

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 1162

By: Worthen

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5  
6 AS INTRODUCED

7 An Act relating to process servers; amending 12 O.S.  
8 2011, Section 158.1, as last amended by Section 1,  
9 Chapter 76, O.S.L. 2013 (12 O.S. Supp. 2018, Section  
10 158.1), which relates to the licensure of private  
11 process servers; prohibiting certain persons from  
12 applying, reapplying or obtaining process server  
13 license; deleting certain notification of hearing  
14 requirement; making certain acts unlawful; providing  
15 penalty; amending 21 O.S. 2011, Section 650.6, which  
16 relates to penalties for assault and battery upon  
17 court officials; making certain acts unlawful;  
18 providing penalty; amending 21 O.S. 2011, Section  
19 1319, which relates to penalties for resisting legal  
20 process; expanding scope of crime; and providing an  
21 effective date.

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

23 SECTION 1. AMENDATORY 12 O.S. 2011, Section 158.1, as  
24 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:

25 Section 158.1 A. Service and return of process ~~in civil cases~~  
26 of court documents may be by an authorized licensed private process  
27 server. The presiding judge of the judicial administrative district  
28 in which the county is located, or an associate district judge or

1 district judge of the county as may be designated by the presiding  
2 judge, shall be authorized to issue a license to make service of  
3 process ~~in civil cases~~ of court documents to persons deemed  
4 qualified to do so.

5 B. Any person who is:

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

7 2. Of good moral character;

8 3. Found ethically and mentally fit;

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

11 5. A resident of the county or judicial administrative district  
12 in which the application is submitted for a period of not less than  
13 thirty (30) days, may obtain a license by filing an application with  
14 the court clerk on a verified form to be prescribed by the  
15 Administrative Office of the Courts. The form shall require the  
16 applicant to identify whether the applicant has had a process server  
17 license issued by the State of Oklahoma, any other state, or any  
18 county in Oklahoma at any time prior to the current application.

19 Any person who has been convicted of a violent crime, as defined  
20 in Section 571 of Title 57 of the Oklahoma Statutes, or a crime that  
21 requires the person to register pursuant to the Sex Offenders  
22 Registration Act in this state or another state shall be prohibited  
23 from applying for or obtaining a license to serve process in this  
24 state. If a person is currently licensed to serve process in this

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

7 C. The applicant filing for a license to serve process anywhere  
8 in this state shall pay a license fee of One Hundred Fifty Dollars  
9 (\$150.00), and the regular docketing, posting, mailing, and filing  
10 fees prescribed by law. The license shall contain the full legal  
11 name, address, county in which the license was issued, a brief  
12 description of the licensee and a recent photograph of the licensee.  
13 The license shall state that the licensee is an officer of the court  
14 only for the purpose of service of process. The authority of the  
15 licensee shall be statewide. The license shall be carried by the  
16 licensee while on duty as a private process server. At the end of  
17 one (1) calendar year from the date of issuance of the initial  
18 license, the license shall be renewed for a period of three (3)  
19 years. The license shall be renewed each succeeding three (3)  
20 years. A fee of Fifteen Dollars (\$15.00) per renewal shall be  
21 charged for each statewide license renewal. A license issued  
22 pursuant to this subsection entitles the holder of the license to  
23 serve process in any county in this state.

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1 All fees collected pursuant to this section shall be deposited  
2 in the court fund.

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

21 E. If, at the time of consideration of the application or  
22 renewal, there are no protests and the applicant appears qualified,  
23 the application for the license shall be granted by the presiding  
24 judge or such associate district judge or district judge as is

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

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

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

22 H. The district attorney of the county wherein a license  
23 authorized under this act has been issued or the Attorney General  
24 may file a petition in the district court to revoke the license

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

13 I. Any person who knowingly and willfully serves process in  
14 Oklahoma without a process server license issued by the State of  
15 Oklahoma or who holds himself or herself out to be a process server  
16 licensed by the State of Oklahoma when the person is not licensed as  
17 such shall, upon conviction, be guilty of a misdemeanor.

18 J. The court clerk shall make available at all times in the  
19 office of the court clerk the list of licensed private process  
20 servers. Any person in need of the services of a process server may  
21 designate one from the names on the list, before presenting summons  
22 to the court clerk for issuance, without necessity for individual  
23 judicial appointment.

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1        ~~J.~~ K. No later than January 1, 2013, the Administrative Office  
2 of the Courts shall establish and maintain a statewide registry  
3 which shall contain a list of licensed private process servers. The  
4 Administrative Office of the Courts shall promulgate rules for the  
5 creation and maintenance of the statewide registry. Rules for the  
6 statewide registry for private process servers must have approval of  
7 the Supreme Court.

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

10        Section 650.6 A. Every person who commits any assault upon any  
11 officer of a state district or appellate court, or the Workers'  
12 Compensation Court, including but not limited to judges, bailiffs,  
13 court reporters, court clerks or deputy court clerks, or upon any  
14 witnesses or juror, because of said person's service in such  
15 capacity or within six (6) months of said person's service in such  
16 capacity, shall 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        B. Every person who commits any battery or assault and battery  
21 upon any officer of a state district or appellate court, or the  
22 Workers' Compensation Court, including but not limited to judges,  
23 bailiffs, court reporters, court clerks or deputy court clerks, or  
24 upon any witnesses or juror, because of said person's service in

1 such capacity or within six (6) months of said person's service in  
2 such capacity, shall be guilty of a felony punishable by  
3 imprisonment in the custody of the Department of Corrections for not  
4 more than five (5) years, by a fine of not more than Five Thousand  
5 Dollars (\$5,000.00), or by both such imprisonment and fine.

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

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

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

16 1. Resists the execution of any legal process;

17 2. Enters into a combination with any other person to resist  
18 the execution of any legal process, ~~under circumstances not~~  
19 ~~amounting to a riot,; or~~

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



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SECTION 3. This act shall become effective November 1, 2019.

57-1-5644            GRS            01/15/19