the clerk of the district court when a certificate of registration is suspended, revoked, or reinstated.

25-1-1107. Proof of service—requirements. A proof of service of process signed by a registered process server must indicate the county in which he is registered and the number assigned to him under 25-1-1105.



25-1-1112. Action on bond.

- (1) Any person who recovers damages for an injury caused by a service of process, made by a registered process server, that did not comply with the law governing service of process in this state may recover the amount of damages from the bond required under 25-1-1111.
- (2) If there has been recovery against a registered process server's bond, the registrant must file a new bond within 30 days or reinstate the bond. If the bond has not been reinstated or filed within 30 days, the county attorney must revoke the registrant's certificate.

25-3-105. Person serving process—penalty for obstruction. A process server registered under chapter 1, part 11, a licensed attorney, or a sheriff, constable, coroner, elisor, or other government employee who is acting in the course of the person's employment while serving process is a public servant for the purpose of determining the offense of obstructing a public servant as provided in 45-7-302. A person who obstructs a person serving process is guilty of obstruction of a public servant and is punishable as provided in 45-7-302.

25-3-301. Time and manner of return.

- (1) It shall be the duty of the sheriff or other person serving a summons or other process or order ... issued out of the district courts of this state, to make due and legal return of such service and file the same with the clerk of the court in which such action ... is pending not more than 10 days after the making of such service where the same was made in the county in which such action ... is pending and not more than 15 days after the making of such service when the same was made outside of the county in which such action ... is pending. Any failure to make and file such return as required may be punished as a contempt of court.
- (2) When process ... is returnable to another county or was forwarded under 25-3-201, the sheriff or registered process server may enclose his return of such process ... in an envelope addressed to the officer who sent it and deposit it in the post office, prepaying postage.

25-3-302. Return prima facie evidence. The return of the sheriff or registered process server upon process ... is prima facie evidence of the facts in such return stated.

NEBRASKA

State Capital: Lincoln
Population: 1.9 million
93 counties

NEBRASKA REVISED STATUTES COURTS; CIVIL PROCEDURE

25-505.01. Service of Summons; Methods

- (1) Unless otherwise limited by statute or by the court, a plaintiff may elect to have service made by any of the following methods:
 - (a) Personal service....
 - (b) Residence service ... by leaving summons at the usual place of residence of the individual to be served, with some person of suitable age and discretion residing therein;
 - (c) Certified mail service...

25-506.01 Process; By Whom Served

- (1) Unless the plaintiff has elected service by certified mail, the summons shall be served by the sheriff of the county where service is made, by a person otherwise authorized by law, or by a person, corporation, partnership, or limited liability company not a party to the action specially appointed by the court for that purpose.
- (2) Service by certified mail shall be made by plaintiff or plaintiff's attorney.

25-507 Process Server; Requirements; Bond; Cost.

- (1) In any county which does not have a person contracted as a constable pursuant to section 25-2229, any person 21 years of age or older or a corporation, partnership, or limited liability company that satisfies the requirements of subsection (2) of this section shall have the same power as a sheriff to execute any service of process or order.
- (2) [must furnish surety bond of \$15,000 conditioned upon person/entity performing duties of process server]
- (3) Evidence of the .. bond shall be provided to clerk of each court in which such person or entity executes service of process... Proof of service shall be shown by an affidavit.
- (4) [cost of service is taxable as a court cost in the actual amount incurred or the statutory fee set for sheriffs, whichever is less]

[Laws 1999: Effective date: August 28, 1999]

25-507.01 Proof of Service; Return Date

- (1) Within 20 days after the date of issue, the person serving the summons, other than by certified mail, shall make proof of service to the court stating the time, place, including the address if applicable, name of the person with whom the process was left, and method of service, or return the unserved summons to the court with a statement of the reason for the failure to serve.

25-508.01 Service on Individual

- (1) An individual party, other than a person under 14 years of age, may be served by personal, residence, or certified mail service.
- (2) A person under the age of 14 years...
- (3) If the person to be served is incapacitated...

25-509.01 Service on Corporation

A corporation may be served by personal, residence, or certified mail service upon any officer, director, managing agent, or registered agent, or by leaving the process at the corporation's registered office with a person employed therein, or by certified mail service to the corporation's registered office.

25-540. Service Outside State

- (1) When the law of this state authorizes service outside this state, the service, when reasonably calculated to give actual notice, may be made:
 - (a) In the manner prescribed for service within this state;
 - (b) In the manner prescribed by the law of the place in which the service is made for service in that place in an action in any of its courts of general jurisdiction;
 - (c) As directed by the foreign authority in response to a letter rogatory; or
 - (d) As directed by the court.
- (2) Proof of service outside this state may be made by affidavit of the individual who made the service in the manner prescribed by the law of this state, the order pursuant to which the service is made, or the law of the place in which the service is made for proof of service in an action in any of its courts of general jurisdiction.

25-2203 Process; special process server; return; appointed on motion; fees.

The court or judge, for good cause, may appoint a person, corporation, partnership, or limited liability company to serve a particular process or order which person or entity shall have the same power to execute it which the sheriff has. The person or entity may be appointed on the motion of the party obtaining the process or order, and the return must be verified by affidavit. Such appointment may be made in the form of a general order of the court for the purpose of service of process or orders which may be sought by the movant. The person or entity shall be entitled to the fees allowed to the sheriff for similar services.

25-2229. Constables; contacts authorized.

- (1) In counties having a population of 100,000 or more inhabitants, each judge of the county court may contract with one constable for purposes of serving ... writs or other legal process. Such constables shall not be considered employees of the state or its political subdivisions. The terms of the contract shall be prescribed by the State Court Administrator.
- (2) In counties having more than one contracted constable, the party requesting the constable to serve ... legal process may designate by name the constable who shall serve ... such legal process.

[Laws 1999: Effective date: August 28, 1999]



NEVADA

State Capital: Carson City
Population: 2.9 million
17 counties

RULES OF CIVIL PROCEDURE FOR THE NEVADA DISTRICT COURTS

RULE 4. Process

- (c) **By whom served.** Process shall be served by the sheriff of the county where the defendant is found ...or by any citizen of the United States over the age of 18 years of age, except that a subpoena may be served as provided in Rule 45; where the service of process is made outside of the United States, after an order of publication, it may be served either by any citizen of the United States over 18 years of age or by any resident of the country, territory, colony or province, who is over 18 years of age.
- (d) **Personal service.** ... Service shall be made by delivering a copy of the summons attached to a copy of the complaint as follows:
- (1) If against a corporation formed under the laws of this state; to the president or other head of the corporation, secretary, cashier, managing agent, or resident agent...
 - (2) If the suit is against a foreign corporation, or a nonresident partnership ... to [its] agent, cashier, or secretary or to an agent designated for service of process as required by law...
 - (6) In all other cases to the defendant person-ally, or by leaving copies thereof at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by delivering a copy ... to an agent authorized by appointment or by law to receive service.
- (e) **Other service.**
- (2) **PERSONAL SERVICE OUTSIDE THE STATE.** Personal service ... upon a party outside this state may be made by delivering a copy ... to the party served in the manner provided by statute or rule of court for service upon a party of like kind within this state. This method of service may be used only where the party being served has submitted to the jurisdiction of the courts of this state as provided by NRS 14.065. The methods of service are cumulative, and may be utilized with, after, or independently of, other methods of service.

(g) **Return.** The person serving the process shall make proof of service to the court promptly and in any event within the time during which the person served must respond to the process. Proof of service shall be as follows:

- (1) If served by the sheriff or his deputy, the affidavit or certificate of such sheriff...; or
- (2) If by any other person, his **affidavit** ...; or
- (3) In case of publication ...; or
- (4) The written admission of the defendant.

The certificate or affidavit shall state the date, place and manner of service. Failure to make proof of service shall not affect the validity of the service.

NEVADA REVISED STATUTES

§ 14.090. Service of process at residence accessible only through gate.

1. A person who resides at a location to which access is not reasonably available except through a gate may be lawfully served with any legal process in the manner provided in this section. If there is:
 - (a) A guard posted at the gate and the guard denies access to the residence for service of process, service of process is effective upon leaving a copy thereof with the guard.
 - (b) No guard posted at the gate and entry through the gate is not reasonably available, the court may, if it is satisfied by affidavit that those facts are true, allow service ... by mailing a copy to the residence or by certified ... mail.
2. The manner of service authorized by this section is supplemental to and does not affect the validity of any other manner of service...

§ 648.100 – 648.110 [These sections specify qualifications for obtaining a process server's license, which is required of all persons who serve in Nevada. Licenses are issued by the Nevada Private Investigator's Licensing Board. Applicants are required to be over 21, have 2 years experience as a process server, have liability insurance and must pass a written examination—and may be required to pass an oral examination. Applicants must pay \$750 deposit for background investigation at time of making application. The applicant is responsible for the full cost of the investigation up to a maximum of \$1,500. Licenses are renewed annually on July 1 upon payment of a renewal fee.]

NEW HAMPSHIRE
State Capital: Concord
Population: 1.3 million
10 counties

NEW HAMPSHIRE STATUTES

[Comment: New Hampshire's laws pertaining to the service of process are somewhat confusing and diverse. While private process servers may serve subpoenas, we could not locate a specific reference granting private process servers the authority to serve original process.]

CHAPTER 104 – SHERIFFS AND CONSTABLES

104.4 Special Deputy.

A sheriff may appoint a special deputy for the service and return of any process, by warrant indorsed thereon, in the manner heretofore practised.

104:5 Duties.

He shall, by himself or his deputies, serve and execute all writs and other precepts to him directed, issuing from lawful authority; and shall perform the duties of crier of the court.

104:6 Powers.

Sheriffs and their deputies shall have throughout the state the same power and authority to serve criminal or civil processes, investigate crimes and to pursue and apprehend criminals that they have in their respective counties.

104:9 Constables.

Constables shall serve and return writs and other civil precepts to them directed wherein the amount demanded in damages does not exceed \$75, and no others, and shall have similar powers and be subject to similar liabilities in relation thereto as sheriffs.

104:12 Requiring Aid.

An officer having authority to serve process or make an arrest may require suitable aid in the execution of his office. Any person who neglects or refuses to give such aid when so required shall be fined not more than \$20.

CHAPTER 510 – SERVICE OF WRITS

510:1 Time; Where Returnable.

All original writs and writs of mesne process shall be served 14 days before the return day to which they are returnable, and shall be returnable to the superior court for [specific county courts enumerated].

510:2 Manner.

All writs and other processes shall be served by giving to the defendant or leaving at his abode an attested copy thereof, except in cases otherwise provided for.

510:2-a Contents of Writs and Processes.

All writs ... shall at the time that they are served upon the defendant indicate on such writ ... the time, place and mode of service made upon the defendant.... Such information shall be place upon the writ by the sheriff, deputy sheriff, or other person authorized by law who has made such service.

510:4 Nonresident Defendant

[provides that service upon nonresidents who are subject to the jurisdiction of the state may be served by paying a \$10 fee and leaving process with the Secretary of State, who will perform service by sending writ by registered mail to last known abode or place of business of defendant in the state or country in which the defendant resides.]

NEW JERSEY

State Capital: Trenton
Population: 8.9 million
21 counties

NEW JERSEY CIVIL PRACTICE RULES RULE 4:4 PROCESS

RULE 4:4—3. By Whom Served

(a) **Generally.** Summonses and writs shall be served, together with a copy of the complaint, by the sheriff or by a person specially appointed by the court for that purpose, or by plaintiff's attorney or the attorney's agent, **or by any other competent adult not having a direct interest in the litigation.** If personal service cannot be effected after a reasonable and good faith attempt, which shall be described with specificity in the proof of service required by R. 4:4-7, service may be made by registered or certified mail, return receipt requested, to the usual place of abode of the defendant or a person authorized by rule of law to accept service for the defendant or, with postal instructions to deliver to addressee only, to defendant's place of business or employment. If the addressee refuses to claim or accept delivery of registered or certified mail, service may be made by ordinary mail addressed to the defendant's usual place of abode. The party making service may, at the party's option, make service simultaneously by registered or certified mail and ordinary mail, and if the addressee refuses to claim or accept delivery of registered mail and if the ordinary mailing is not returned, the simultaneous mailing shall constitute effective service. Mail may be addressed to a post office box in lieu of a street address only as provided by R. 1:5-2. Return of service shall be made as provided by R. 4:4-7.

(b) **Writs.** Unless the court otherwise orders, all writs and process to enforce a judgment or order shall be served by the sheriff.

[Comment: This rule, which became effective 9/5/00, contains the revised language as approved by the NJ Supreme Court. It authorizes private process servers to serve process without special appointment.]

RULE 4:4—4 Personal Service...

- (a) (1) ...by delivering a copy of the summons and complaint to the individual personally, or by leaving a copy at the individual's dwelling place or usual place of abode with a competent member of the household of the age of 14 or over then residing therein, or by delivering a copy to a person authorized ... to receive service of process on the individual's behalf;
- (6) Upon a corporation, by serving a copy in the manner prescribed by paragraph (a)(1) of this rule on any officer, director, trustee or managing or general agent, or any person authorized by appointment or by law to receive service ... on behalf of the corporation...

(b) ...Substituted or Constructive Service.

(1) *By Mail or Personal Service Outside State.* If it appears by affidavit ... that despite diligent effort and inquiry personal service cannot be made in accordance with paragraph (a) of this rule, ... in personam jurisdiction ... may be obtained as follows:

- (A) **personal service in a state of the U.S. or District of Columbia**, in the same manner as if service were made within this State, except that service shall be made by a *public official* having authority to serve civil process in the jurisdiction in which the service is made or by a *person qualified to practice law* in this State or in the jurisdiction in which service is made or by a *person specially appointed by the court for that purpose*; or
- (B) **personal service outside the territorial jurisdiction of the United States**, in accordance with any governing international treaty or convention to the extent required thereby, and if none, in the same manner as if service were made within the United States, except that service shall be made by a person specially appointed by the court for that purpose;

RULE 4:4—6. Acknowledgment of Service

A general appearance or an acceptance of the service of a summons, signed by the defendant's attorney or signed and acknowledged by the defendant (other than an infant or incompetent), shall have the same effect as if the defendant had been properly served.

RULE 4:4—7. Return

...If service is made by a person other than a sheriff.. of a county of this State, proof of service shall be by affidavit. Failure to make proof of service does not affect the validity of the service.

Additional Reference Source

The Professional Process Server's Guide to Service of Process in New Jersey, by John Perez, Esquire. This 100+ page book in 3-ring binder, written by a NAPPS member who is also a New Jersey lawyer, is an essential reference for anyone who serves process in New Jersey. The book is well organized and explains the New Jersey court system and relevant rules of procedure in great detail. Copies may be obtained by contacting Mr. Perez at (800) 981-0088.

NEW MEXICO

State Capital: Santa Fe
Population: 2 million
33 counties

RULES OF CIVIL PROCEDURE FOR THE DISTRICT COURTS

RULE 1-004. Process

- D. Summons—by whom served.** In civil actions any process may be served by the sheriff of the county where the defendant may be found, or by any other person who is over the age of 18 years and not a party to the action, except for writs of attachment, writs of replevin, and writs of habeas corpus, which shall be served by any person not a party to the action over the age of 18 years who may be especially designated by the court to perform such service, or by the sheriff of the county where the property or person may be found.
- E. Summons—service by mail.** [describes service by sending a copy of summons and complaint by first-class mail to person to be served together with 2 copies of notice and acknowledgment]
- F. Summons—how served.** Service shall be made as follows:
- (1) upon an individual by delivering a copy of the summons and complaint to him personally, or if the defendant refuses to receive such, by leaving same at the location where he has been found; and if the defendant refuses to receive copies or permit them to be left, such action shall constitute valid service. If the defendant be absent, serving may be made by delivering [the process] to some person residing at the usual place of abode of the defendant who is over the age of 15 years; and if there be no such person available or willing to accept delivery, then service may be made by posting such copies in the most public part of the defendant's premises, and by mailing to the defendant at his last known mailing address copies of the process;
 - (2) upon domestic or foreign corporation...
- G. Return.** The person serving the process shall make proof of service to the court promptly and in any event within the time during which the person served must respond to the process. When service is made ... by a person other than a sheriff, proof shall be made by affidavit.

NEW MEXICO STATUTES ANNOTATED

Chapter 30 – Criminal Offenses

30-22-1. Resisting, evading or obstructing an officer.

Resisting, evading or obstructing an officer consists of: knowingly obstructing, resisting or opposing any officer of this state or any other duly authorized person serving or attempting to serve or execute any process or any rule or order of any of the courts of this state or any other judicial writ or process.

NEW YORK
State Capital: Albany
Population: 19.8 million - 62 counties

NEW YORK
CIVIL PRACTICE LAW AND RULES

Rule 306. Proof of service

- (a) **Generally.** Proof of service shall specify the papers served, the person who was served and the date, time, address, or, in the event there is no address, place and manner of service, and set forth facts showing that the service was made by an authorized person and in an authorized manner.
- (b) **Personal service.** Whenever service is made ... by delivery of the summons to an individual, proof of service shall also include ... a description of the person to whom it was so delivered, including, but not limited to, sex, color of skin, hair color, approximate age, approximate weight and height, and other identifying features.
- (c) **Other service.** Where service is made pursuant to Sec. 308, subdivision 4, proof of service shall also specify the dates, addresses and the times of attempted service pursuant to Sec. 308, subdivision 1, 2 or 3.
- (d) **Form.** Proof of service shall be in the form of a certificate if the service is made by a sheriff ..., in the form of an affidavit if made by any other person, or in the form of a signed acknowledgement of receipt of summons and complaint ... as provided in Sec. 312-a of this article.
- (e) **Admission of service.** A writing admitting service by the person to be served is adequate proof of service.

§ 307. Personal service upon the state

§ 308. Personal service upon a natural person

Personal service upon a natural person shall be made by any of the following methods:

- 1. by delivering the summons within the state to the person to be served; or
- 2. by delivering the summons within the state to a person of suitable age and discretion at the actual place of business, dwelling place or usual place of abode of the person to be served and by either mailing the summons to the person to be served at his or her last known residence or by mailing ... by first class mail to ... his or her actual place of business in an envelope bearing the legend "*personal and confidential*" and not indicating on the outside thereof, by return address or otherwise, that the communication is from an attorney or concerns an action against the person to be served, such delivery and mailing to be effected within 20 days of each other; proof of service shall be filed with the clerk of the court designated in the summons within 20 days of either such delivery or mailing, whichever is later...

- 3. by delivering the summons within the state to the agent for service of the person to be served as designated under Rule 318...
- 4. where service under paragraphs 1 and 2 cannot be made with due diligence, by affixing the summons to the door of either the actual place of business, dwelling place or usual place of abode within the state of the person to be served and by either mailing the summons to such person at his or her last known residence or by mailing the summons by first class mail at his or her actual place of business in an envelope bearing the legend "*personal and confidential*" and not indicating on the outside thereof, by return address or otherwise, that the communication is from an attorney or concerns an action against the person to be served...
- 5. in such manner as the court, upon motion without notice, directs...
- 6. For purposes of this section, "actual place of business" shall include any location that the defendant, through regular solicitation or advertisement, has held out as its place of business.

§ 309. Personal service upon an infant, incompetent or conservatee.

§ 310. Personal service upon a partnership.

§ 311. Personal service upon a corporation or governmental subdivision.

Personal service upon a corporation or governmental subdivision shall be made by delivering the summons as follows:

- 1. upon any domestic or foreign corporation, to an officer, director, managing or general agent, or cashier or assistant cashier or to any other agent authorized by appointment or by law to receive service;
- 2. upon the City of New York...

§ 312. Personal service upon a court, board or commission.

§ 312-a. Personal service by mail.

§ 313. Service without the state giving personal jurisdiction.

A person domiciled in the state or subject to the jurisdiction of the courts of the state under section 301 or 302, or his executor or administrator, may be served with the summons without the state, in the same manner as service is made within the state, by any person authorized to make service within the state who is a resident of the state or by any person authorized to make service by the laws of the state, territory, possession or country in which service is made or by any duly qualified attorney, solicitor, barrister, or equivalent in such jurisdiction.

§ 314. Service without the state not giving personal jurisdiction in certain actions

Service may be made without the state by any person authorized by section 313 in the same manner as service is made within the state:

- 1. in a matrimonial action; or



2. where a judgment is demanded that the person to be served be excluded from a vested or contingent interest in or lien upon specific real or personal property within the state...

Rule 2103. Service of papers

- (a) **Who can serve.** Except where otherwise prescribed by law or order of court, papers may be served by any person not a party of the age of 18 years or over.
- (b) **Upon an attorney.**

Special Note: Process servers who serve in the 5 Boroughs of New York City are required to be licensed by the NYC Dept. of Consumer Affairs.

Title 6—Rules of the City of New York Subchapter W—Process Servers

§ 2.231 Definitions

§ 2.232 License Requirement Exceptions

§ 2.233 Records

- (a) *Duty of individual licensee to keep records.* Each process server shall keep records in compliance with the provisions of § 89-c of the General Business Law, as follows:
 - (1) Each process server shall maintain a legible record of all service made by him...
 - (2) The record to be maintained shall include the following information [enumerates title of action, name of person served, date and time service effected, address where served, nature of papers served, court and index number, if known].
 - (3) If service effected pursuant to subdivision 1, 2, or 3 of § 308 of the civil practice law and rules, the record shall also include the description of the person served, including but not limited to sex, color of skin, hair color, approximate age, height and weight and other identifying features.
 - (4) If service is effected pursuant to subdivision 4 of § 308 of the civil practice law and rules, the record shall also include the dates, addresses and time of attempted service pursuant to...
 - (5) If the process server files an affidavit of service with the court, his record shall include the date of such filing.
 - (6) Process servers shall retain each record ... for a period of 2 years from the date of service. Where a process server is employed as a process server by any person, a copy of such records shall also be maintained by such person at his principal office in this state...
- (b) *Licensees who serve process shall also include in their records the following:*
 - (1) If service is effected pursuant to CPLR 308(4) or RPAPL 735(1), a description of the area adjacent to the door to which process is affixed including the color and composition of hallway walls, color and composition of hallway floor or doorstep, and location of premises in relation to stairs, elevator or entranceway.
 - (2) [enumerates additional requirements pertaining to record keeping]

§ 2.234 Duty to Comply With Law

§ 2.235 Preparation of Affidavits of Service

§ 2.236 Duty to Report Hearings Contesting Service

§ 2.237 Wearing of Insignia Prohibited

§ 2.238 Use of Zip Codes

Title 20—Consumer Affairs

Subchapter 23—Process Servers

§ 20-403 License required

§ 20-404 Definitions

§ 20-405 Exceptions

§ 20-406 Application; fingerprinting

§ 20-407 Fee; term

§ 20-408 Rules and regulations

§ 20-409 Issuance, renewal, suspension and revocation of a license

GENERAL BUSINESS LAW

§ 11. Serving civil process on Sunday

All service or execution of legal process, of any kind whatsoever, on the first day of the week is prohibited, except in criminal proceedings or where service ... is specially authorized by statute. Service ... of any process upon said day except as herein permitted is absolutely void for any and every purpose whatsoever.

§ 13. Maliciously serving process on Saturday...

Whoever maliciously procures any process in a civil action to be served on Saturday, upon any person who keeps Saturday as holy time, and does not labor on that day, or serves upon him any process returnable on that day ... is guilty of a misdemeanor.

Administrative Order of the Chief Administrator of the Courts

Pursuant to the authority vested in me, and with the advice and consent of the Administrative Board of the Courts, I hereby amend, effective January 1, 1991, the Uniform Rules for the New York City Civil Court (22 NYCRR Part 208), by adding thereto a new section (NYCRR 208.29), in relation to traverse hearings, to read as follows.

208.29 Traverse hearings. Whenever the court has scheduled a hearing to determine whether process was served validly and timely upon a party, and where a process server will testify as to the service, the process server shall be required to bring to the hearing all records in the possession of the process server relating to the matter at issue. Where the process server is licensed, he or she also shall bring the license to the court. (Dated: December 5, 1990).



NORTH CAROLINA

State Capital: Raleigh

Population: 10 million

100 counties

General Statutes of North Carolina Chapter 1A. Rules of Civil Procedure

RULE 4. Process. Who May Serve

(a) ...The complaint and summons shall be delivered to some proper person for service. *In this state*, such proper person shall be the sheriff of the county where service is to be made or some other person duly authorized by law to serve summons. *Outside this state*, such proper person shall be anyone who is not a party and is not less than 21 years of age or anyone duly authorized to serve summons by the law of the place where service is to be made. ...

(c) **Return.** Personal service or substituted personal service of summons as prescribed by Rule 4 (j) (1) a and b must be made within 30 days after the date of the issuance of summons, except that in tax and assessment foreclosures...the time allowed for service is 60 days. When a summons has been served upon every party named in the summons, it shall be returned immediately to the clerk who issued it, with notation thereon of its service. Failure to make service within the time allowed or to return it to the clerk after it has been served...shall not invalidate the summons.

(h) **When proper officer not available.** If at any time there is not in a county a proper officer, capable of executing process, to whom summons or other process can be delivered for service ... the clerk of the issuing court, upon the facts being verified before him by written affidavit of the plaintiff or his agent or attorney, shall appoint some suitable person who.. shall execute such process in the same manner ... as if such person were a proper officer regularly serving process in that county.

(h1) **When process returned unexecuted.** If a proper officer returns a summons or other process unexecuted, the plaintiff or his agent or attorney may cause service to be made by anyone who is not less than 21 years of age, who is not a party to the action, and who is not related by blood or marriage to a party to the action or to a person upon whom service is to be made. This subsection shall not apply to executions pursuant to Article 28 of Chapter 1 or summary ejectment pursuant to Art. 3 of Chapter 42 of the General Statutes.

(j) **Manner of service.** ...The manner of service of process within or without the State shall be as follows:

(1) Natural Person. a) By delivering a copy of the summons and complaint to him or by leaving copies at the defendant's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein; or b) By delivering a copy... to an agent authorized by appointment or by law to be served or to accept service of process... c) By mailing a copy of the summons and complaint, registered or certified mail, return receipt requested, addressed to the party to be served, and delivering to the addressee.

(6) Domestic or Foreign Corporations. a) By delivering a copy...to an officer, director, or managing agent of the corporation or by leaving copies in the office of such officer, director, or managing agent with the person who is apparently in charge of the office; or b) By delivering a copy to an agent authorized by appointment or by law... c) By mailing a copy ... certified mail, return receipt requested, addressed to the officer, director or agent to be served as specified in paragraphs a and b.

(7)

(j3) **Service in a foreign country.** Where service is to be effected upon a party in a foreign country, in the alternative service of the summons and complaint may be made

(i) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or

(ii) as directed by foreign authority in response to a letter rogatory, when service in either case is reasonably calculated to give notice; or

(iii) upon an individual, by delivery to him personally, and upon a corporation or partnership or association, by delivery to an officer or a managing or general agent; or

(iv) by any form of mail, requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the party to be served; or

(v) as directed by order of the court. Service under (iii) or (v) may be made by any person authorized by section (a) of this rule or who is designated by order of the court or by the foreign court. On request, the clerk shall deliver the summons to the plaintiff for transmission to the person or the foreign court or officer who will make the service...

NORTH DAKOTA

State Capital: Bismarck

Population: 757,000

53 counties

NORTH DAKOTA

RULES OF CIVIL PROCEDURE

RULE 4. PROCESS—SERVICE

(c) Process

- (2) *Summons served with or without complaint.* A copy of the complaint need not be served with the summons in which case the summons must state that the complaint is or will be filed with the clerk of court in which the action is commenced...

(d) Personal service

- (1) *By whom process served.* Service of all process may be made: within the state by any person of legal age not a party to nor interested in the action; and outside the state by any person who may make service under the law of this state or under the law of the place in which service is made or who is designated by a court of this state.

- (2) *How service made within the state.* Personal service of process within the state must be made as follows:

- (A) upon an individual 14 or more years of age by

- (i) delivering a copy of the summons to the individual personally;
- (ii) leaving a copy at the individual's dwelling house or usual place of abode in the presence of a person of suitable age and discretion then residing therein;
- (iii) delivering at the office of the process server, a copy of the summons to the individual's spouse if the spouses reside together;

- (iv) delivering a copy of the summons to the individual's agent...
- (v) any form of mail or third-party commercial delivery addressed to the individual to be served and requiring a signed receipt and resulting in delivery to that individual...

- (D) upon a ... corporation or partnership...by
- (i) delivering a copy of the summons to an officer, director, superintendent or managing or general agent, or partner, or associate, or to an agent authorized by appointment or by law to receive ... process in its behalf...

- (ii) ...
- (iii) any form of mail addressed to any of the foregoing persons and requiring a signed

receipt and resulting in delivery to that person.

- (3) *How service made outside the state.* Service upon any person subject to the personal jurisdiction of the courts of this state may be made outside the state:

- (A) in the manner provided for service within this state...

- (B) in the manner prescribed by the law of the place in which the service is made for service in that place in an action in any of its courts of general jurisdiction;

- (C) by any form of mail address to the person to be served and requiring a signed receipt and resulting in delivery to that person;

- (D) as directed by the foreign authority in response to a letter rogatory; or

- (E) as directed by order of the court.

- (h) **Proof of service.** Proof of service of the summons and of the complaint or notice, if any, must be made as follows:

- (1) if served by the sheriff ... by the officer's certificate;

- (2) if served by any other person, by the server's affidavit.

- (3) if served by publication...

- (4) in any other case of service by mailing...

- (5) by the written admission of the defendant.

- (i) **Content of proof of service.** The certificate, affidavit or admission of service mentioned in subdivision (h) of this rule must state the date, time, place and manner of service. If ... served personally by a person other than the sheriff ... the affidavit of service must also state that the server is of legal age and not a party to the action nor interested in the action, and that the server knew the person served to be the person named in the papers served and the person intended to be served.

- (ii)

OHIO
State Capital: Columbus
Population: 11.6 million
88 counties

OHIO RULES OF CIVIL PROCEDURE

RULE 4.1 PROCESS—METHODS OF SERVICE

All methods of service within this state, except service by publication... are described herein. Methods of out-of-state service and service in a foreign country are described in Rule 4.3 and Rule 4.5.

- (1) **Service by Certified Mail.** Evidenced by return receipt signed by any person, service of any process shall be by certified mail unless otherwise permitted by these rules...
- (2) **Personal Service.** When the plaintiff files a written request with the clerk for personal service, service shall be made by that method. ...The clerk of the court shall deliver the process ... to the sheriff of the county in which the party to be served resides or may be found. ...In the alternative, process... may be delivered by the clerk to any person not less than 18 years of age, who is not a party and who has been designated by order of the court to make service of process... When the ... process has been served, the person serving process shall endorse that fact on the process and return it to the clerk who shall make the appropriate entry on the appearance docket. When ... process is unable [to be served] within 28 days, [the process server] shall endorse that fact and the reason therefor on the process and return ... to the clerk who shall make the appropriate entry on the appearance docket...
- (3) **Residence Service.** When the plaintiff files a written request with the clerk for residence service, service shall be made by that method. Residence service shall be effected by leaving a copy ... at the usual place of residence of the person to be served with some person of suitable age and discretion then residing therein.

RULE 4.2 PROCESS—WHO MAY BE SERVED

Service of process, except service by publication ... shall be made as follows:

- (1) Upon an individual [16 years or older] by serving the individual;
- (2) Upon a corporation ... by serving the agent authorized by appointment or by law to receive service of process; ... or by serving an officer or a managing or general agent of the corporation.

RULE 4.3 PROCESS—OUT-OF-STATE SERVICE

- (A) **When Service Permitted.** Service of process may be made outside of this state, as provided in this rule, in any action in this state, upon a person who, at the time of service of process, is a nonresident of this state or is a resident of this state who is absent from this state.
- (B) **Methods of Service.**
 - (1) *Service by Certified Mail.* Evidenced by return signed by any person, service of any process shall be by certified mail unless otherwise permitted by these rules. [mailing to be performed by the clerk].

- (2) *Personal Service.* When ordered by the court a "person" as defined in subdivision (A) of this rule may be personally served with a copy of the process... Service herein shall be made by any person not less than 18 years of age who is not a party and who has been designated by order of the court. On request, the clerk shall deliver the summons to the plaintiff for transmission to the person who will make the service. Proof of service may be made as prescribed by Rule 4.1(2) or by order of the court.

RULE 4.5 Process—Alternate provisions for service in a foreign country

- (A) **Manner.** When Rule 4.3 or Rule 4.4 or both allow service upon a person outside this state and service is to be effected in a foreign country, service of the summons and complaint may also be made:
 - (1) In the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction when service is calculated to give actual notice;
 - (2) As directed by the foreign authority in response to a letter rogatory when service is calculated to give actual notice;
 - (3) Upon an individual by delivery ... personally;
 - (4) Upon a corporation ... by delivery to an officer, a managing or general agent;
 - (5) By any form of mail requiring a signed receipt, when the clerk of the court addresses and dispatches this mail...;
 - (6) As directed by order of the court.

Service under subdivision (3) or (6) above may be made by any person not less than 18 years of age who is not a party and who has been designated by order of the court, or by the foreign court. On request the clerk shall deliver the summons to the plaintiff for transmission to the person or the foreign court or officer who will make the service.

- (B) **Return.** Proof of service may be made as prescribed by Rule 4.1(2), or by the law of the foreign country, or by order of the court...

RULE 45. Subpoena

- (B) **Service.** A subpoena may be served by a sheriff, bailiff, coroner, clerk of court, constable, or a deputy of any, by an attorney at law, or by any other person designated by order of court who is not a party and is not less than 18 years of age. Service .. upon a person named therein shall be made by delivering a copy to the person, by reading it to him or her in person, or by leaving it at the person's usual place of residence, and by tendering to the person upon demand the fees for one day's attendance and the mileage allowed by law. ... If the witness being subpoenaed resides outside the county in which the court is located, the fees for one day's attendance and mileage shall be tendered without demand. The return [which must be returned to the clerk] may be forwarded through the postal service or otherwise.

Case Note

☞ A subpoena is validly served when it is sent by regular mail to the witness' residence and the witness has actual knowledge of it. State v. Castle (1994), 92 OApp.3d 732, 637 N.E.2d 80.



OKLAHOMA

State Capital: Oklahoma City

Population: 3.9 million

77 counties

OKLAHOMA STATUTES ANNOTATED TITLE 12. CIVIL PROCEDURE

§ 2004. PROCESS

C. By Whom Served: Person to be Served.

1. Service by personal delivery.

(a) At the election of the plaintiff, process, other than a subpoena, shall be served by a sheriff or deputy sheriff, a person licensed to make service of process in civil cases, or a person specially appointed for that purpose. The court shall freely make special appointments to serve all process, other than a subpoena, under this paragraph.

(c) Service shall be made as follows:

(1) Upon an individual ... by delivering a copy of the summons and petition to him personally or by leaving copies at his dwelling house or usual place of abode with some person then residing therein who is 15 years of age or older or by delivering a copy or by law to receive service of process.

(2) Upon an infant ... less than 15 years of age...

(3) Upon a ... corporation or... partnership by delivering a copy of the summons and petition to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service...

2. Service by mail. [by certified mail, return receipt requested and delivery to restricted to addressee]

E. Territorial Limits of Effective Service.

1. Service of the summons and petition may be made anywhere within this state in the manner provided by subsection C of this section.

2. ... service of the summons and petition may be made outside this state:

(a) by personal delivery in the manner prescribed for service within this state,

(b) in the manner prescribed by the law of the place in which the service is made for service in that place in an action in any of its courts of general jurisdiction,

(c) in the manner prescribed by paragraph 2 of subsection C [certified mail, restricted delivery] of this section,

(d) as directed by the foreign authority in response to a letter rogatory,

(e) in the manner prescribed by paragraph 3 of subsection C [service by publication] of this section only when permitted..., or

(f) as directed by the court.

4. Service outside this state may be made by an individual permitted to make service of process under the law of this state or under the law of the place in which the service is made or who is designated to make service by a court of this state.

G. Return

1. The person serving the process shall make proof of service to the court promptly and in any event within the time during which the person served must respond to the process, but the failure to make proof of service does not affect the validity of the service.

2. ... If service is made by a person other than a sheriff, deputy sheriff or licensed process server, such person shall make affidavit thereof. The return shall set forth the name of the person served and the date, place, and method of service.

§ 2004.1 SUBPOENA

B. 1. Service. Service of a subpoena upon a person...shall be made by delivering or mailing a copy to such person and, if the person's attendance is demanded, by tendering to him the fees for one day's attendance and mileage... Service of a subpoena may be accomplished by any person who is 18 years of age or older...

OKLAHOMA STATUTES ANNOTATED

§12-158.1 Private Process Servers—Licensing

A.. Service and return of process in civil cases may be by an authorized licensed private process server. The presiding judge of the judicial administrative district in which the county is located, or [such judge] as may be designated by the presiding judge, shall be authorized to issue a license to make service of process ... to persons deemed qualified to do so.

B.. Any person 18 years of age or older...may obtain a license by filing an application with the court clerk...

C.. [This section specifies that an applicant may pay a license fee of \$35 and be licensed to serve process only within the county in the which the license is issued (which authority may be extended to other counties by paying a \$10 filing fee to the court clerk of each such county)—or pay a license fee of \$150 and have authority to serve process statewide. Licensed process servers are designated "officers of the court" but only for the purpose of service of process in the county or counties in which they are authorized to serve.

D. [Specifies that an applicant's name be posted in the courthouse for 5 days and be given to the district attorney, sheriff, and chief of police or marshal in the county seat.]

E. [Requires all applicants to post a \$5,000 bond running to the State of Oklahoma for faithful performance of his or her duties.]

F. [Outlines procedure for citizens to file written objections to the licensing of an applicant.]

G. Proof of service of process shall be shown by affidavit...

H. [Outlines procedure for district attorney or the Attorney General to revoke the license issued to any licensee.]

I. [Specifies the court clerk shall maintain and make available a list of licensed private process servers for the public's use to choose a server.]

J. [Specifies that the Administrative Office of the Courts shall maintain a statewide registry of licensed private process servers.]



OREGON

State Capital: Salem
Population: 4 million - 36 counties

OREGON RULES OF CIVIL PROCEDURE

RULE 7. SUMMONS

D. Manner of Service.

- (1) *Notice Required.* Summons shall be served, either within or without this state ... by the following methods: personal service upon defendant or an agent of defendant authorized to receive process; substituted service by leaving a copy of summons and complaint at a person's dwelling house or abode; office service by leaving with a person who is apparently in charge of an office; service by mail; or, service by publication.
- (2) *Service Methods.*
 - (a) *Personal Service.* ... by delivery of a true copy of the summons and a true copy of the complaint to the person to be served.
 - (b) *Substituted Service.* ... by delivering a true copy of the summons and the complaint at the dwelling house or usual place of abode of the person to be served, to any person 14 years of age or older residing in the dwelling house... [followed by mailing a true copy by first class mail to the defendant at the abode where substituted service made, together with a statement of the date, time, and place at which service made], substituted service shall be complete upon such mailing.
 - (c) *Office Service.* If the person to be served maintains an office for the conduct of business, office service may be made by leaving a true copy of the summons and the complaint at such office during normal working hours with the person who is apparently in charge [followed by mailing a true copy by first class mail to the defendant at defendant's dwelling house or place of business or such other place under the circumstances that will give defendant notice of action, together with a statement of the date, time, and place at which office service was made]..., office service shall be complete upon such mailing.
- (d) *Service by Mail.*
 - (i) Generally. When required or allowed by this rule or by statute, except as otherwise permitted, service by mail shall be made by mailing a true copy of the summons and the complaint to the defendant by first class mail and by any of the following: certified or registered mail, return receipt requested, or express mail. For purposes of this section, "first class mail" does not include certified or registered, or any other form of

mail which may delay or hinder actual delivery of mail to the addressee.

- (ii) *Calculation of Time.* For the purpose of computing any period of time provided by these rules or by statute, service by mail ... shall be complete on the day the defendant signs a receipt for the mailing, or three days after the mailing if mailed to an address within the state, or seven days after the mailing if mailed to an address outside the state, whichever occurs first.
 - (3) *Particular Defendants.*
 - (a) *Individuals..* Upon an individual defendant, by personal service upon defendant or an agent authorized by appointment or law to receive service of summons or, if defendant personally cannot be found at defendant's dwelling house or usual place of abode, then by substituted service or by office service upon such defendant or agent. Service may also be made ... by mailing made in accordance with paragraph (2)(d) of this section provided the defendant signs a receipt for the certified, registered or express mailing, in which case service shall be complete on the date...the defendant signs a receipt...
 - (a)(iv) **Tenant of a Mail Agent.** [new 2/1/00]
Upon an individual defendant who is a "tenant" of a "mail agent" within the meaning of ORS 646.221 by delivering a true copy of the summons and the complaint to any person apparently in charge of the place where the mail agent receives mail for the tenant, provided that:
 - (A) the plaintiff makes a diligent inquiry but cannot find the defendant; and
 - (B) the plaintiff, as soon as reasonably possible after delivery, causes a true copy of the summons and the complaint to be mailed by first class mail to the defendant at the address at which the mail agent received mail for the defendant and to any other mailing address of the defendant then known to the plaintiff, together with a statement of the date, time, and place at which the plaintiff delivered the copy of the summons and the complaint.
- (b) *Corporations and Limited Partnerships...* By personal service or office service upon a registered agent, officer, director, general partner, or managing agent of the corporation or limited partnership, or by personal service upon any clerk on duty in the office of a registered agent.
- (4) *Particular Actions Involving Motor Vehicles.*
 - (a) Actions arising out of use of roads, highways and streets; service by mail.

Service shall be complete on the latest date resulting from the application of subparagraph D(2)(d)(ii) of this rule to all mailings required by this subparagraph unless the defendant signs a receipt for the mailing, in which case service is complete on the day the defendant signs the receipt.



- (i) In any action arising out of any accident, collision, or other event giving rise to liability in which a motor vehicle may be involved while being operated upon the roads, highways, or streets of this state, if the plaintiff makes at least one attempt to serve the defendant who operated such motor vehicle ..., by a method authorized by subsection (3) of this section except service by mail pursuant to subparagraph (3)(a)(i) of this section and, as shown by its return, did not effect service, the plaintiff may then serve that defendant by mailings made in accordance with paragraph (2)(d) of this section addressed to that defendant at:

- (A) any residence address provided by that defendant at the scene of the accident;
- (B) the current residence address, if any, of that defendant shown in the driver records of the Department of Transportation; and
- (C) any other address of that defendant known to the plaintiff at the time of making the mailings required by (A) and (B) that reasonably might result in actual notice to the defendant.

Sufficient service pursuant to this subparagraph may be shown if the proof of service includes a true copy of the envelope in which each of the certified, registered or express mailings required by (A), (B) and (C) above was made showing that it was returned to sender as undeliverable or that the defendant did not sign the receipt...If the mailing required by (C) is omitted because the plaintiff did not know of any address other than those specified in (A) and (B) above, the proof of service shall so certify.

- (5) *Service in Foreign Country.* When service is to be effected upon a party in a foreign country, it is also sufficient if service of summons is made in the manner prescribed by the law of the foreign country for service in that country in its courts of general jurisdiction, or as directed by the foreign authority in response to letters rogatory, or as directed by order of the court. However, in all cases such service shall be reasonably calculated to give actual notice.

E. By Whom Served; Compensation. Summons may be served by any competent person 18 years of age or older who is a resident of the state where service is made or of this state and is not a party to the action nor an officer, director, or employee of, nor attorney for, any party, corporate or otherwise. However, service pursuant to subparagraph D(2)(d)(i). Compensation to a sheriff [is provided by statute]. If any other person serves the summons, a reasonable fee may be paid for service. This compensation shall be part of disbursements and shall be recovered as provided in Rule 68.

F. Return; Proof of Service.

- (1) *Return of Summons.* The summons shall be promptly returned to the clerk with whom the complaint is filed with proof of service or mailing, or that the defendant cannot be found. The summons may be returned by first class mail.

- (2) *Proof of Service.* Proof of service of summons or mailing may be made as follows:

- (a) *Service Other Than Publication.* Service other than publication shall be proved by:
 - (i) *Certificate of Service When Summons Not Served by Sheriff or Deputy.* If the summons is not served by a sheriff...the certificate of the server indicating: the time, place, and manner of service; that the server is a competent person 18 years of age or older and a resident of the state of service or this state and is not a party to nor an officer, director, or employee of, nor attorney for any party, corporate or otherwise; and that the server knew that the person, firm or corporation served is the identical one named in the action. If the defendant is not personally served, the server shall state in the certificate when, where, and with whom a copy of the summons and complaint was left or describe in detail the manner and circumstances of service
 - (ii) *Certificate of Service by Sheriff or Deputy...*

G. Disregard of Error; Actual Notice. Failure to comply with the provisions of this rule relating to the form of summons, issuance of summons, and the person who may serve summons shall not affect the validity of service of summons or the existence of jurisdiction over the person, if the court determines that the defendant received actual notice of the substance of the pendency of the action. The court may allow amendment to a summons, or affidavit or certificate of service of summons, and shall disregard any error in the content of service of summons that does not materially prejudice the substantive rights of the party against whom summons was issued.

RULE 55. SUBPOENA

D. Service; Service on Law Enforcement Agency; Service by Mail; Proof of Service

- (1) *Service.* Except as provided in subsection (2) of this section, a subpoena may be served by the party or any other person 18 years of age or older. The service shall be made by delivering a copy to the witness personally and giving or offering to the witness at the same time the fees to which the witness is entitled [for one day's attendance and for travel to and from place of attendance]...
- (2) *Service on Law Enforcement Agency...*
- (3) *Service by Mail.* [specifies certain circumstances under which subpoena may be mailed to witness who has indicated willingness to appear, or with

whom prior arrangement has been made for payment of witness fees and mileage, or who has provided attorney with signed receipt more than three days prior to trial.]

- (4) *Proof of Service*. Proof of service of subpoena is made in the same manner as proof of service of a summons.

OREGON REVISED STATUTES

29.165 Delivery of Writ; Insurance of Deliverer; Fee. To be valid, a writ of garnishment must be delivered to the garnishee in one of the following ways:

- (1) By certified mail, return receipt requested. ...
 - (2) In person. The following apply when a writ is delivered under this subsection:
 - (a) The writ may be delivered by any of the following:
 - (b) The sheriff..
 - (c) Any competent person 18 years of age or older who is a resident of the state of Oregon and is not a party or attorney in the action.
 - (d) Notwithstanding paragraph (a)..., no person other than the sheriff shall deliver a writ of garnishment unless the person has errors and omissions insurance with limits of not less than \$100,000 per occurrence from a company authorized to do business in this state.
 - (3) The fee for delivery of a writ of garnishment by a person other than a sheriff shall be in an amount agreed to between the person making the delivery and the person requesting the delivery. The fee for delivery ... by a sheriff ... shall be ...
 - (A) \$12.50 if ... delivered in a county with less than 400,000 population [applies to 35 of Oregon's 36 counties]
 - (B) \$9.50 if ... delivered in a county with not less than 400,000 population [Multnomah is the only county with more than 400,000 pop.]
-

PENNSYLVANIA
State Capital: Harrisburg
Population: 12.8 million
67 counties

RULES OF CIVIL PROCEDURE

RULE 400. PERSON TO MAKE SERVICE

- (a) Except as provided in subdivisions (b) and (c) and in Rules 400.1 and 1930.4, original process shall be served within the Commonwealth only by the sheriff.
- (b) In addition to service by the sheriff, original process may be served also by a competent adult who is not a party in the following actions:
 - (1) Civil action in which equitable relief is the only relief sought or the primary relief sought,
 - (2) Partition,
 - (3) Prevent waste, and
 - (4) Declaratory judgment when declaratory relief is the only relief sought.

[Comment: *Competent adult is defined (Rule 76) as an "individual 18 years of age or older who is neither a party to the action nor an employee of a relative of a party."*]

RULE 400.1 PROVISIONS FOR PHILADELPHIA COUNTY

- (a) In an action commenced in the First Judicial District, original process may be served
 - (1) within the county by the sheriff or a competent adult, or
 - (2) in any other county by deputized service as provided by Rule 400(d) or by a competent adult forwarding the process to the sheriff of the county where service may be made.
- (b) In an action commenced in any other county, original process may be served in Philadelphia County by deputized service as provided by Rule 400(d) or by a competent adult.

RULE 401. TIME FOR SERVICE...

- (a) Original process shall be served within the Commonwealth within 30 days after the issuance of the writ or the filing of the complaint.
- (b) [procedure for reissuing, reinstating or obtaining substituted writ or complaint]
- (c) The copy of the original process to be served upon the defendant shall be attested by the prothonotary or certified by the plaintiff to be a true copy.

RULE 402. MANNER OF SERVICE...

- (a) Original process may be served
 - (1) by handing a copy to the defendant; or
 - (2) by handing a copy
 - (i) at the residence of the defendant to an adult member of the family with whom he resides; but if no adult member of the family is found, then to an adult person in charge of the residence; or
 - (ii) at the residence of the defendant to the clerk or manager of the hotel, inn, apartment house, boarding house or other place of lodging at which he resides; or
 - (iii) at any office or usual place of business of the defendant to his agent or to the person for the time being in charge.
- (b) In lieu of service under this rule, the defendant or his authorized agent may accept service of original process by filing a separate document [acknowledging acceptance of service].

RULE 403. SERVICE BY MAIL

If a rule of civil procedure authorizes original process to be served by mail, a copy of the process shall be mailed to the defendant by any form of mailing requiring a receipt signed by the defendant... Service is complete upon delivery of the mail.

RULE 404. Service Outside the Commonwealth

Original process shall be served outside the Commonwealth within 90 days of the issuance of the writ or the filing of the complaint or the reissuance or the reinstatement thereof.

- (1) by a competent adult in the manner provided by Rule 402(a);
- (2) by mail in the manner provided by Rule 403;
- (3) in the manner provided by the law of the jurisdiction in which the service is made for service in an action in any of its courts of general jurisdiction;
- (4) in the manner provided by treaty; or
- (5) as directed by the foreign authority in response to a letter rogatory or request.

RULE 405. RETURN OF SERVICE

- (a) When service of original process has been made the sheriff or other person making service shall make a return forthwith. If service has not been made and the writ has not been reissued or the complaint reinstated, a **return of no service** shall be made upon the expiration of the period allowed for service.
- (b) A return ... shall set forth the date, time, place and manner of service, the identity of the person served and any other facts necessary for the court to determine whether proper service has been made.
- (c) Proof of service by mail under Rule 403 shall include a return receipt signed by the defendant...
- (d) A return of service by a person other than the sheriff shall be by **affidavit**. If a person other than the sheriff makes a return of no service, the affidavit shall set forth with particularity the efforts made to effect service.
- (e) The return of service or of no service shall be filed with the prothonotary.

RULE 424. CORPORATIONS...

Service of original process upon a corporation or similar entity shall be made by handing a copy to any of the following persons ... not a plaintiff in the action:

- (1) an executive officer, partner or trustee, or
- (2) the manager, clerk or other person for the time being in charge of any regular place of business or activity of the corporation, or
- (3) an agent authorized by the corporation ... in writing to receive service of process for it.

RULE 1930.4 SERVICE OF ORIGINAL PROCESS IN DOMESTIC RELATIONS MATTERS.

- (a) Original process in all domestic relations matters may be served by the sheriff or a competent adult: ...

PENNSYLVANIA CONSOLIDATED CODES

§ 5107. Service of Process

Process may be served or executed on any day of the week except at any church, synagogue, meetinghouse or any place of worship.



RHODE ISLAND
State Capital: Providence
Population: 1.1 million
5 counties

SUPERIOR COURT

RULES of CIVIL PROCEDURE

RULE 4. Process

- (c) **By Whom Served.** Service of all process shall be made by a sheriff or the sheriff's deputy, within the sheriff's county, by a duly authorized constable, or by any person who is not a party and who is at least 18 years of age.

Waiver of Service; Duty to Save Costs of Service; Request to Waive. ...

- (d) **Personal Service.** Service shall be made as follows:

- (1) Upon an individual from whom a waiver has not been obtained and filed ... by delivering a copy... to the individual personally or by leaving copies thereof at the individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein...
- (2) Upon [an incompetent person] ...
- (3) Upon a private corporation ... from which a waiver has not been obtained and filed, by delivering a copy of the summons and complaint to an officer, a managing or general agent, or by leaving a copy ... at an office of the corporation with a person employed therein...

- (f) **Service Outside State Within United States.**

- (1) Upon an individual by delivery of a copy of the summons and complaint to the individual personally by any disinterested person, or by mailing...
- (2) Upon a foreign corporation by delivery of a copy of the summons and complaint by any disinterested person to the president, secretary, or treasurer of such corporation or to any agent or attorney for service of process designated by the corporation in the state of incorporation, or by mailing...

- (g) **Service Upon Individuals in a Foreign Country.**

Unless otherwise provided by state or federal law, service upon an individual from whom a waiver has not been obtained and filed, may be effected in a place not within the U.S.:

- (1) By any internationally agreed means reasonably calculated to give notice, such as those means authorized by the *Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents*; or
- (2) If there is no internationally agreed means of service or the applicable international agreement allows other means of service, provided that service is reasonably calculated to give notice;

- (A) In the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or
 - (B) As directed by the foreign authority in response to a letter rogatory or letter of request; or
 - (C) Unless prohibited by the law of the foreign country, by
 - (i) Delivery to the individual personally;
 - (ii) Any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court; or
- (3) By other means not prohibited by international agreement as may be directed by the court

(j) **Proof of Service.** If service is not waived, the person effecting service shall make proof thereof on the original process or a paper attached thereto for that purpose, and shall forthwith return it to the plaintiff's attorney. If service is made by a person shall make affidavit thereof. .. Failure to make proof of service does not affect the validity of the service.

Case Note

☞ Service of process upon a foreign corporation incorporated in a nation which is a party to the Hague Convention must be made in accordance with the terms of that convention. Cipolla v. Picard Porsche Audi, Inc., 496 A.2d 130 (R.I. 1985).

GENERAL LAWS OF RHODE ISLAND

Chapter 9-5 Writs, Summons and Process

§ 9-5-24 Service on Sunday void.

No civil process whatsoever shall be served on Sunday, but every such service shall be utterly void.

§ 9-5-35 Service of court papers at work.

No employer within this state is permitted to refuse or obstruct the service of any court process upon an employee at the place of employment and such service shall not be grounds for dismissal of the employee. The employer may designate an area where the service may be effected.

Chapter 16 - Sergeants and Constables

45-16.14. Unauthorized service of process.

Any individual who serves, or attempts to serve, any writ of legal process for any court of this state; other than sheriffs, deputy sheriffs, and those individuals authorized by law or by rule of court shall be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), and/or imprisoned for a term of not less than six (6) months, nor more than one year in prison, for each violation. Provided, however, this section shall not apply to any city or town constable nor to any power or authority granted to them by any general or special law.

SOUTH CAROLINA

State Capital: Columbia

Population: 4.9 million

46 counties

RULES OF CIVIL PROCEDURE

Rule 4. Process

(c) **By whom served.** Service of summons may be made by the sheriff, his deputy, or by any other person not less than 18 years of age, not an attorney in or a party to the action. Service of all other process shall be made by the sheriff or his deputy or any other duly constituted law enforcement officer or by any person designated by the court who is not less than 18 years of age and not an attorney in or a party to the action, except that a subpoena may be served as provided in Rule 45.

(d) **Summons: Personal service.**

(1) **Individuals.** ... by delivering a copy of the summons and complaint to him personally or by leaving copies thereof at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by delivering a copy to an agent authorized by appointment or by law to receive service of process.

(2) **Minors and Incompetents.** ...

(3) **Corporations and Partnerships.** ...by delivering a copy of the summons and complaint to an officer, a managing general agent, or to any other agent authorized by law to receive service of process and if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant.

(4) **State of South Carolina.** ...

(5) **State officer or Agency.** ...

(6) **Governmental Subdivision.** ...

(7) **Statutory Service.**

(8) **Service by Certified Mail.** Service of a summons and complaint upon a defendant of any class referred to in paragraph (1) or (3) of this subdivision of this rule may be made by the plaintiff or any person authorized to serve process pursuant to Rule 4(c), including a sheriff or his deputy, by registered or certified mail, return receipt requested and delivery restricted to the addressee. Service is effective upon the date of delivery as shown on the return receipt. Service pursuant to this paragraph shall not be the basis for the entry of a default or judgment by default unless the record contains a return receipt showing the acceptance by the defendant. Any such default or judgment shall be set aside pursuant to Rule 55(c) or Rule 60(b) if the defendant demonstrates to the court that the return receipt was signed by an unauthorized person. If delivery of the process is refused or is returned undelivered, service shall be made as otherwise provided by these rules.

(g) **Proof and Return.** The person serving the process shall make proof of service thereof promptly and deliver it to the officer or person who issued same. If served by the sheriff or his deputy, he shall make proof of service by his certificate. If served by any other person, he shall make affidavit thereof. ... Failure to make proof of service does not affect the validity of the service. The proof of service shall state the date, time and place of such service and, if known, the name and address of the person actually served at the address of such person, and if not known, then the date, time and place of service and a description of the person actually served. ...

(h) **Amendment.** At any time in its discretion and upon terms as it deems just, the court may, by written order, allow any process or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.

SOUTH CAROLINA CODE

15-9-17. [New section effective 6/14/00].

Notwithstanding another provision of law, a process server **may serve a summons, complaint, or other judicial documents on Sundays**; however, a process server may not serve a person who is going to or from or attending a regularly or specially scheduled church or other religious service on Sunday.



SOUTH DAKOTA

State Capital: Pierre

Population: 858,000

66 counties

RULES OF PROCEDURE IN CIRCUIT COURTS

15-6-4(c). By whom summons served.

The summons may be served by the sheriff or a constable of the county ... where the defendant may be found, or in the District of Columbia by the United States marshal ... or by any other person not a party to the action who at the time of making such service is an elector of the county ... in which such service is made. The service shall be made and the summons returned with proof of the service, with all reasonable diligence, to the plaintiff's attorney...

15-6-4(d). Personal service of summons.

- (1) If the action be against a ... corporation, on the president or other head of the corporation, secretary, cashier, treasurer, a director, or managing or registered agent thereof, and such service may be made within or without this state...
- (10) In all other cases, to the defendant personally.

15-6-4(e). Substituted personal service...

Service in the following manner shall also constitute personal service. If the defendant cannot be found conveniently, service may be made by leaving a copy at his dwelling house in the presence of a member of his family over the age of 14 years or if the defendant resides in the family of another, with a member of such age of the family with which he resides.

If the defendant is a private corporation and no general officer, director, managing agent, or other representative mentioned in § 15-6-4(d) as qualified to receive service can conveniently be found, service may be made on such corporation by leaving a copy at the place of business of such qualified person with any officer or employee over 14 years of age.

15-6-4(f). Service upon party not a resident of or found within state. Whenever a statute of this state provides for the service of a legal process upon a party not a resident of or found within the state, service shall be made under the circumstances and in the manner prescribed by the statute.

15-6-4(g). Proof of service.

Proof of the service of the summons and complaint or of any pleading, process, or other paper must state the time, place, and manner of such service or of publication and mailing and must be made as follows:

If served by a sheriff or a county constable, his certificate thereof;

- (1) If by any other person, his affidavit thereof;
- (2) The written admission of the party or his representative upon whom service might have been made for such party; or

(3) In case of publication...

15-6-4(h). Amendment of process.

The court in its discretion and on such terms as it deems just may at any time allow any summons or other process or proof of service thereof to be amended, unless it clearly appears that substantial rights of the person against whom the process issued would be prejudiced thereby.

SOUTH DAKOTA CODIFIED LAWS

Sec. 1-5-2. Business and official acts permitted on holidays.

Any public or private business may be transacted or legal process of any kind may be served or published on any of said days or next succeeding days designated herein as holidays, **excepting Sundays**, provided, that for good cause, a judge in whose court an action has been or is about to be brought, may endorse upon any process or notice permission to serve the same on Sunday, and if so endorsed, service thereof on Sunday shall be valid.

Title 22 – Crimes

Chapter 11 – Obstruction of the Administration of Govt.

Sec. 22-11-1. Resisting execution of service of process.

Any person who resists the execution or service of any legal process is guilty of a Class 2 misdemeanor.

TENNESSEE

State Capital: Nashville

Population: 6.6 million

95 counties

TENNESSEE RULES OF CIVIL PROCEDURE

RULE 1. SCOPE OF RULES

...These rules shall govern the procedure in the **circuit** and **chancery courts** of Tennessee... These rules shall not be applicable to courts of **general sessions** except in cases where such courts by special or private act exercise jurisdiction similar to that of circuit or chancery courts.

RULE 4. PROCESS

4.01. By Whom Served

- (2) A summons and complaint may be served by any person who is not a party and is not less than 18 years of age. The process server must be identified by name and address on the return.

4.03. Return

- (1) The person serving the summons shall promptly and within the time during which the person served must respond, make proof thereof to the court and shall identify the person served and shall describe the manner of service. If a summons is not served with 30 days after its issuance, it shall be returned with the reasons for the failure to serve stated thereon. The plaintiff may obtain new summonses...

4.04. Service Upon Defendants Within State

- (1) Upon an individual ... by delivering a copy of the summons and complaint to him personally, or if he evades or attempts to evade service, by leaving copies thereof at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, whose name shall appear on the proof of service, or by delivering the copies to an agent authorized by appointment or by law to receive service on behalf of the individual served.
- (4) Upon a domestic corporation, or a foreign corporation doing business in this state, by delivering a copy ... to an officer or managing agent, or to the chief agent in the county where the action is brought, or by delivering the copies to any other agent authorized by appointment or by law to receive service on behalf of the corporation.

4.05. Service Upon Defendant Outside This State- (1) Whenever the law of this state authorizes service outside this state, the service ... may be made:

- (a) by any form of service authorized for service in this state pursuant to Rule 4:04;

- (b) in any manner prescribed by the law of the state in which service is effected for an action in any of the courts of general jurisdiction in that state;
- (c) as directed by the court.

The provisions of this Rule (4.05) are inapplicable when service is effected in a place not within any judicial district of the United States.

4.07. Waiver of Service; Duties to Save Costs...

[describes procedure for sending request for waiver to defendant by first-class mail together with copy of summons and complaint; specifies consequences of failure to comply]

RULE 4A. SERVICE UPON DEFENDANT IN A FOREIGN COUNTRY

Service upon (1) an individual ... (2) a corporation, or (3) a partnership ... may be effected in a place not within any judicial district of the United States:

- (1) by any internationally agreed means reasonably calculated to give notice, such as those means authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents; or
- (2) if there is no internationally agreed means of service or the applicable international agreement allows other means of service, provided that service is ... calculated to give notice:
 - (A) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or
 - (B) as directed by the foreign authority in response to a letter rogatory or letter of request; or
 - (C) unless prohibited by the law of the foreign country, by
 - (i) delivery to the individual personally of a copy of the summons and the complaint; or
 - (ii) any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the party to be served; or
- (3) in the case of a corporation by service as provided in 4.04(4) upon any corporation that has acted as the corporation defendant's agent in relation to the matter that is the subject of the litigation...
- (4) by other means not prohibited by international agreement as may be directed by the court.

RULE 45 SUBPOENA

45.03 Service.—A subpoena may be served by any person authorized to serve process, or the witness may acknowledge service in writing on the subpoena. Service of the subpoena shall be made by delivering or offering to deliver a copy to the person to whom it is directed.

TENNESSEE CODE ANNOTATED

16-15-901 [as amended May 9, 2002]

(a) Upon filing of civil warrants, writs and other papers the clerk of the **general sessions court** ... shall issue the required process ... to be delivered for service to such



person authorized to serve process as may be designated by the party filing such civil warrant, writ or other papers...

(b) A civil warrant, attachment or any leading process used to invite an action in **general sessions court** and subpoenas or summons may be served by any person designated by the party, or the party's attorney ... who is not a party to the action and **is not less than 18 years of age**. Service of other processes and orders of the courts of this state shall be by sheriffs, constables or as provided by law. The process server must be identified by name and address on the return.

20-2-105. Service of process on Sunday...

Sheriffs or constables having process in their hands in civil actions pending in courts of record, if it appears to their satisfaction that parties to be sued are leaving the country or state, have the right to execute process on Sunday.

20-2-106. Process on Sunday ... prohibited

With the exceptions contained in §§ 20-2-104 and 20-2-105, civil process shall not be executed on Sunday.

39-16-602 Resisting stop, frisk, halt, arrest or search-prevention or obstruction of service of legal writ or process.

(a) ...

(b) ...

(c) It is an offense for a person to intentionally prevent or obstruct an officer of the state or any other person known to be a civil process server in serving, or attempting to serve or execute, any legal writ, or process.

(d) A violation of this section is a Class B misdemeanor.

...

[Refusing to accept service in Tennessee is a crime. The legal advisor to the Memphis Police Department has interpreted this law as providing protection to private process servers as well as deputy sheriffs since private process servers have the same legal authority to serve process as the Sheriff's Department. Police officers have been instructed to respond to a private process server in the same manner as they would respond to a sheriff's deputy, and to allow a private process server to arrest a person who refuses to accept process. The officer is to fill out a hearsay affidavit and transport the person to jail.]

TEXAS

State Capital: Austin

Population: 27.5 million - 254 counties

Texas Rules of Civil Procedure (TRCP)

RULE 103. Who May Serve

Citation and other notices may be served anywhere by

- (1) any sheriff or constable or other person authorized by law or,
- (2) by any person authorized by law or the written order of the court who is not less than eighteen (18) years of age, or
- (3) any person certified under order of the Supreme Court.

Service by registered or certified mail and citation by publication must, if requested, be made by the clerk of the court in which the case is pending. But no person who is a party to or interested in the outcome of the suit may serve any process in that suit, and unless otherwise authorized by a written court order, only a sheriff or constable may serve a citation in an action of forcible entry and detainer, a writ that requires the actual taking of possession of a person, property or thing, or process requiring that an enforcement action be physically enforced by the person delivering the process. The order authorizing a person to serve process may be made without written motion and no fee may be imposed for issuance of such order.

RULE 105. Duty of Officer or Person Receiving

The officer or authorized person to whom process is delivered shall endorse thereon the day and hour which he received it, and shall execute and return the same without delay.

RULE 106. Method of Service

- (a) Unless the citation or an order of the court otherwise directs, the citation shall be served by any person authorized by Rule 103 by
 - (1) delivering to the defendant, in person, a true copy of the citation with the date of delivery endorsed thereon with a copy of the petition attached thereto, or
 - (2) mailing to the defendant by registered or certified mail, return receipt requested, a true copy of the citation with a copy of the petition attached thereto.
- (b) Upon motion supported by affidavit stating the location of the defendant's usual place of business or usual place of abode or other place where the defendant can probably be found and stating specifically the facts showing that service has been attempted under either (a)(1) or (a)(2) at the location named in such affidavit but has not been successful, the court may authorize service

- (1) by leaving a true copy of the citation, with a copy of the petition attached, with anyone over sixteen (16) years of age at the location specified in such affidavit, or
- (2) in any other manner that the affidavit or other evidence before the court shows will be reasonably effective to give the defendant notice of the suit.

RULE 107. Return of Service

The return of the officer or authorized person executing the citation shall be endorsed on or attached to the same; it shall state when the citation was served and the manner of service and be signed by the officer officially or by the authorized person. The return of citation by an authorized person shall be verified. ...No default judgment shall be granted in any cause until the citation, or process under Rules 108 or 108a, with proof of service ... shall have been on file with the clerk of the court ten days, exclusive of the day of filing and the day of judgment.

RULE 108. Service Without State

Where the defendant is absent from the State, or is a nonresident of the State, [the defendant] may be served by any disinterested person competent to make oath of the fact in the same manner as provided in Rule 106 hereof.

The return of service in such cases shall be endorsed on or attached to the original notice, and shall be in the form provided in Rule 107, and be signed and sworn to by the party making such service before some officer authorized by the laws of this State to take affidavits, under the hand and official seal of such officer...

RULE 108a. Service in Foreign Countries

- (1) **Manner.** Service of process may be effected upon a party in a foreign country if service of the citation and petition is made:
 - (a) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or
 - (b) as directed by the foreign authority in response to a letter rogatory or a letter of request; or
 - (c) in the manner provided by Rule 106; or
 - (d) pursuant to the terms and provisions of any applicable treaty or convention; or
 - (e) by diplomatic or consular officials when authorized by the U.S. Dept of State; or
 - (f) by any other means directed by the court that is not prohibited by the law of the country where service is to be made.

The method for service of process in a foreign country must be reasonably calculated, under all of the circumstances, to give actual notice of the proceedings to the defendant in time to answer and defend. ...

- (2) **Return.** Proof of service may be made as prescribed by the law of the foreign country, by order of the court, by Rule 107, or by a method provided in any applicable treaty or convention.



RULE 6. Suits Commenced on Sunday

No civil suit shall be commenced nor process issued or served on Sunday, except in cases of injunction, attachment, garnishment, sequestration, or distress proceedings; provided that citation by publication on Sunday shall be valid.

RULE 176.5. Service of Subpoenas

(a) Manner of Service. A subpoena may be served at any place within the State of Texas by any sheriff or constable of the State of Texas, or any person who is not a party and is 18 years of age or older. A subpoena must be served by delivering a copy to the witness and tendering to that person any fees required by law. If the witness is a party and is represented by an attorney of record in the proceeding, the subpoena may be served on the witness's attorney of record.

(b) Proof of Service. Proof of service must be made by filing either:

(1) the witness's signed written memorandum attached to the subpoena showing that the witness accepted the subpoena; or

(2) a statement by the person who made the service stating the date, time, and manner of service, and the name of the person served.

TEXAS CORPORATION and PARTNERSHIP LAWS

Sec 5.251. Failure to designate registered agent.

The secretary of state is an agent of an entity for purposes of service of process, notice, or demand on the entity if:

- (1) the entity is a filing entity or a foreign filing entity and:
 - (A) the entity fails to appoint or does not maintain a registered agent in this state; or
 - (B) the registered agent of the entity cannot with reasonable diligence be found at the registered office of the entity; or
- (2) the entity is a foreign filing entity and:
 - (A) the entity's registration to do business under this code is revoked; or
 - (B) the entity transacts business in this state without being registered as required by Chapter 9.

Sec 5.252. Service on Secretary of State.

- (a) Service on the secretary of state under Section 5.251 is effected by:
 - (1) delivering to the secretary duplicate copies of the process, notice, or demand; and
 - (2) accompanying the copies with any fee required by law, including this code or the Government

Code, for:

(A) maintenance by the secretary of a record of the service; and

(B) forwarding by the secretary of the process, notice, or demand.

(b) Notice on the secretary of state under Subsection (a) is returnable in not less than 30 days.

TEXAS FAMILY CODE

Chapter 231 TITLE IV-D SERVICES

Sec. 231.118 – Service of Citation [new – effective 9/1/99]

- (a) The Title IV-D agency may contract with private process servers to serve a citation, a subpoena, an order, or any other document required or appropriate under law to be served a party.
- (b) For the purposes of Rule 103 of the Texas Rules of Civil Procedure, a person who serves a citation or any other document under this section is authorized to serve the document without a written court order authorizing the service.
- (c) Issuance and return of the process shall be made in accordance with law and shall be verified by the person serving the document.

TEXAS PENAL CODE

Chapter 38. Obstructing Governmental Operation

Sec. 38.16. Preventing Execution of Civil Process

- (a) A person commits an offense if he intentionally or knowingly by words or physical action prevents the execution of any process in a civil cause.
- (b) It is an exception to the application of this section that the actor evaded service of process by avoiding detection.
- (c) An offense under this section is a Class C misdemeanor.

IMPORTANT NOTE

Effective July 1, 2005, the Texas Supreme Court adopted changes to Rules 103 and 536(a) of the Texas Rules of Civil Procedure which pertain to the statewide Certification of process servers.

Go to the Texas Supreme Court's website at www.supreme.courts.state.tx.us.net for a full explanation of the new rules and the procedure for becoming certified in all Texas courts.



UTAH

State Capital: Salt Lake City
Population: 2.9 million
29 counties

UTAH RULES OF CIVIL PROCEDURE

RULE 4. Process

(d) Method of Service. Unless waived in writing...by

(d)(1) Personal service. The summons and complaint may be served in any state or judicial district of the United States, by the sheriff or constable...by a United States Marshal...**or by any other person 18 years of age or older at the time of service and not a party to the action** or a party's attorney. If the person to be served refuses to accept a copy of the process, service shall be sufficient if the [process server] state the name of the process and offer to deliver a copy thereof.

(d)(1)(A) Upon any individual other than one covered by subparagraphs (B), (C) or (D) below, by delivering a copy of the summons and the complaint to the individual personally, or by leaving a copy at the individual's dwelling house or usual place of abode with some person of suitable age and discretion there residing, or by delivering a copy...to an agent authorized by appointment or by law to receive service of process:

(d)(1)(B) Upon an infant (under 14 years)...

(d)(1)(C) Upon an [incompetent]...

(d)(1)(D) Upon an [inmate of a prison]

(d)(1)(E) Upon any corporation, partnership...or an unincorporated association...by delivering a copy of the summons and the complaint to an officer, a managing or general agent, or other agent authorized by appointment or by law to receive service of process...

....

(d)(2) Service by mail or commercial courier service.

(d)(2)(A) The summons and complaint may be served upon an individual...by mail or commercial courier service in any state or judicial district of the United States provided the defendant signs a document indicating receipt.

(d)(2)(B) The summons and complaint may be served upon an entity covered by **(d)(1)(E)**...by mail or commercial courier in any state or judicial district in the United States provided defendant's agent authorized by appointment or by law to receive service of process signs a document indicating receipt.

(d)(2)(C) Service by mail or commercial courier service shall be complete on the date the receipt is signed.

(d)(3) Service in a foreign country shall be made...

(d)(3)(A) by any internationally agreed means reasonably calculated to give notice, such as those means authorized by the Hague Convention on the Service Abroad...

(d)(3)(B) If there is no internationally agreed means of service or the applicable agreement allows other means of

service, provided that such service is reasonably calculated to give notice:

(d)(3)(B)(i) in the manner prescribed by the law of the foreign country for service in that country in any action in any of its courts of general jurisdiction;

(d)(3)(B)(ii) as directed by the foreign authority in response to a letter rogatory or letter of request; or

(d)(3)(B)(iii) unless prohibited by the law of the foreign country, by delivery to the individual personally of a copy of the summons and the complaint or by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the party to be served; or

(d)(3)(C) by other means not prohibited by international agreement as may be directed by the court.

(d)(4) Other service [publication]...

(e) Proof of Service

(e)(1) If service is not waived, the person effecting service shall file proof with the court. The proof of service must state the date, place, and manner of service. Proof of service made pursuant to paragraph **(d)(2)** shall include a receipt signed by the defendant or defendant's agent authorized by appointment or by law to receive service of process. If service is made by a person other than an attorney, sheriff, constable or U.S. Marshal, the proof of service shall be made by affidavit.

(e)(2) Proof of service in a foreign country shall be made as prescribed in these rules for service within this state, or by the law of the foreign country, or by order of the court. When service is made pursuant to paragraph **(d)(3)(C)**, proof of service shall include a receipt signed by the addressee or other evidence of delivery to the addressee satisfactory to the court.

(e)(3) Failure to make proof of service does not affect the validity of the service. The court may allow proof of service to be amended.

UTAH CODE ANNOTATED 1953

76-8-301. Interference with Public Servant

(1) A person is guilty of interference with a public servant if he: **(a)** uses force, violence, intimidation, or engages in any other unlawful act with a purpose to interfere with a public servant performing or purporting to perform an official function; or **(b)** knowingly or intentionally interferes with the lawful service of process by a public servant.

78B-8-302. Process Servers

(6) The following may not serve process issued by a court:

(a) a person convicted of a felony violation of an offense listed in Subsection 77-41-102(16) or

(b) a person who is a respondent in a proceeding described in Title 78B, Chapter 7, Protective Orders, in which a court has granted the petitioner a protective order.

(7) a person serving process shall:

(a) legibly document the date and time of service on the front page of the document being served.

(b) legibly print the process server's name, address and telephone number on the return of service.



VERMONT

State Capital: Montpelier
Population: 626,000
14 counties

VERMONT RULES OF CIVIL PROCEDURE

RULE 4. Process.

(c) By Whom Served. Service of all process shall be made by a sheriff or deputy sheriff, by a constable or other person authorized by law, or by some indifferent person specially appointed for that purpose by any Superior Judge, or a judge of the court to which it is returnable ... and a subpoena may be served as provided in Rule 45. Special appointments to serve process shall be made freely when substantial savings in travel fees will result.

(d) Personal Service Within the State.

(1) Upon an individual by delivering a copy of the summons and of the complaint to the individual personally or by leaving copies at the individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein...

(7) Upon a ... corporation, by delivering a copy of the summons and complaint to an officer, director, a managing or general agent, a superintendent, or to any other agent authorized by law appointment or by law to receive service of process...

(e) Personal Service Outside the State. A person ... may be served with the summons and the complaint outside the state, in the same manner as if such service were made within the state, by any person authorized to serve civil process by the laws of the place of service or by a person specially appointed to serve it. An affidavit of the person making service shall be filed with the court, stating the time, manner, and place of service. Such service has the same force and effect as personal service within the state.

(i) Return of Service. The person serving the process shall make proof of service on the original process or a paper attached thereto for that purpose, and shall forthwith return it, with that person's fees, charges and mileage endorsed thereon, to the plaintiff's attorney. ... If service is made by a person other than a sheriff ... or a constable authorized by law, that person shall make proof thereof by affidavit. Failure to make proof of service shall not affect the validity of the service. The officer or other person serving the process shall endorse the date of service upon the copy left with the defendant or other person. Failure to endorse the date of service shall not affect the validity of service.

(k) Alternative Provisions for Service in a Foreign Country.

(1) Manner. When service is to be effected upon a party in a foreign country, it is also sufficient if service of the summons and complaint is made:

(A) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or

(B) as directed by the foreign authority in response to a letter rogatory, when service in either case is reasonably calculated to give actual notice; or

(C) upon an individual, by delivery to the individual personally, and upon a corporation or partnership or association, by delivery to an officer, a managing or general agent; or

(D) by any form of mail, requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the party to be served; or

(E) as directed by order of the court.

Service under (C) or (E) above may be made by any person who is not a party and is not less than 18 years of age or who is designated by order of the court or by the foreign court. On request, the clerk shall transmit the summons to the person or the foreign court or officer who will make the service.

(2) Return. Proof of service may be made as prescribed by subdivision (i) of this rule, or by the law of the foreign country, or by order of the court.

VERMONT STATUTES

TITLE 13

§ 6648. Exemption from arrest and service of process

(a) If a person comes into this state in obedience to a summons directing him to attend and testify in such action in this state, he shall not, while in this state pursuant to such summons, be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance under the summons.

(b) If a person passes through this state while going to another state in obedience to a summons to attend and testify in such action in that state or while returning therefrom, he shall not while so passing through this state be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this state under the summons.

VIRGINIA
State Capital: Richmond
Population: 8.4 million
95 counties

CODE OF VIRGINIA

Title 8.01.

CIVIL REMEDIES AND PROCEDURE

Article 1.

§ 8.01-289. No Service of Process on Sunday—

No civil process shall be served on Sunday, except in cases of persons escaping out of custody, or where it is otherwise expressly provided by law.

Article 3. Who and Where to Serve Process.

§ 8.01-293. Who may serve process. The following persons shall be eligible to serve process:

1. The sheriff within such territorial bounds as described in s 8.01-295; or
2. Any person of age 18 years or older and who is not a party or otherwise interested in the subject matter in controversy.

Whenever in this Code the term “officer” or “sheriff” is used to refer to persons authorized to make , return or do any other act relating to service of process, such term shall be deemed to refer to any person authorized by this section to serve process.

Article 4. Who to Be Served

§ 8.01-296. Manner of serving process upon natural persons.—In any action at law or in equity or any other civil proceeding in any court, process ... may be served upon natural persons as follows:

1. By delivering a copy to the party in person; or
2. By substituted service in the following manner:
 - a. If the party .. is not found at his usual place of abode, by delivering a copy ... to any person found there, who is a member of the family, other than a temporary sojourner or guest, and who is of the age of 16 years or older; or
 - b. If such service cannot be effected under subdivision 2a, then by posting a copy of such process at the front door or at such other door as appears to be the main entrance of such place of abode [followed by a mailing of a copy to the party served and the filing of a certificate of mailing with the clerk of the court]...
 - c. The person executing such service shall note the manner and the date of such service on the original and the copy of the process so delivered or posted under subdivision 2 and shall effect the return of process as provided in §§ 8.01-294 and 8.01-325.

§ 8.01-320. Personal service outside of Virginia...

- A. Personal service of process on a nonresident person outside the Commonwealth may be made by:
- (i) any person authorized to serve process in the jurisdiction where the party to be served is located; or
 - (ii) any person 18 years of age or older who is not a party or otherwise interested in the subject matter of the controversy and notwithstanding any other provision of law to the contrary, such person need not be authorized by the circuit court to serve process which commences divorce or annulment actions..

§ 8.01-325. Return by person serving process.—Unless otherwise directed by the court, the person serving process shall make return to the clerk’s office within 72 hours of service, except when such return would be due on a Saturday, Sunday, or legal holiday. In such case, the return is due on the next day following such [holiday]. The process shall state thereon the date and manner of service and the name of the party served. Proof shall be in the following manner:

1. If service by sheriff ... the return of such sheriff as provided by the Rules of the Supreme Court; or
2. If service by any other person qualified under § 8.01-293, whether service made in or out of the Commonwealth, his affidavit of such qualifications; the date and manner of service and the name of the party served; and stamped, typed, or printed on the return of process, an annotation that the service was by a private server, and the name, address, and telephone number of the server...

Case Note

☞ Where nothing in the record established that process server was qualified to serve process under Virginia’s procedural requirements, service of process was invalid, and the court did not acquire personal jurisdiction over defendant. Harrel v. Preston, 15 Va.App. 202, 421 S.E.2d 676 (1992).

§ 18.2-409. Resisting or obstructing execution of legal process.

Every person acting jointly or in combination with any other person to resist or obstruct the execution of any legal process shall be guilty of a Class 1 misdemeanor.

WASHINGTON
State Capital: Olympia
Population: 7.2 million -- 39 counties

WASHINGTON

SUPERIOR COURT CIVIL RULES

RULE 4. PROCESS

(c) **By Whom Served.** Service of summons and process, except when service is by publication, shall be by the sheriff of the county wherein the service is made... or by any person over 18 years of age who is competent to be a witness in the action, other than a party. Subpoenas may be served as provided in Rule 45.

(d) **Service.**

(2) *Personal in State.* Personal service of summons and process shall be as provided in RCW 4.28.080-.090, 23B.05.040, 23B.15.100, 46.64.040, and 48.05.200 and .210, and other statutes which provide for personal service.

(e) **Other Service.**

(2) *Personal Service Out of State – Generally.* Although Rule 4 does not generally apply to personal service out of state, the prescribed form of summons, may, with the modifications required by statute, be used for that purpose. See RCW 4.28.180.

(g) **Return of Service.** Proof of service shall be as follows:

- (1) If served by the sheriff or his deputy, the return of the sheriff or his deputy endorsed upon or attached to the summons;
- (2) If served by any other person, his affidavit of served endorsed upon or attached to the summons; or
- (3) In case of personal service out of state, the affidavit of the person making the service, sworn to before a notary public, with a seal attached, or before a clerk of a court of record.

Alternative Provisions for Service in a Foreign Country.

- (1) *Manner.* When a statute or rule authorizes service upon a party ... in a foreign country, it is also sufficient if service of the summons ... is made in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or
 - (A) as directed by the foreign authority in response to a letter rogatory or a letter of request; or
 - (B) upon an individual, by delivery to him personally, and upon a corporation or partnership or association, by delivery to an officer, a managing or general agent; or

- (C) by any form of mail, requiring a signed receipt, to be addressed and mailed to the party to be served; or
- (D) pursuant to the means and terms of any applicable treaty or convention; or
- (E) by diplomatic or consular officers when authorized by the U.S. Dept. of State; or
- (F) as directed by order of the court.

Service under (C) or (G) above may be made by any person who is not a party and is not less than 21 years of age or who is designated by order of the court or by the foreign court. The method for service of process in a foreign country must comply with applicable treaties, if any, and must be reasonably calculated, under all the circumstances, to give actual notice.

- (2) *Return.* Proof of service may be made as prescribed by section (g) of this rule, or by the law of the foreign country, or by a method provided for in any applicable treaty or convention, or by order of the court...

RULE 45. SUBPOENA

(c) **Service.** A subpoena may be served by any suitable person over 18 years of age, by exhibiting and reading it to the witness, or by giving him a copy, or by leaving such copy at the place of his abode. When service is made by any other person than an officer authorized to serve process, proof of service shall be made by affidavit.

REVISED CODE OF WASHINGTON (RCW)

4.28.080. Summons, how served—Service made in the modes provided in this section shall be held to be personal service. The summons shall be served by delivering a copy, as follows:

- (9) If the suit be against a company or corporation other than those designated in the preceding subdivisions of this section, to the president or other head of the company..., the registered agent, secretary, cashier or managing agent, or to the secretary, stenographer or office assistant of the president or other head of the company.
- (15) In all other cases, to the defendant personally, or by leaving a copy of the summons at the house of his or her usual abode with some person of suitable age and discretion then resident therein.
- (16) In lieu of service under subsection (15) of this section, where the person cannot with reasonable diligence be served as described, the summons may be served as provided in this subsection, and shall be deemed complete on the 10th day after the required mailing: ---
-----By leaving a copy at his or her usual mailing address with a person of suitable age and discretion who is a resident, proprietor, or agent thereof, and by thereafter mailing a copy by first class mail, postage prepaid, to the person to be served at his or her usual mailing address. For the purposes of this subsection, "usual mailing address" shall not include a United States postal service post office box or the person's place of employment.

[**Note:** This subsection (16) contains the new language of the statute as amended in the 1997 legislature which became effective 7/27/97. It takes away the previously authorized substituted service at place of employment.]

educational loan; provides for a brief adjudicative proceeding before suspension; allows registration to be reissued under certain conditions.]

Case Note

☞ Failing to come to door to receive service of process does not constitute evasion of service; those who are to be served with process are under no obligation to arrange time and place for service or to otherwise accommodate process server. Weiss v. Glemp (1995) 127 Wash.2d 726, 903 P.2d 455.

4.28.180 Personal service out of state. Personal service of summons or other process may be made upon any party outside the state. If upon a citizen or resident of this state ... it shall have the force and effect of service within this state; ... The summons upon the party out of the state shall contain the same and be served in like manner as personal summons within the state.

18.180.010 Process Servers – Registration

- (1) A person who serves legal process for a fee in the State of Washington shall register as a process server with the auditor of the county in which the process server resides or operates his or her principal place of business. [Exclusion is provided for an attorney or the attorney's employees who are not serving process on a fee basis.]
- (2) The requirement to register ... does not apply to any of the following persons:
 - (a) A sheriff, deputy sheriff, marshal, constable, or government employee who is acting in the course of employment;
 - (b) An attorney or the attorney's employees, who are not serving on a fee basis;
 - (c) A person who is court appointed...
 - (d) An employee of a person registered under this section;
 - (e) A person who does not receive a fee or wage for serving process.

18.180.030 Identification on proof of service

- (1) A process server required to register under RCW 18.180.010 shall indicate the server's registration number and county of registration on any proof of service the server signs.
- (2) Employees of a [registered process server] shall indicate the employer's registration number and the employer's county of registration on any proof of service the registrant's employee signs.

18.180.040 Collection of costs of service

[provides that attorney not entitled to collect costs of service fee if nonregistered process server used; however, costs may be collected if process server registers within 45 days after serving the process.]

18.180.050 Registration suspension

[provides that auditor suspend the registration of any process server who has been certified by a lending agency as being in default on a federally or state-guaranteed



WEST VIRGINIA
State Capital: Charleston
Population: 1.8 million
55 counties

WEST VIRGINIA CODE
RULES OF CIVIL PROCEDURE

RULE 4. Process.

- (c) By whom served.** – Service of all process shall be made with due diligence by the sheriff or by any credible person who is not a party, except that an attorney for a party shall not serve original process.
- (d) Personal or substituted service.**
- (1) Individuals. – Upon an individual ... (A) by delivering a copy of the summons and complaint to him personally; or by delivering a copy at his dwelling house or usual place of abode to a member of his family above the age of 16 years and giving to such person information of the purport of the summons and complaint; or by delivering a copy to an agent or attorney in fact authorized by appointment or statute to receive or accept service of process in his behalf; or (B) by the clerk sending a copy ... by registered or certified mail , return receipt requested and delivery restricted to the addressee; or (C) by the clerk sending a copy [by first class mail with 2 copies of notice and acknowledgment]...
- (2) Domestic private corporations. -- ... (A) by delivering or mailing in accordance with paragraph (1) above a copy ... to an officer, director or trustee; or ... any agent of the corporation.
- (f) Personal service outside State.** – Personal service ... may be made outside of this State on any defendant...
- (g) Proof of service or publication.** – The person serving the process... shall make proof of service... to the court promptly and in any event within the time during which the person served must respond to the process... If service is made by a person other than the sheriff or clerk, he shall make proof thereof by affidavit. Failure to make proof of service... within the time required does not affect the validity of the service of the process, notice, or order.

Case Note

☞ A convicted felon who has completed the punishment and paid all fines set by judgment of the court is considered to be a credible person for the purpose of service of process. State ex rel. Wolfe v. King (W. Va.) 443 S.E.2d 823 (1994).

WEST VIRGINIA CODE

Part VI. Abusive Acts or Practices

Sec. 56-3-16. Execution of process on Sunday.

No civil process or order shall be executed on Sunday, except in cases of persons escaping from custody, or where it may be specially provided by law.



WISCONSIN

State Capital: Madison
Population: 5.8 million
72 counties

WISCONSIN STATUTES ANNOTATED

CHAPTER 801. CIVIL PROCEDURE

801.10. Summons

- (1) **Who may serve.** An authenticated copy of the summons may be served by any adult resident of the state where service is made who is not a party to the action. Service shall be made with reasonable diligence.
- (2) **Endorsement.** At the time of service, the person who serves a copy of the summons shall sign the summons and shall indicate thereon the time and date, place and manner of service and upon whom service was made. If the server is a sheriff ... the server's official title shall be stated. Failure to make the endorsement shall not invalidate a service but the server shall not collect fees for the service.
- (3) **Proof of service.** The person making service shall make and deliver proof of service to the person on whose behalf service was made who shall promptly file such proof of service. Failure to make, deliver, or file proof of service shall not affect the validity of the service.
- (4) **Proof if service challenged.** ... (a) personal or substituted personal service shall be proved by the affidavit of the server indicating the time and date, place and manner of service, that the server is an adult resident of the state of service not a party to the action, that the server knew the person served to be the defendant named in the summons and that the server delivered to and left with the defendant an authenticated copy of the summons. If the defendant is not personally served, the server shall state in the affidavit when, where and with whom the copy was left, and shall state such facts as show reasonable diligence in attempting to effect personal service on the defendant. ...

801.11. Manner of serving summons for

- (1) **Natural person.**
 - (a) By personally serving the summons upon the defendant either within or without this state.
 - (b) If with reasonable diligence the defendant cannot be served under (a), then by leaving a copy of the summons at the defendant's usual place of abode:
 1. In the presence of some competent member of the family at least 14 years of age, who shall be informed of the contents thereof; [or] In the presence of a competent adult, currently residing in the abode of the

defendant, who shall be informed of the contents of the summons; or

2. Pursuant to the law for substituted service of summons or like process upon defendants in actions brought in courts of general jurisdiction of the state in which service is made.

(5) Domestic or foreign corporations...

- (a) By personally serving the summons upon an officer, director or managing agent of the corporation ... either within or without this state. In lieu of delivering the copy of the summons to the officer specified, the copy may be left in the office of such officer, director or managing agent with the person who is apparently in charge of the office.

WYOMING

State Capital: Cheyenne
Population: 586,000
23 counties

WYOMING RULES of CIVIL PROCEDURE

RULE 4. Process.

(a) **Issuance of summons.** Upon the filing of the complaint the clerk shall forthwith issue a summons to the plaintiff for service on the defendant. ...

(c) **By whom served.** Except as otherwise ordered by the court, Process may be served:

- (1) Within the state, by any person of the age of majority, not a party to the action, or, at the request of the party causing same to be issued, by the sheriff of the county where the service is made, or the sheriff's designee.
- (2) In **another state** of U.S. territory, by any person of the age of majority, not a party to the action, or, at the request of the party causing same to be issued, by the sheriff of the county where the service is made, or the sheriff's designee.
- (3) In a **foreign country**, by any citizen of the United States of the age of majority.

[Note: Rule 4(c)(1), (2) and (3) was amended 2/3/03 by Order of the Wyoming Supreme Court; becomes effective 5/1/03]

(d) **Personal service** ... shall be made as follows:

- (1) Upon an individual ... by delivering a copy ... to the individual personally, or by leaving copies at the individual's dwelling house or usual place of abode with some person over the age of 14 years then residing therein, or at the defendant's usual place of business with an employee of the business then in charge of such place of business. ...
- (2) Upon an incompetent person...
- (3) Upon a partnership, or other unincorporated association, by delivery of copies to one or more of the partners or associates, or a managing or general agent..., or agent for process, or by leaving same at the usual place of business of such defendant with any employee then in charge thereof;
- (4) Upon a corporation, by delivery of copies to any officer, manager, general agent, or agent for process. ...

(m) Return; Proof of service.

- (1) Return – The person serving the process shall make proof of service to the court promptly and in any event within the time during which the person served must respond to the process. Failure to make proof of service does not affect the validity of the service.

(2) **Proof of Service**---shall be made as follows:

- (i) If served by a Wyoming sheriff ... by a certificate with a statement as to date, place and manner of service...;
- (ii) If by any other person, by the person's **affidavit** thereof with a statement as to date, place and manner of service;
- (iii) If by certified mail, by the certificate of the clerk showing the date of mailing and the date the clerk received the return receipt;

(o) **Waiver of Service; duty to save costs of service**—
[details procedure for obtaining waiver]
