

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 1162

By: Worthen

COMMITTEE SUBSTITUTE

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

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

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

Section 158.1 A. Service and return of process ~~in civil cases~~ of court documents 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

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,
14 may obtain a license by filing an application with the court clerk
15 on a verified form to be prescribed by the Administrative Office of
16 the Courts. The form shall require the applicant to identify
17 whether the applicant has had a process server license issued by the
18 State of Oklahoma, any other state, or any county in Oklahoma at any
19 time prior to the current application.

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

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

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

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. The
18 provisions of this subsection shall not apply to a process server
19 licensed in another state who is serving court documents to a person
20 in Oklahoma.

21 J. The court clerk shall make available at all times in the
22 office of the court clerk the list of licensed private process
23 servers. Any person in need of the services of a process server may
24 designate one from the names on the list, before presenting summons

1 to the court clerk for issuance, without necessity for individual
2 judicial appointment.

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

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

12 Section 650.6 A. Every person who commits any assault upon any
13 officer of a state district or appellate court, or the Workers'
14 Compensation Court, including but not limited to judges, bailiffs,
15 court reporters, court clerks or deputy court clerks, or upon any
16 witnesses or juror, because of said person's service in such
17 capacity or within six (6) months of said person's service in such
18 capacity, shall be guilty of a misdemeanor punishable by
19 imprisonment in the county jail for not more than one (1) year, by a
20 fine not to exceed One Thousand Dollars (\$1,000.00), or by both such
21 imprisonment and fine.

22 B. Every person who commits any battery or assault and battery
23 upon any officer of a state district or appellate court, or the
24 Workers' Compensation Court, including but not limited to judges,

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

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

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

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

18 1. Resists the execution of any legal process;

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

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

4 SECTION 4. This act shall become effective November 1, 2019.
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