

Regular Session, 2014

SENATE BILL NO. 222

BY SENATOR MURRAY

CIVIL PROCEDURE. Provides relative to service of process. (gov sig)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

AN ACT

To amend and reenact R.S. 13:5107(D) and Code of Civil Procedure Articles 592(A)(1), 1067, and 1201(C), and to enact Code of Civil Procedure Articles 592(A)(4) and (5) and 3955(D) and (E), relative to service of process; to provide relative to certain legal delays; to provide certain terms, conditions, procedures and effects; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 13:5107(D) is hereby amended and reenacted to read as follows:

§5107. Service of citation and process

* * *

D.(1) In all suits in which the state, a state agency, or political subdivision, or any officer or employee thereof is named as a party, service of citation shall be requested within ninety days of the commencement of the action or the filing of a supplemental or amended petition which initially names the state, a state agency, or political subdivision or any officer or employee thereof as a party. **However, should a named defendant be an entity who has not filed or maintained notice with the secretary of state as required by law designating an agent for service of process,**

1 service of citation upon such entity shall be requested within one hundred fifty
 2 days of commencement of the action or filing of a supplemental or amended
 3 petition naming any additional defendant. This requirement may be expressly
 4 waived by the defendant in such action by any written waiver.

5 * * *

6 (3) A request for service pursuant to this Section interrupts the period
 7 in which service must be requested and does not commence to run until the
 8 sheriff or the officer charged with the duty of making the service makes his
 9 return to the issuing court, stating the efforts made by him to secure service and
 10 the reasons why he was unable to do so.

11 (4) If service of process was made by registered or certified mail, a
 12 request for service pursuant to this Section commences to run after the filing in
 13 the record of the registered or certified mail showing that it was enclosed in an
 14 envelope properly addressed to the defendant, with sufficient postage affixed,
 15 and the date it was deposited in the United States mail, to which shall be
 16 attached the return receipt of the defendant or that service cannot be made on
 17 the named party at the address provided.

18 ~~(3)~~ (5) When the state, a state agency, or a political subdivision, or any
 19 officer or employee thereof, is dismissed as a party pursuant to this Section, the
 20 filing of the action, even as against other defendants, shall not interrupt or suspend
 21 the running of prescription as to the state, state agency, or political subdivision, or
 22 any officer or employee thereof; however, the effect of interruption of prescription
 23 as to other persons shall continue.

24 Section 2. Code of Civil Procedure Articles 592(A)(1), 1067, and 1201(C) are
 25 hereby amended and reenacted and Code of Civil Procedure Articles 592(A)(4) and (5) and
 26 3955(D) and (E) are hereby enacted to read as follows:

27 Art. 592. Certification procedure; notice; judgment; orders

28 A.(1) Within ninety days after service on all adverse parties of the initial
 29 pleading demanding relief on behalf of or against a class, or within one hundred

1 or the officer charged with the duty of making the service makes his return to
2 the issuing court, stating the efforts made by him to secure service and the
3 reasons why he was unable to do so.

4 C. If service of process was made by registered or certified mail, a
5 request for service pursuant to this Section commences to run after the filing in
6 the record of the registered or certified mail showing that it was enclosed in an
7 envelope properly addressed to the defendant, with sufficient postage affixed,
8 and the date it was deposited in the United States mail, to which shall be
9 attached the return receipt of the defendant or that service cannot be made on
10 the named party at the address provided.

11 * * *

12 Art. 1201. Citation; waiver; delay for service

13 * * *

14 C.(1) Service of the citation shall be requested on all named defendants
15 within ninety days of commencement of the action. When a supplemental or
16 amended petition is filed naming any additional defendant, service of citation shall
17 be requested within ninety days of its filing. For a defendant who has not filed or
18 maintained notice with the secretary of state as required by law designating an
19 agent for service of process, service of citation shall be requested within one
20 hundred fifty days of commencement of the action or filing of a supplemental
21 or amended petition naming any additional defendant. The defendant may
22 expressly waive the requirements of this Paragraph by any written waiver. The
23 requirement provided by this Paragraph shall be expressly waived by a defendant
24 unless the defendant files, in accordance with the provisions of Article 928, a
25 declinatory exception of insufficiency of service of process specifically alleging the
26 failure to timely request service of citation.

27 (2) A request for service pursuant to this Section interrupts the period
28 in which service must be requested and does not commence to run until the
29 sheriff or the officer charged with the duty of making the service makes his

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Angela L. De Jean.

DIGEST

Murray (SB 222)

Present law (C.C.P. Arts. 592, 1067, 1201, 3955 and R.S. 13:5107) provides for the taking of certain action within 90 days after service of process.

Proposed law increases the time period to within 150 days for a defendant who has not filed or maintained notice with the secretary of state as required by law designating an agent for service of process.

Proposed law provides that a request for service interrupts the period in which service must be requested and does not commence to run until the sheriff or the officer charged with the duty of making the service makes his return to the issuing court, stating the efforts made by him to secure service and the reasons why he was unable to do so.

Proposed law also provides that if service of process was made by registered or certified mail, a request for service commences to run after the filing in the record of the registered or certified mail showing that it was enclosed in an envelope properly addressed to the defendant, with sufficient postage affixed, and the date it was deposited in the U. S. mail, to which shall be attached the return receipt of the defendant or that service cannot be made on the named party at the address provided.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 13:5107(D) and C.C.P. Arts. 592(A)(1), 1067, and 1201(C); adds C.C.P. Arts. 592(A)(4) and (5) and 3955(D) and (E))