

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

HOUSE BILL HB1983

By: Wells

AS INTRODUCED

An Act relating to civil procedure; amending 12 O.S. 2001, Section 158.1, which relates to private process servers; modifying notice procedure for certain process server applications; modifying certain protest and revocation procedures; adding requirement that certain office keep a list of private process servers; and providing an effective date.

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

SECTION 1. AMENDATORY 12 O.S. 2001, 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 an 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 persons deemed qualified to do so.

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

C. The applicant filing for a license shall:

1. Pay a license fee of Thirty-five Dollars (\$35.00), 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 and only within the county in which the license is issued. 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) shall be charged for each license renewal. Upon an annual filing of a certified copy of a license issued pursuant to the provisions of this paragraph 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 for that county; or

2. Pay a license fee of One Hundred Fifty Dollars (\$150.00), 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 authority of the licensee shall be statewide regardless of which county issued the license. 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 three (3) years. The license shall be renewed each succeeding three (3) years. A fee of Fifteen Dollars (\$15.00) per renewal shall be charged for each license renewal.

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

D. Upon the filing of an application for a license as provided in paragraph 1 of subsection C of this section, the court clerk

shall give five (5) days' notice of hearing by causing the notice to be posted in the courthouse. A copy of the 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 the associate district judge or district judge designated by the presiding judge, will act upon the application.

E. Upon the filing of an application for a license as provided in paragraph 2 of subsection C of this section, the court clerk of the county administering the application shall give ten (10) days' notice of hearing by causing the notice to be posted in the courthouse. The notice posted shall indicate that the applicant is requesting a statewide license and list the county administering the application. A copy of the notice shall be mailed to the district attorney, the sheriff, the chief of police or marshal in the county seat, and the Administrative Director of the Courts as provided in Section 16.1 of Title 20 of the Oklahoma Statutes. The Administrative Director of the Courts shall mail the notice to all other county clerks and require the posting of the notice as provided in this subsection.

F. If, at the time of consideration of the application or renewal, there are no protests and the applicant appears qualified, the application for the 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 or her duties and filing the bond with the court clerk, the applicant shall be authorized and licensed to serve civil process ~~statewide~~.

~~F.~~ G. If any citizen of the county files a written protest setting forth objections to the licensing of the applicant as provided in paragraph 1 of subsection C of this section, 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. If any citizen of any county files a written protest with the administering county setting forth objections to the licensing of the applicant as provided in paragraph 2 of subsection C of this section, the district court clerk of the administering county shall follow the procedure for the hearing of protest provided in this section. The hearing for both methods of protest shall be held within thirty (30) days and after notice to all persons known to be interested.

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

~~H.~~ I. The district attorney of the county wherein a license authorized under ~~this act~~ paragraph 1 of subsection C of this section 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 the petition and enter an order thereon. The district attorney of the county wherein a license authorized under paragraph 2 of subsection C of this section has been issued may file a petition in the district court to revoke the license issued to any licensee upon receiving a written request by any other county district attorney or by the Administrative Director of the Courts. The district attorney filing shall follow petition procedure described in this section. If the 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.

~~I.~~ J. The court clerk shall keep posted at all times in ~~his~~ the office of the clerk the list of licensed private process servers receiving a license by that county. The Administrative Director of the Courts shall keep posted at all times in the office of the administrator the list of licensed private process servers receiving a license pursuant to paragraph 2 of subsection C of this section. Any person in need of a process server's services may designate one from the names on the list provided by the court clerk, before presenting summons to the court clerk for issuance, without necessity for individual judicial appointment.

SECTION 2. This act shall become effective November 1, 2002.

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