

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 HOUSE BILL 1084

By: Grau

4
5
6 AS INTRODUCED

7 An Act relating to private process servers; amending
8 12 O.S. 2011, Section 158.1, as amended by Section 1,
9 Chapter 101, O.S.L. 2012 (12 O.S. Supp. 2012, Section
10 158.1), which relates to licensing private process
11 servers; directing applicant to give notice of
12 license hearing in certain publication; requiring
13 applicant to pay publication fee; directing applicant
14 to file proof of publication prior to hearing;
15 mandating court clerk to mail or deliver notice to
16 the district attorney prior to hearing; and declaring
17 an emergency.

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

19 SECTION 1. AMENDATORY 12 O.S. 2011, Section 158.1, as
20 amended by Section 1, Chapter 101, O.S.L. 2012 (12 O.S. Supp. 2012,
21 Section 158.1), is amended to read as follows:

22 Section 158.1 A. Service and return of process in civil cases
23 may be by an authorized licensed private process server. The
24 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

1 authorized to issue a license to make service of process in civil
2 cases to persons deemed qualified to do so.

3 B. Any person who is:

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

5 2. Of good moral character;

6 3. Found ethically and mentally fit;

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

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

17 C. The applicant filing for a license to serve process anywhere
18 in this state shall pay a license fee of One Hundred Fifty Dollars
19 (\$150.00), and the regular docketing, posting, mailing, and filing
20 fees prescribed by law. The license shall contain the full legal
21 name, address, county in which the license was issued, a brief
22 description of the licensee and a recent photograph of the licensee.
23 The license shall state that the licensee is an officer of the court
24 only for the purpose of service of process. The authority of the

1 licensee shall be statewide. The license shall be carried by the
2 licensee while on duty as a private process server. At the end of
3 one (1) calendar year from the date of issuance of the initial
4 license, the license shall be renewed for a period of three (3)
5 years. The license shall be renewed each succeeding three (3)
6 years. A fee of Fifteen Dollars (\$15.00) per renewal shall be
7 charged for each statewide license renewal. A license issued
8 pursuant to this subsection entitles the holder of the license to
9 serve process in any county in this state.

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

12 D. Upon the filing of an application for a license, the court
13 clerk shall give thirty (30) days' notice of hearing by causing the
14 notice to be continually posted for thirty (30) days on the website
15 of the county, or be posted in the courthouse, ~~and~~. The applicant
16 shall cause notice of the hearing to be made no less than twenty
17 (20) days prior to the hearing one time by publication in a legal
18 newspaper of the county, as defined in Section 106 of Title 25 of
19 the Oklahoma Statutes, in which the application is filed. ~~A fee~~ The
20 applicant shall be responsible for payment of the ~~legal notice shall~~
21 ~~be collected from the applicant by the court clerk at the time the~~
22 ~~applicant files for a license and the newspaper shall receive~~
23 ~~payment from the court clerk upon receipt of~~ publication fee, and
24 shall file in the case the proof of publication affidavit from the

1 newspaper prior to the hearing. ~~A~~ The court clerk shall mail or
2 deliver a copy of the notice shall be mailed at least twenty (20)
3 days prior to the hearing to the district attorney, the sheriff in
4 the county in which the application was filed, and the Oklahoma
5 State Bureau of Investigation and shall contain the name of the
6 applicant and the time and place the presiding judge or the
7 associate district judge or district judge designated by the
8 presiding judge, will act upon the application.

9 E. If, at the time of consideration of the application or
10 renewal, there are no protests and the applicant appears qualified,
11 the application for the license shall be granted by the presiding
12 judge or such associate district judge or district judge as is
13 designated by the presiding judge and, upon executing bond running
14 to the State of Oklahoma in the amount of Five Thousand Dollars
15 (\$5,000.00) for faithful performance of his or her duties and filing
16 the bond with the court clerk, the applicant shall be authorized and
17 licensed to serve civil process in any county in this state. If, at
18 the time of consideration of the application for the license, the
19 presiding judge, associate district judge or district judge as is
20 designated by the presiding judge determines that the applicant does
21 not meet all of the qualifications necessary for a license, the
22 applicant shall be prohibited from reapplying for a license to serve
23 process for a period of not less than one (1) year from the date of
24 denial.

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

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

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

1 I. 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. No later than January 1, 2013, the Administrative Office of
8 the Courts shall establish and maintain a statewide registry which
9 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. It being immediately necessary for the preservation
15 of the public peace, health and safety, an emergency is hereby
16 declared to exist, by reason whereof this act shall take effect and
17 be in full force from and after its passage and approval.

18

19 54-1-5552 EK 12/27/12

20

21

22

23

24