STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1772 By: Graves

COMMITTEE SUBSTITUTE

An Act relating to civil procedure; amending 12 O.S. 1991, Section 158.1, which relates to process servers; eliminating requirement of filing in other counties; modifying certain fees; and declaring an emergency.

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

SECTION 1. AMENDATORY 12 O.S. 1991, Section 158.1, is amended to read as follows:

Section 158.1 A. Service and return of process in civil cases may be by an authorized licensed private process server. The presiding judge of the judicial administrative district in which the county is located, or such associate district judge or district judge of the county as may be designated by the presiding judge, shall be authorized to issue a license to make service of process in civil cases to a person deemed qualified to do so. The authority of the licensee shall be statewide, and the licensee shall have the authority to serve process from any county within this state.

B. Any person eighteen (18) years of age or older, of good moral character, and found ethically and mentally fit may obtain such license by filing application therefor with the court clerk on a verified form to be prescribed by the Administrative Director of the Courts.

C. The applicant filing for such license shall pay a license fee of ~~Thirty-five Dollars ($35.00)~~ One Hundred Dollars ($100.00), and the regular docketing, posting, mailing, and filing fees prescribed by law. The license shall contain the name, address, a

brief description of the licensee, and, at the discretion of the district court clerk, a recent photograph of the licensee. The license shall state that the licensee is an officer of the court only for the purpose of service of process. The license shall be carried by the licensee while on duty as a private process server. At the end of one (1) calendar year from the date of issuance of the initial license, the license shall be renewed for a period of one (1) year. The license shall be renewed each succeeding year. A fee of ~~Five Dollars ($5.00)~~ Twenty-five Dollars ($25.00) per year shall be charged for renewal of license. All fees collected pursuant to this section shall be deposited in the court fund.

D. Upon the filing of the application for license, the court clerk shall give five (5) days' notice of hearing by causing the notice to be posted in the courthouse. A copy of said notice shall be mailed to the district attorney, the sheriff, and the chief of police or marshal in the county seat and shall contain the name of the applicant and the time and place the presiding judge or such associate district judge or district judge as is designated by the presiding judge will act upon said application.

E. If, at the time of consideration of the new application or application for a license renewal, there are no protests and the applicant appears qualified, the application for said license shall be granted by the presiding judge or such associate district judge or district judge as is designated by the presiding judge and, upon executing bond running to the State of Oklahoma in the amount of Five Thousand Dollars ($5,000.00) for faithful performance of his duties and filing said bond with the court clerk, the applicant shall be authorized and licensed to serve civil process statewide.

F. If any citizen of the county files a written protest setting forth objections to the licensing of the applicant, the district court clerk shall so advise the presiding judge or such associate district judge or district judge as is designated by the presiding judge, who shall set a later date for hearing of application and protest. Said hearing shall be held within thirty (30) days and after notice to all persons known to be interested.

G. ~~Upon an annual filing of a certified copy of a license issued pursuant to the provisions of this section and payment of a filing fee of Ten Dollars ($10.00) to the court clerk of any county within this state, a licensed process server may serve process in that county for the district court having jurisdiction over said county.~~

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

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

~~J.~~ I. The district court clerk shall keep posted at all times in his office the list of licensed private process servers. Any person in need of a process server's services may designate one from the names on the list, before presenting summons to the court clerk for issuance, without necessity for individual judicial appointment.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.