

1 **SENATE FLOOR VERSION**

2 April 4, 2023

3 ENGROSSED HOUSE
4 BILL NO. 1618

By: Worthen of the House

5 and

6 Gollihare of the Senate

7
8 An Act relating to civil procedure; amending 12 O.S.
9 2021, Section 158.1, which relates to the licensure
10 of private process servers; deleting mailing
11 requirement; authorizing notice to be delivered by
12 electronic means; and providing an effective date.

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

14 SECTION 1. AMENDATORY 12 O.S. 2021, Section 158.1, is
15 amended to read as follows:

16 Section 158.1 A. Service and return of process of court
17 documents may be by an authorized licensed private process server.
18 The presiding judge of the judicial administrative district in which
19 the county is located, or an associate district judge or district
20 judge of the county as may be designated by the presiding judge,
21 shall be authorized to issue a license to make service of process of
22 court documents to persons deemed qualified to do so.

23 B. Any person who is:

- 24 1. Eighteen (18) years of age or older;
2. Of good moral character;

1 3. Found ethically and mentally fit;

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

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

7 may obtain a license by filing an application with the court clerk
8 on a verified form to be prescribed by the Administrative Office of
9 the Courts. The form shall require the applicant to identify
10 whether the applicant has had a process server license issued by the
11 State of Oklahoma, any other state, or any county in Oklahoma at any
12 time prior to the current application.

13 Any person who has been convicted of a violent crime, as defined
14 in Section 571 of Title 57 of the Oklahoma Statutes, or a crime that
15 requires the person to register pursuant to the Sex Offenders
16 Registration Act in this state or another state shall be prohibited
17 from applying for or obtaining a license to serve process in this
18 state. If a person is currently licensed to serve process in this
19 state and the person has a previous felony conviction for a crime
20 enumerated in Section 571 of Title 57 of the Oklahoma Statutes or a
21 crime that requires the person to register pursuant to the Sex
22 Offenders Registration Act, the person shall be prohibited from
23 applying for renewal of the license as provided for in subsection C
24 of this section.

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

18 All fees collected pursuant to this section shall be deposited
19 in the court fund.

20 D. Upon the filing of an application for a license, the court
21 clerk shall give thirty (30) days of notice of hearing by causing
22 the notice to be continually posted for thirty (30) days on the
23 website of the county, or be posted in the courthouse. The
24 applicant shall cause notice of the hearing to be made no less than

1 twenty (20) days prior to the hearing one time by publication in a
2 legal newspaper of the county, as defined in Section 106 of Title 25
3 of the Oklahoma Statutes, in which the application is filed. The
4 applicant shall be responsible for payment of the publication fee,
5 and shall file in the case the proof of publication affidavit from
6 the newspaper prior to the hearing. The court clerk shall ~~mail~~
7 deliver by electronic means or deliver a copy of the notice at least
8 twenty (20) days prior to the hearing to the district attorney, the
9 sheriff in the county in which the application was filed, the
10 Oklahoma State Bureau of Investigation and the Administrative Office
11 of the Courts ~~and~~. The notice shall contain the name of the
12 applicant and the time and place the presiding judge ~~or~~, the
13 associate district judge, or district judge designated by the
14 presiding judge, will act upon the application.

15 E. If, at the time of consideration of the application or
16 renewal, there are no protests and the applicant appears qualified,
17 the application for the license shall be granted by the presiding
18 judge or such associate district judge or district judge as is
19 designated by the presiding judge and, upon executing bond running
20 to the State of Oklahoma in the amount of Five Thousand Dollars
21 (\$5,000.00) for faithful performance of his or her duties and filing
22 the bond with the court clerk, the applicant shall be authorized and
23 licensed to serve court documents in any county in this state. If,
24 at the time of consideration of the application for the license, the

1 presiding judge, associate district judge or district judge as is
2 designated by the presiding judge determines that the applicant does
3 not meet all of the qualifications necessary for a license, the
4 applicant shall be prohibited from reapplying for a license to serve
5 process for a period of not less than one (1) year from the date of
6 denial.

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

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

16 H. The district attorney of the county wherein a license
17 authorized under this act has been issued or the Attorney General
18 may file a petition in the district court to revoke the license
19 issued to any licensee, as authorized pursuant to the provisions of
20 this section, alleging the violation by the licensee of any of the
21 provisions of the law. After at least thirty (30) days of notice by
22 certified mail to the licensee, the chief or presiding judge,
23 sitting without jury, shall hear the petition and enter an order
24 thereon. If the license is revoked, the licensee shall not be

1 permitted to reapply for a license for a period of five (5) years
2 from the date of revocation. Notwithstanding any other provision of
3 this section, any licensee whose license has been revoked one time
4 shall pay the sum of One Thousand Dollars (\$1,000.00) as a renewal
5 fee. If a second revocation occurs, the chief or presiding judge
6 shall not allow an applicant to renew the license.

7 I. Any person who knowingly and willfully serves process in
8 Oklahoma without a process server license issued by the State of
9 Oklahoma or who holds himself or herself out to be a process server
10 licensed by the State of Oklahoma when the person is not licensed as
11 such shall, upon conviction, be guilty of a misdemeanor. The
12 provisions of this subsection shall not apply to a process server
13 licensed in another state who is serving court documents issued by a
14 court in another state to a person in Oklahoma.

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

21 K. No later than January 1, 2013, the Administrative Office of
22 the Courts shall establish and maintain a statewide registry which
23 shall contain a list of licensed private process servers. The
24 Administrative Office of the Courts shall promulgate rules for the

1 creation and maintenance of the statewide registry. Rules for the
2 statewide registry for private process servers must have approval of
3 the Supreme Court.

4 SECTION 2. This act shall become effective November 1, 2023.

5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
6 April 4, 2023 - DO PASS
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