

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1162

By: Worthen

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to process servers; amending 12 O.S.
10 2011, Section 158.1, as last amended by Section 1,
11 Chapter 76, O.S.L. 2013 (12 O.S. Supp. 2018, Section
12 158.1), which relates to the licensure of private
13 process servers; prohibiting certain persons from
14 applying, reapplying or obtaining process server
15 license; deleting certain notification of hearing
16 requirement; making certain acts unlawful; providing
17 penalty; amending 21 O.S. 2011, Section 650.6, which
18 relates to penalties for assault and battery upon
19 court officials; making certain acts unlawful;
20 providing penalty; amending 21 O.S. 2011, Section
21 1319, which relates to penalties for resisting legal
22 process; expanding scope of crime; and providing an
23 effective date.

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

SECTION 1. AMENDATORY 12 O.S. 2011, Section 158.1, as
last amended by Section 1, Chapter 76, O.S.L. 2013 (12 O.S. Supp.
2018, Section 158.1), is amended to read as follows:

Section 158.1 A. Service and return of process ~~in civil cases~~
of court documents may be by an authorized licensed private process

1 server. The presiding judge of the judicial administrative district
2 in which the county is located, or an associate district judge or
3 district judge of the county as may be designated by the presiding
4 judge, shall be authorized to issue a license to make service of
5 process ~~in civil cases~~ of court documents to persons deemed
6 qualified to do so.

7 B. Any person who is:

8 1. Eighteen (18) years of age or older;

9 2. Of good moral character;

10 3. Found ethically and mentally fit;

11 4. A resident of the State of Oklahoma for a period of not less
12 than six (6) months; and

13 5. A resident of the county or judicial administrative district
14 in which the application is submitted for a period of not less than
15 thirty (30) days,

16 may obtain a license by filing an application with the court clerk
17 on a verified form to be prescribed by the Administrative Office of
18 the Courts. The form shall require the applicant to identify
19 whether the applicant has had a process server license issued by the
20 State of Oklahoma, any other state, or any county in Oklahoma at any
21 time prior to the current application.

22 Any person who has been convicted of a violent crime, as defined
23 in Section 571 of Title 57 of the Oklahoma Statutes, or a crime that
24 requires the person to register pursuant to the Sex Offenders

1 Registration Act in this state or another state shall be prohibited
2 from applying for or obtaining a license to serve process in this
3 state. If a person is currently licensed to serve process in this
4 state and the person has a previous felony conviction for a crime
5 enumerated in Section 571 of Title 57 of the Oklahoma Statutes or a
6 crime that requires the person to register pursuant to the Sex
7 Offenders Registration Act, the person shall be prohibited from
8 applying for a renewal of the license as provided for in subsection
9 C of this section.

10 C. The applicant filing for a license to serve process anywhere
11 in this state shall pay a license fee of One Hundred Fifty Dollars
12 (\$150.00), and the regular docketing, posting, mailing, and filing
13 fees prescribed by law. The license shall contain the full legal
14 name, address, county in which the license was issued, a brief
15 description of the licensee and a recent photograph of the licensee.
16 The license shall state that the licensee is an officer of the court
17 only for the purpose of service of process. The authority of the
18 licensee shall be statewide. The license shall be carried by the
19 licensee while on duty as a private process server. At the end of
20 one (1) calendar year from the date of issuance of the initial
21 license, the license shall be renewed for a period of three (3)
22 years. The license shall be renewed each succeeding three (3)
23 years. A fee of Fifteen Dollars (\$15.00) per renewal shall be
24 charged for each statewide license renewal. A license issued

1 pursuant to this subsection entitles the holder of the license to
2 serve process in any county in this state.

3 All fees collected pursuant to this section shall be deposited
4 in the court fund.

5 D. Upon the filing of an application for a license, the court
6 clerk shall give thirty (30) ~~days'~~ days of notice of hearing by
7 causing the notice to be continually posted for thirty (30) days on
8 the website of the county, or be posted in the courthouse. ~~The~~
9 ~~applicant shall cause notice of the hearing to be made no less than~~
10 ~~twenty (20) days prior to the hearing one time by publication in a~~
11 ~~legal newspaper of the county, as defined in Section 106 of Title 25~~
12 ~~of the Oklahoma Statutes, in which the application is filed. The~~
13 ~~applicant shall be responsible for payment of the publication fee,~~
14 ~~and shall file in the case the proof of publication affidavit from~~
15 ~~the newspaper prior to the hearing.~~ The court clerk shall mail or
16 deliver a copy of the notice at least twenty (20) days prior to the
17 hearing to the district attorney, the sheriff in the county in which
18 the application was filed, ~~and~~ the Oklahoma State Bureau of
19 Investigation and the Administrative Office of the Courts and shall
20 contain the name of the applicant and the time and place the
21 presiding judge or the associate district judge or district judge
22 designated by the presiding judge, will act upon the application.

23 E. If, at the time of consideration of the application or
24 renewal, there are no protests and the applicant appears qualified,

1 the application for the license shall be granted by the presiding
2 judge or such associate district judge or district judge as is
3 designated by the presiding judge and, upon executing bond running
4 to the State of Oklahoma in the amount of Five Thousand Dollars
5 (\$5,000.00) for faithful performance of his or her duties and filing
6 the bond with the court clerk, the applicant shall be authorized and
7 licensed to serve ~~civil process~~ court documents in any county in
8 this state. If, at the time of consideration of the application for
9 the license, the presiding judge, associate district judge or
10 district judge as is designated by the presiding judge determines
11 that the applicant does not meet all of the qualifications necessary
12 for a license, the applicant shall be prohibited from reapplying for
13 a license to serve process for a period of not less than one (1)
14 year from the date of denial.

15 F. If any citizen of this state files a written protest setting
16 forth objections to the licensing of the applicant, the district
17 court clerk shall so advise the presiding judge or such associate
18 district judge or district judge as is designated by the presiding
19 judge, who shall set a later date for hearing of application and
20 protest. The hearing shall be held within sixty (60) days and after
21 notice to all persons known to be interested.

22 G. Proof of service of process shall be shown by affidavit as
23 provided for by subsection G of Section 2004 of this title.

1 H. The district attorney of the county wherein a license
2 authorized under this act has been issued or the Attorney General
3 may file a petition in the district court to revoke the license
4 issued to any licensee, as authorized pursuant to the provisions of
5 this section, alleging the violation by the licensee of any of the
6 provisions of the law. After at least thirty (30) ~~days~~ days of
7 notice by certified mail to the licensee, the chief or presiding
8 judge, sitting without jury, shall hear the petition and enter an
9 order thereon. If the license is revoked, the licensee shall not be
10 permitted to reapply for a license for a period of five (5) years
11 from the date of revocation. Notwithstanding any other provision of
12 this section, any licensee whose license has been revoked one time
13 shall pay the sum of One Thousand Dollars (\$1,000.00) as a renewal
14 fee. If a second revocation occurs, the chief or presiding judge
15 shall not allow an applicant to renew the license.

16 I. Any person who knowingly and willfully serves process in
17 Oklahoma without a process server license issued by the State of
18 Oklahoma or who holds himself or herself out to be a process server
19 licensed by the State of Oklahoma when the person is not licensed as
20 such shall, upon conviction, be guilty of a misdemeanor. The
21 provisions of this subsection shall not apply to a process server
22 licensed in another state who is serving court documents to a person
23 in Oklahoma.
24

1 J. The court clerk shall make available at all times in the
2 office of the court clerk the list of licensed private process
3 servers. Any person in need of the services of a process server may
4 designate one from the names on the list, before presenting summons
5 to the court clerk for issuance, without necessity for individual
6 judicial appointment.

7 ~~J.~~ K. No later than January 1, 2013, the Administrative Office
8 of the Courts shall establish and maintain a statewide registry
9 which shall contain a list of licensed private process servers. The
10 Administrative Office of the Courts shall promulgate rules for the
11 creation and maintenance of the statewide registry. Rules for the
12 statewide registry for private process servers must have approval of
13 the Supreme Court.

14 SECTION 2. AMENDATORY 21 O.S. 2011, Section 650.6, is
15 amended to read as follows:

16 Section 650.6 A. Every person who commits any assault upon any
17 officer of a state district or appellate court, or the Workers'
18 Compensation Court, including but not limited to judges, bailiffs,
19 court reporters, court clerks or deputy court clerks, or upon any
20 witnesses or juror, because of said person's service in such
21 capacity or within six (6) months of said person's service in such
22 capacity, shall be guilty of a misdemeanor punishable by
23 imprisonment in the county jail for not more than one (1) year, by a
24

1 fine not to exceed One Thousand Dollars (\$1,000.00), or by both such
2 imprisonment and fine.

3 B. Every person who commits any battery or assault and battery
4 upon any officer of a state district or appellate court, or the
5 Workers' Compensation Court, including but not limited to judges,
6 bailiffs, court reporters, court clerks or deputy court clerks, or
7 upon any witnesses or juror, because of said person's service in
8 such capacity or within six (6) months of said person's service in
9 such capacity, shall be guilty of a felony punishable by
10 imprisonment in the custody of the Department of Corrections for not
11 more than five (5) years, by a fine of not more than Five Thousand
12 Dollars (\$5,000.00), or by both such imprisonment and fine.

13 C. Every person who knowingly commits any assault, battery, or
14 assault and battery upon a process server licensed in this state
15 while the person is in the performance of his or her duties shall,
16 upon conviction, be guilty of a misdemeanor punishable by
17 imprisonment in the county jail for not more than one (1) year, by a
18 fine not to exceed One Thousand Dollars (\$1,000.00) or by both such
19 imprisonment and fine.

20 SECTION 3. AMENDATORY 21 O.S. 2011, Section 1319, is
21 amended to read as follows:

22 Section 1319. Every person who ~~resists, or enters:~~

23 1. Resists the execution of any legal process;
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1 2. Enters into a combination with any other person to resist
2 the execution of any legal process, ~~under circumstances not~~
3 ~~amounting to a riot,~~ or

4 3. In retaliation for serving process, releases or fails to
5 control an animal at the time legal process is being executed,
6 is, upon conviction, punishable by imprisonment in a county jail not
7 exceeding one (1) year, or by a fine not exceeding One Thousand
8 Dollars (\$1,000.00), or by both such fine and imprisonment.

9 SECTION 4. This act shall become effective November 1, 2019.

11 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 02/28/2019 - DO PASS,
12 As Amended.