

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 59th Legislature (2024)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3218

By: West (Kevin) of the House

and

Weaver of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to civil procedure; amending 12 O.S.
12 2021, Section 2004, as amended by Section 1, Chapter
13 59, O.S.L. 2022 (12 O.S. Supp. 2023, Section 2004),
14 which relates to service of process; providing
15 service of process by electronic means; providing
16 provisions for return when serving by electronic
17 means; and providing an effective date.

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. AMENDATORY 12 O.S. 2021, Section 2004, as
20 amended by Section 1, Chapter 59, O.S.L. 2022 (12 O.S. Supp. 2023,
21 Section 2004), is amended to read as follows:

22 Section 2004.

23 Process.

1 A. SUMMONS: ISSUANCE. Upon filing of the petition, the clerk
2 shall forthwith issue a summons. Upon request of the plaintiff
3 separate or additional summons shall issue against any defendants.

4 B. SUMMONS: FORM.

5 1. The summons shall be signed by the clerk, be under the seal
6 of the court, contain the name of the court and the names of the
7 parties, be directed to the defendant, state the name and address of
8 the plaintiff's attorney, if any, otherwise, the plaintiff's
9 address, and the time within which these rules require the defendant
10 to appear and defend, and shall notify the defendant that in case of
11 failure to appear, judgment by default will be rendered against the
12 defendant for the relief demanded in the petition.

13 2. A judgment by default shall not be different in kind from or
14 exceed in amount that prayed for in either the demand for judgment
15 or in cases not sounding in contract in a notice which has been
16 given the party against whom default judgment is sought. Except as
17 to a party against whom a judgment is entered by default, every
18 final judgment shall grant the relief to which the party in whose
19 favor it is rendered is entitled, even if the party has not demanded
20 such relief in his or her pleadings.

21 C. BY WHOM SERVED: PERSON TO BE SERVED.

22 1. SERVICE BY PERSONAL DELIVERY.

23 a. At the election of the plaintiff, process, other than
24 a subpoena, shall be served by a sheriff or deputy

1 sheriff, a person licensed to make service of process
2 in civil cases or a person specially appointed for
3 that purpose. The court shall freely make special
4 appointments to serve all process, other than a
5 subpoena, under this paragraph.

6 b. A summons to be served by the sheriff or deputy
7 sheriff shall be delivered to the sheriff by the court
8 clerk or an attorney of record for the plaintiff.
9 When a summons, subpoena or other process is to be
10 served by the sheriff or deputy sheriff of another
11 county, the court clerk shall mail it, together with
12 the voucher of the court clerk for the fees collected
13 for the service, to the sheriff of that county. The
14 sheriff shall deposit the voucher in the Sheriff's
15 Service Fee Account created pursuant to Section 514.1
16 of Title 19 of the Oklahoma Statutes. The sheriff or
17 deputy sheriff shall serve the process in the manner
18 that other process issued out of the court of the
19 sheriff's own county is served. A summons to be
20 served by a person licensed to make service of process
21 in civil cases or by a person specially appointed for
22 that purpose shall be delivered by an attorney of
23 record for the plaintiff to such person.

24 c. Service shall be made as follows:

- 1 (1) upon an individual other than an infant who is
2 less than fifteen (15) years of age or an
3 incompetent person, by delivering a copy of the
4 summons and of the petition personally or by
5 leaving copies thereof at the person's dwelling
6 house or usual place of abode with some person
7 then residing therein who is fifteen (15) years
8 of age or older, by delivering a copy of the
9 summons and of the petition to an agent
10 authorized by appointment or by law to receive
11 service of process, or by delivering a copy of
12 the summons and of the petition personally or by
13 leaving copies thereof at an agreed meeting place
14 with some person then residing at the person's
15 dwelling house or usual place of abode,
16 (2) upon an infant who is less than fifteen (15)
17 years of age, by serving the summons and petition
18 personally and upon either of the infant's
19 parents or guardian, or if they cannot be found,
20 then upon the person having the care or control
21 of the infant or with whom the infant lives; and
22 upon an incompetent person by serving the summons
23 and petition personally and upon the incompetent
24 person's guardian,

1 (3) upon a domestic or foreign corporation or upon a
2 partnership or other unincorporated association
3 which is subject to suit under a common name, by
4 delivering a copy of the summons and of the
5 petition to an officer, a managing or general
6 agent or to any other agent authorized by
7 appointment or by law to receive service of
8 process and, if the agent is one authorized by
9 statute to receive service and the statute so
10 requires, by also mailing a copy to the
11 defendant,

12 (4) upon the United States or an officer or agency
13 thereof in the manner specified by Federal Rule
14 of Civil Procedure 4,

15 (5) upon a state, county, school district, public
16 trust or municipal corporation or other
17 governmental organization thereof subject to
18 suit, by delivering a copy of the summons and of
19 the petition to the officer or individual
20 designated by specific statute; however, if there
21 is no statute, then upon the chief executive
22 officer or a clerk, secretary or other official
23 whose duty it is to maintain the official records
24 of the organization,

1 (6) upon an inmate incarcerated in an institution
2 under the jurisdiction and control of the
3 Department of Corrections, by delivering a copy
4 of the summons and of the petition to the warden
5 or superintendent or the designee of the warden
6 or superintendent of the institution where the
7 inmate is housed. It shall be the duty of the
8 receiving warden or superintendent or a designee
9 to promptly deliver the summons and petition to
10 the inmate named therein. The warden or
11 superintendent or his or her designee shall
12 reject service of process for any inmate who is
13 not actually present in the institution, and

14 (7) upon an inmate incarcerated in a county jail or
15 detention center under the jurisdiction and
16 control of the county sheriff or the jail trust
17 of the county, by delivering a copy of the
18 summons and of the petition to the jail or
19 detention center administrator or the designee of
20 such administrator of the jail or detention
21 center where the inmate is housed. It shall be
22 the duty of the receiving jail or detention
23 center administrator or designee to promptly
24 deliver the summons and petition to the inmate

1 named therein. The jail or detention center
2 administrator or designee shall reject service of
3 process for any inmate who is not actually
4 present in the jail or detention center.

5 2. SERVICE BY MAIL.

6 a. At the election of the plaintiff, a summons and
7 petition may be served by mail by the plaintiff's
8 attorney, any person authorized to serve process
9 pursuant to subparagraph a of paragraph 1 of this
10 subsection or by the court clerk upon a defendant of
11 any class referred to in division (1), (3) or (5) of
12 subparagraph c of paragraph 1 of this subsection.
13 Service by mail shall be effective on the date of
14 receipt or if refused, on the date of refusal of the
15 summons and petition by the defendant.

16 b. Service by mail shall be accomplished by mailing a
17 copy of the summons and petition by certified mail,
18 return receipt requested and delivery restricted to
19 the addressee. When there is more than one defendant,
20 the summons and a copy of the petition or order shall
21 be mailed in a separate envelope to each defendant.
22 If the summons is to be served by mail by the court
23 clerk, the court clerk shall enclose the summons and a
24 copy of the petition or order of the court to be

1 served in an envelope, prepared by the plaintiff,
2 addressed to the defendant, or to the resident service
3 agent if one has been appointed. The court clerk
4 shall prepay the postage and mail the envelope to the
5 defendant, or service agent, by certified mail, return
6 receipt requested and delivery restricted to the
7 addressee. The return receipt shall be prepared by
8 the plaintiff. Service by mail to a garnishee shall
9 be accomplished by mailing a copy of the summons and
10 notice by certified mail, return receipt requested,
11 and at the election of the judgment creditor by
12 restricted delivery, to the addressee.

13 c. Service by mail shall not be the basis for the entry
14 of a default or a judgment by default unless the
15 record contains a return receipt showing acceptance by
16 the defendant or a returned envelope showing refusal
17 of the process by the defendant. Acceptance or
18 refusal of service by mail by a person who is fifteen
19 (15) years of age or older who resides at the
20 defendant's dwelling house or usual place of abode
21 shall constitute acceptance or refusal by the party
22 addressed. In the case of an entity described in
23 division (3) of subparagraph c of paragraph 1 of this
24 subsection, acceptance or refusal by any officer or by

1 any employee of the registered office or principal
2 place of business who is authorized to or who
3 regularly receives certified mail shall constitute
4 acceptance or refusal by the party addressed. A
5 return receipt signed at such registered office or
6 principal place of business shall be presumed to have
7 been signed by an employee authorized to receive
8 certified mail. In the case of a state municipal
9 corporation, or other governmental organization
10 thereof subject to suit, acceptance or refusal by an
11 employee of the office of the officials specified in
12 division (5) of subparagraph c of paragraph 1 of this
13 subsection who is authorized to or who regularly
14 receives certified mail shall constitute acceptance or
15 refusal by the party addressed. If delivery of the
16 process is refused, upon the receipt of notice of such
17 refusal and at least ten (10) days before applying for
18 entry of default, the person elected by plaintiff
19 pursuant to subparagraph a of this paragraph to serve
20 the process shall mail to the defendant by first-class
21 mail a copy of the summons and petition and a notice
22 prepared by the plaintiff that despite such refusal
23 the case will proceed and that judgment by default
24 will be rendered against him unless he appears to

1 defend the suit. Any default or judgment by default
2 shall be set aside upon motion of the defendant in the
3 manner prescribed in Section 1031.1 of this title, or
4 upon petition of the defendant in the manner
5 prescribed in Section 1033 of this title if the
6 defendant demonstrates to the court that the return
7 receipt was signed or delivery was refused by an
8 unauthorized person. A petition shall be filed within
9 one (1) year after the defendant has notice of the
10 default or judgment by default but in no event more
11 than two (2) years after the filing of the judgment.

12 3. SERVICE BY ELECTRONIC MEANS.

13 a. Upon a judge's order or if a copy of the summons and
14 petition cannot be personally delivered after three
15 attempts to the named defendant, as specified in
16 paragraph 1 of this subsection, a summons may be
17 served by electronic means, and by thereafter mailing
18 a copy of the summons and of the complaint by
19 certified mail, postage prepaid to the named defendant
20 at the last-known address. Service of a summons in
21 this manner is deemed complete on the day of receipt
22 of the electronic transmission and mailing. A summons
23 and petition may be served by electronic means by the
24 plaintiff's attorney, any person authorized to serve

1 process pursuant to subparagraph a of paragraph 1 of
2 this subsection or by the court clerk upon a defendant
3 of any class referred to in division (1), (3), or (5)
4 of subparagraph c of paragraph 1 of this subsection.
5 Service by electronic means shall be effective on the
6 date of receipt or, if refused, on the date of refusal
7 of the summons and petition by the defendant.

8 b. Service by electronic means shall be accomplished by
9 sending an electronic notification to the named
10 defendant via email. The electronic notification
11 shall advise the named defendant of the nature of the
12 communication and shall include a hyperlink to a
13 secure application that tracks the email and provides
14 evidence of whether the email notification was bounced
15 back, returned, received, opened, and whether a copy
16 of the summons was viewed or downloaded by the named
17 defendant. The secure application shall give the
18 named defendant the option of accepting the service by
19 electronically signing an acknowledgement of receipt
20 in the application or the option of declining the
21 service. When there is more than one defendant, the
22 summons and a copy of the petition or order shall be
23 transmitted in a separate email notification to each
24 defendant. If the summons is to be transmitted by the

1 court clerk, the court clerk shall enclose the summons
2 and a copy of the petition or order of the court to be
3 served in the email notification, prepared by the
4 plaintiff, addressed to the defendant, or to the
5 resident service agent if one has been appointed.
6 Service by email to a garnishee shall be accomplished
7 by transmitting via a secure application a copy of the
8 summons and notice, return receipt requested, and at
9 the election of the judgment creditor, to the
10 addressee.

11 c. Service by electronic means shall not be the basis for
12 the entry of a default or a judgment by default unless
13 the record contains evidence showing acceptance by the
14 defendant or a returned email showing refusal of the
15 process by the defendant. Acceptance or refusal of
16 service by electronic means by a person who is fifteen
17 (15) years of age or older who resides at the
18 defendant's dwelling house or usual place of abode
19 shall constitute acceptance or refusal by the party
20 addressed. In the case of an entity described in
21 division (3) of subparagraph c of paragraph 1 of this
22 subsection, acceptance or refusal by any officer or by
23 any employee of the registered office or principal
24 place of business who is authorized to or who

1 regularly receives emails shall constitute acceptance
2 or refusal by the party addressed. A return receipt
3 email sent at such registered office or principal
4 place of business shall be presumed to have been sent
5 by an employee authorized to email. In the case of a
6 state municipal corporation, or other governmental
7 organization thereof subject to suit, acceptance or
8 refusal by an employee of the office of the officials
9 specified in division (5) of subparagraph c of
10 paragraph 1 of this subsection who is authorized to or
11 who regularly receives email shall constitute
12 acceptance or refusal by the party addressed. If
13 delivery of the process is refused, upon the receipt
14 of notice of such refusal and at least ten (10) days
15 before applying for entry of default, the person
16 elected by the plaintiff pursuant to subparagraph a of
17 this paragraph to serve the process shall email to the
18 defendant a copy of the summons and petition and a
19 notice prepared by the plaintiff that despite such
20 refusal the case will proceed and that judgment by
21 default will be rendered against him or her unless he
22 or she appears to defend the suit. Any default or
23 judgment by default shall be set aside upon motion of
24 the defendant in the manner prescribed in Section

1 1031.1 of this title, or upon petition of the
2 defendant in the manner prescribed in Section 1033 of
3 this title if the defendant demonstrates to the court
4 that the return receipt email was sent or delivery was
5 refused by an unauthorized person. A petition shall
6 be filed within one (1) year after the defendant has
7 notice of the default or judgment by default but in no
8 event more than two (2) years after the filing of the
9 judgment.

10 4. SERVICE BY PUBLICATION.

11 a. Service of summons upon a named defendant may be made
12 by publication when it is stated in the petition,
13 verified by the plaintiff or the plaintiff's attorney
14 or in a separate affidavit by the plaintiff or the
15 plaintiff's attorney filed with the court, that with
16 due diligence service cannot be made upon the
17 defendant by any other method.

18 b. Service of summons upon the unknown successors of a
19 named defendant, a named decedent or a dissolved
20 partnership, corporation or other association may be
21 made by publication when it is stated in a petition,
22 verified by the plaintiff or the plaintiff's attorney
23 or in a separate affidavit by the plaintiff or the
24 plaintiff's attorney filed with the court, that the

1 person who verified the petition or the affidavit does
2 not know and with due diligence cannot ascertain the
3 following:

4 (1) whether a person named as defendant is living or
5 dead, and, if dead, the names or whereabouts of
6 the person's successors, if any,

7 (2) the names or whereabouts of the unknown
8 successors, if any, of a named decedent,

9 (3) whether a partnership, corporation or other
10 association named as a defendant continues to
11 have legal existence or not; or the names or
12 whereabouts of its officers or successors,

13 (4) whether any person designated in a record as a
14 trustee continues to be the trustee; or the names
15 or whereabouts of the successors of the trustee,
16 or

17 (5) the names or whereabouts of the owners or holders
18 of special assessment or improvement bonds, or
19 any other bonds, sewer warrants or tax bills.

20 c. Service pursuant to this paragraph shall be made by
21 publication of a notice, signed by the court clerk,
22 one (1) day a week for three (3) consecutive weeks in
23 a newspaper authorized by law to publish legal notices
24 which is published in the county where the petition is

1 filed. If no newspaper authorized by law to publish
2 legal notices is published in such county, the notice
3 shall be published in some such newspaper of general
4 circulation which is published in an adjoining county.
5 All named parties and their unknown successors who may
6 be served by publication may be included in one
7 notice. The notice shall state the court in which the
8 petition is filed and the names of the plaintiff and
9 the parties served by publication, and shall designate
10 the parties whose unknown successors are being served.
11 The notice shall also state that the named defendants
12 and their unknown successors have been sued and must
13 answer the petition on or before a time to be stated
14 (which shall not be less than forty-one (41) days from
15 the date of the first publication), or judgment, the
16 nature of which shall be stated, will be rendered
17 accordingly. If jurisdiction of the court is based on
18 property, any real property subject to the
19 jurisdiction of the court and any property or debts to
20 be attached or garnished must be described in the
21 notice.

22 (1) When the recovery of money is sought, it is not
23 necessary for the publication notice to state the
24 separate items involved, but the total amount

1 that is claimed must be stated. When interest is
2 claimed, it is not necessary to state the rate of
3 interest, the date from which interest is claimed
4 or that interest is claimed until the obligation
5 is paid.

6 (2) It is not necessary for the publication notice to
7 state that the judgment will include recovery of
8 costs in order for a judgment following the
9 publication notice to include costs of suit.

10 (3) In an action to quiet title to real property, it
11 is not necessary for the publication notice to
12 state the nature of the claim or interest of
13 either party, and in describing the nature of the
14 judgment that will be rendered should the
15 defendant fail to answer, it is sufficient to
16 state that a decree quieting plaintiff's title to
17 the described property will be entered. It is
18 not necessary to state that a decree forever
19 barring the defendant from asserting any interest
20 in or to the property is sought or will be
21 entered if the defendant does not answer.

22 (4) In an action to foreclose a mortgage, it is
23 sufficient that the publication notice state that
24 if the defendant does not answer, the defendant's

1 interest in the property will be foreclosed. It
2 is not necessary to state that a judgment forever
3 barring the defendant from all right, title,
4 interest, estate, property and equity of
5 redemption in or to the property or any part
6 thereof is requested or will be entered if the
7 defendant does not answer.

8 d. Service by publication is complete when made in the
9 manner and for the time prescribed in subparagraph c
10 of this paragraph. Service by publication shall be
11 proved by the affidavit of any person having knowledge
12 of the publication. No default judgment may be
13 entered on such service until proof of service by
14 publication is filed with and approved by the court.

15 e. Before entry of a default judgment or order against a
16 party who has been served solely by publication under
17 this paragraph, the court shall conduct an inquiry to
18 determine whether the plaintiff, or someone acting in
19 behalf of the plaintiff, made a distinct and
20 meaningful search of all reasonably available sources
21 to ascertain the whereabouts of any named parties who
22 have been served solely by publication under this
23 paragraph. Before entry of a default judgment or
24 order against the unknown successors of a named

1 defendant, a named decedent or a dissolved
2 partnership, corporation or association, the court
3 shall conduct an inquiry to ascertain whether the
4 requirements described in subparagraph b of this
5 paragraph have been satisfied.

6 f. A party against whom a default judgment or order has
7 been rendered, without other service than by
8 publication in a newspaper, may, at any time within
9 three (3) years after the filing of the judgment or
10 order, have the judgment or order set aside in the
11 manner prescribed in Sections 1031.1 and 1033 of this
12 title. Before the judgment or order is set aside, the
13 applicant shall notify the adverse party of the
14 intention to make an application and shall file a full
15 answer to the petition, pay all costs if the court
16 requires them to be paid and satisfy the court by
17 affidavit or other evidence that during the pendency
18 of the action the applicant had no actual notice
19 thereof in time to appear in court and make a defense.
20 The title to any property which is the subject of and
21 which passes to a purchaser in good faith by or in
22 consequence of the judgment or order to be opened
23 shall not be affected by any proceedings under this
24 subparagraph. Nor shall proceedings under this

1 subparagraph affect the title of any property sold
2 before judgment under an attachment. The adverse
3 party, on the hearing of an application to open a
4 judgment or order as provided by this subparagraph,
5 shall be allowed to present evidence to show that
6 during the pendency of the action the applicant had
7 notice thereof in time to appear in court and make a
8 defense.

9 g. The term "successors" includes all heirs, executors,
10 administrators, devisees, trustees and assigns,
11 immediate and remote, of a named individual,
12 partnership, corporation or association.

13 h. Service outside of the state does not give the court
14 in personal jurisdiction over a defendant who is not
15 subject to the jurisdiction of the courts of this
16 state or who has not, either in person or through an
17 agent, submitted to the jurisdiction of the courts of
18 this state.

19 ~~4.~~ 5. SERVICE ON THE SECRETARY OF STATE.

20 a. Service of process on a domestic or foreign
21 corporation may be made by serving the Secretary of
22 State as the corporation's agent, if:
23
24

1 (1) there is no registered agent for the corporation
2 listed in the records of the Secretary of State,
3 or

4 (2) neither the registered agent nor an officer of
5 the corporation could be found at the registered
6 office of the corporation, when service of
7 process was attempted.

8 b. Before resorting to service on the Secretary of State
9 the plaintiff must have attempted service either in
10 person or by mail on the corporation at:

11 (1) the corporation's last-known address shown on the
12 records of the Franchise Tax Division of the
13 Oklahoma Tax Commission, if any is listed there,
14 and

15 (2) the corporation's last-known address shown on the
16 records of the Secretary of State, if any is
17 listed there, and

18 (3) the corporation's last address known to the
19 plaintiff.

20 If any of these addresses are the same, the plaintiff
21 is not required to attempt service more than once at
22 any address. The plaintiff shall furnish the
23 Secretary of State with a certified copy of the return
24 or returns showing the attempted service.

1 c. Service on the Secretary of State shall be made by
2 filing two (2) copies of the summons and petition with
3 the Secretary of State, notifying the Secretary of
4 State that service is being made pursuant to the
5 provisions of this paragraph, and paying the Secretary
6 of State the fee prescribed in paragraph 7 of
7 subsection A of Section 1142 of Title 18 of the
8 Oklahoma Statutes, which fee shall be taxed as part of
9 the costs of the action, suit or proceeding if the
10 plaintiff shall prevail therein. If a registered
11 agent for the corporation is listed in the records of
12 the Secretary of State, the plaintiff must also
13 furnish a certified copy of the return showing that
14 service on the registered agent has been attempted
15 either in person or by mail, and that neither the
16 registered agent nor an officer of the corporation
17 could be found at the registered office of the
18 corporation.

19 d. Within three (3) working days after receiving the
20 summons and petition, the Secretary of State shall
21 send notice by letter, certified mail, return receipt
22 requested, directed to the corporation at its
23 registered office or the last-known address found in
24 the office of the Secretary of State, or if no address

1 is found there, to the corporation's last-known
2 address provided by the plaintiff. The notice shall
3 enclose a copy of the summons and petition and any
4 other papers served upon the Secretary of State. The
5 corporation shall not be required to serve its answer
6 until forty (40) days after service of the summons and
7 petition on the Secretary of State.

8 e. Before entry of a default judgment or order against a
9 corporation that has been served by serving the
10 Secretary of State as its agent under this paragraph,
11 the court shall determine whether the requirements of
12 this paragraph have been satisfied. A default
13 judgment or order against a corporation that has been
14 served only by service on the Secretary of State may
15 be set aside upon motion of the corporation in the
16 manner prescribed in Section 1031.1 of this title, or
17 upon petition of the corporation in the manner
18 prescribed in Section 1033 of this title, if the
19 corporation demonstrates to the court that it had no
20 actual notice of the action in time to appear and make
21 its defense. A petition shall be filed within one (1)
22 year after the corporation has notice of the default
23 judgment or order but in no event more than two (2)
24

1 years after the filing of the default judgment or
2 order.

3 f. The Secretary of State shall maintain an alphabetical
4 record of service setting forth the name of the
5 plaintiff and defendant, the title, docket number and
6 nature of the proceeding in which the process has been
7 served upon the defendant, the fact that service has
8 been effected pursuant to the provisions of this
9 paragraph, the return date thereof and the date when
10 the service was made. The Secretary of State shall
11 not be required to retain this information for a
12 period longer than five (5) years from receipt of the
13 service of process.

14 g. The provisions of this paragraph shall not apply to a
15 foreign insurance company doing business in this
16 state.

17 ~~5.~~ 6. SERVICE BY ACKNOWLEDGMENT. An acknowledgment on the back
18 of the summons or the voluntary appearance of a defendant is
19 equivalent to service.

20 ~~6.~~ 7. SERVICE BY OTHER METHODS. If service cannot be made by
21 personal delivery ~~or~~, by mail, or by secured electronic means, a
22 defendant of any class referred to in division (1) or (3) of
23 subparagraph c of paragraph 1 of this subsection may be served as
24 provided by court order in a manner which is reasonably calculated

1 to give the defendant actual notice of the proceedings and an
2 opportunity to be heard and upon filing an affidavit by the
3 plaintiff or plaintiff's attorney that with due diligence service
4 cannot otherwise be made upon the defendant.

5 ~~7.~~ 8. NO SERVICE BY PRISONER. No prisoner in any jail,
6 Department of Corrections facility, private prison, or parolee or
7 probationer under supervision of the Department of Corrections shall
8 be appointed by any court to serve process on any defendant, party
9 or witness.

10 D. SUMMONS AND PETITION. The summons and petition shall be
11 served together. The plaintiff shall furnish the person making
12 service with such copies as are necessary. The failure to serve a
13 copy of the petition with the summons is not a ground for dismissal
14 for insufficiency of service of process, but on motion of the party
15 served, the court may extend the time to answer or otherwise plead.
16 If a summons and petition are served by personal delivery, the
17 person serving the summons shall state on the copy that is left with
18 the person served the date that service is made. This provision is
19 not jurisdictional, but if the failure to comply with it prejudices
20 the party served, the court, on motion of the party served, may
21 extend the time to answer or otherwise plead.

22 E. SUMMONS: TERRITORIAL LIMITS OF EFFECTIVE SERVICE.
23
24

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

4 2. When the exercise of jurisdiction is authorized by
5 subsection F of this section, service of the summons and petition
6 may be made outside this state:

7 a. by personal delivery in the manner prescribed for
8 service within this state,

9 b. in the manner prescribed by the law of the place in
10 which the service is made for service in that place in
11 an action in any of its courts of general
12 jurisdiction,

13 c. in the manner prescribed by paragraph 2 of subsection
14 C of this section,

15 d. as directed by the foreign authority in response to a
16 letter rogatory,

17 e. in the manner prescribed by paragraph ~~3~~ 4 of
18 subsection C of this section only when permitted by
19 subparagraphs a and b of paragraph ~~3~~ 4 of subsection C
20 of this section, or

21 f. as directed by the court.

22 3. Proof of service outside this state may be made in the
23 manner prescribed by subsection G of this section, the order
24 pursuant to which the service is made, or the law of the place in

1 which the service is made for proof of service in an action in any
2 of its courts of general jurisdiction.

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

7 5. When subsection C of this section requires that in order to
8 effect service one or more designated individuals be served, service
9 outside this state under this section must be made upon the
10 designated individual or individuals.

11 6. a. A court of this state may order service upon any
12 person who is domiciled or can be found within this
13 state of any document issued in connection with a
14 proceeding in a tribunal outside this state. The
15 order may be made upon application of any interested
16 person or in response to a letter rogatory issued by a
17 tribunal outside this state and shall direct the
18 manner of service.

19 b. Service in connection with a proceeding in a tribunal
20 outside this state may be made within this state
21 without an order of court.

22 c. Service under this paragraph does not, of itself,
23 require the recognition or enforcement of an order,
24 judgment or decree rendered outside this state.

1 F. ASSERTION OF JURISDICTION. A court of this state may
2 exercise jurisdiction on any basis consistent with the Constitution
3 of this state and the Constitution of the United States.

4 G. RETURN.

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

10 2. When process has been served by a sheriff or deputy sheriff
11 and return thereof is filed in the office of the court clerk, a copy
12 of the return shall be sent by the court clerk to the plaintiff's
13 attorney within three (3) days after the return is filed. If
14 service is made by a person other than a sheriff or deputy sheriff,
15 the licensed process server shall make affidavit thereof. The
16 return shall set forth the county of issuance, the name of the
17 person served and the date, place and method of service.

18 3. If service was by mail, the person mailing the summons and
19 petition shall endorse on the copy of the summons or order of the
20 court that is filed in the action the date and place of mailing and
21 the date when service was receipted or service was rejected, and
22 shall attach to the copy of the summons or order a copy of the
23 return receipt or returned envelope, if and when received, showing
24 whether the mailing was accepted, refused or otherwise returned. If

1 the mailing was refused, the return shall also show the date and
2 place of any subsequent mailing pursuant to paragraph 2 of
3 subsection C of this section. When the summons and petition are
4 mailed by the court clerk, the court clerk shall notify the
5 plaintiff's attorney within three (3) days after receipt of the
6 returned card or envelope showing that the card or envelope has been
7 received.

8 4. If service was by secured electronic means, the person
9 emailing the summons and petition shall endorse on the copy of the
10 summons or order of the court that is filed in the action the date
11 and place of mailing and the date when service was receipted or
12 service was rejected, and shall attach to the copy of the summons or
13 order a copy of the return receipt email, if and when received,
14 showing whether the email was accepted, refused or otherwise
15 returned. If the emailing was refused, the return shall also show
16 the date and place of any subsequent emailing pursuant to paragraph
17 3 of subsection C of this section. When the summons and petition
18 are emailed by the court clerk, the court clerk shall notify the
19 plaintiff's attorney within three (3) days after receipt of the
20 return email was received.

21 H. AMENDMENT. At any time in its discretion and upon such
22 terms as it deems just, the court may allow any process or proof of
23 service thereof to be amended, unless it clearly appears that
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1 material prejudice would result to the substantial rights of the
2 party against whom the process issued.

3 I. SUMMONS: TIME LIMIT FOR SERVICE. If service of process is
4 not made upon a defendant within one hundred eighty (180) days after
5 the filing of the petition and the plaintiff has not shown good
6 cause why such service was not made within that period, the action
7 shall be deemed dismissed as to that defendant without prejudice and
8 Section 100 of this title shall be applicable to any refiling of the
9 action. Upon application of a defendant not timely served, the
10 court shall enter an order dismissing the action as to that
11 defendant. The court shall enter a dismissal order of an action
12 within two hundred (200) days after the filing of the action in
13 which no service has been made on any defendant as required pursuant
14 to this section and such order shall be mailed to the address of the
15 party or the party's attorney of record. The action shall not be
16 dismissed if a summons was served on the defendant within one
17 hundred eighty (180) days after the filing of the petition and a
18 court later holds that the summons or its service was invalid.
19 After a court quashes a summons or its service, a new summons may be
20 served on the defendant within a time specified by the judge. If
21 the new summons is not served within the specified time, the action
22 shall be deemed to have been dismissed without prejudice as to that
23 defendant. This subsection shall not apply with respect to a

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1 defendant who has been outside of this state for one hundred eighty
2 (180) days following the filing of the petition.

3 SECTION 2. This act shall become effective November 1, 2024.
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5 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated
6 02/15/2024 - DO PASS, As Amended and Coauthored.
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