

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 58th Legislature (2021)

4   ENGROSSED SENATE  
5   BILL NO. 31

                              By: Daniels and Boren of the  
                              Senate

6   and

7   Moore of the House

8  
9  
10       An Act relating to the Oklahoma Pleading Code;  
11       amending 12 O.S. 2011, Section 2004, as last amended  
12       by Section 1, Chapter 305, O.S.L. 2017 (12 O.S. Supp.  
13       2020, Section 2004), which relates to process;  
14       requiring dismissal of certain actions within certain  
15       time period; requiring mailing of certain order;  
16       updating statutory language; and declaring an  
17       emergency.

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

19       SECTION 1.        AMENDATORY        12 O.S. 2011, Section 2004, as  
20       last amended by Section 1, Chapter 305, O.S.L. 2017 (12 O.S. Supp.  
21       2020, Section 2004), is amended to read as follows:

22       Section 2004.

23   PROCESS

24       A.   SUMMONS:   ISSUANCE.   Upon filing of the petition, the clerk  
         shall forthwith issue a summons.   Upon request of the plaintiff  
         separate or additional summons shall issue against any defendants.

1 B. SUMMONS: FORM.

2 1. The summons shall be signed by the clerk, be under the seal  
3 of the court, contain the name of the court and the names of the  
4 parties, be directed to the defendant, state the name and address of  
5 the plaintiff's attorney, if any, otherwise, the plaintiff's  
6 address, and the time within which these rules require the defendant  
7 to appear and defend, and shall notify the defendant that in case of  
8 failure to appear, judgment by default will be rendered against the  
9 defendant for the relief demanded in the petition.

10 2. A judgment by default shall not be different in kind from or  
11 exceed in amount that prayed for in either the demand for judgment  
12 or in cases not sounding in contract in a notice which has been  
13 given the party against whom default judgment is sought. Except as  
14 to a party against whom a judgment is entered by default, every  
15 final judgment shall grant the relief to which the party in whose  
16 favor it is rendered is entitled, even if the party has not demanded  
17 such relief in his or her pleadings.

18 C. BY WHOM SERVED: PERSON TO BE SERVED.

19 1. SERVICE BY PERSONAL DELIVERY.

20 a. At the election of the plaintiff, process, other than  
21 a subpoena, shall be served by a sheriff or deputy  
22 sheriff, a person licensed to make service of process  
23 in civil cases, or a person specially appointed for  
24 that purpose. The court shall freely make special

1           appointments to serve all process, other than a  
2           subpoena, under this paragraph.

3           b.   A summons to be served by the sheriff or deputy  
4           sheriff shall be delivered to the sheriff by the court  
5           clerk or an attorney of record for the plaintiff.  
6           When a summons, subpoena~~7~~ or other process is to be  
7           served by the sheriff or deputy sheriff of another  
8           county, the court clerk shall mail it, together with  
9           the voucher of the court clerk for the fees collected  
10          for the service, to the sheriff of that county. The  
11          sheriff shall deposit the voucher in the Sheriff's  
12          Service Fee Account created pursuant to Section 514.1  
13          of Title 19 of the Oklahoma Statutes. The sheriff or  
14          deputy sheriff shall serve the process in the manner  
15          that other process issued out of the court of the  
16          sheriff's own county is served. A summons to be  
17          served by a person licensed to make service of process  
18          in civil cases or by a person specially appointed for  
19          that purpose shall be delivered by an attorney of  
20          record for the plaintiff to such person.

21          c.   Service shall be made as follows:

22               (1)   upon an individual other than an infant who is  
23                      less than fifteen (15) years of age or an  
24                      incompetent person, by delivering a copy of the

1 summons and of the petition personally or by  
2 leaving copies thereof at the person's dwelling  
3 house or usual place of abode with some person  
4 then residing therein who is fifteen (15) years  
5 of age or older or by delivering a copy of the  
6 summons and of the petition to an agent  
7 authorized by appointment or by law to receive  
8 service of process,

9 (2) upon an infant who is less than fifteen (15)  
10 years of age, by serving the summons and petition  
11 personally and upon either of the infant's  
12 parents or guardian, or if they cannot be found,  
13 then upon the person having the care or control  
14 of the infant or with whom the infant lives; and  
15 upon an incompetent person by serving the summons  
16 and petition personally and upon the incompetent  
17 person's guardian,

18 (3) upon a domestic or foreign corporation or upon a  
19 partnership or other unincorporated association  
20 which is subject to suit under a common name, by  
21 delivering a copy of the summons and of the  
22 petition to an officer, a managing or general  
23 agent, or to any other agent authorized by  
24 appointment or by law to receive service of

1 process and, if the agent is one authorized by  
2 statute to receive service and the statute so  
3 requires, by also mailing a copy to the  
4 defendant,

5 (4) upon the United States or an officer or agency  
6 thereof in the manner specified by Federal Rule  
7 of Civil Procedure 4,

8 (5) upon a state, county, school district, public  
9 trust or municipal corporation or other  
10 governmental organization thereof subject to  
11 suit, by delivering a copy of the summons and of  
12 the petition to the officer or individual  
13 designated by specific statute; however, if there  
14 is no statute, then upon the chief executive  
15 officer or a clerk, secretary, or other official  
16 whose duty it is to maintain the official records  
17 of the organization,

18 (6) upon an inmate incarcerated in an institution  
19 under the jurisdiction and control of the  
20 Department of Corrections, by delivering a copy  
21 of the summons and of the petition to the warden  
22 or superintendent or the designee of the warden  
23 or superintendent of the institution where the  
24 inmate is housed. It shall be the duty of the

1 receiving warden or superintendent or a designee  
2 to promptly deliver the summons and petition to  
3 the inmate named therein. The warden or  
4 superintendent or his or her designee shall  
5 reject service of process for any inmate who is  
6 not actually present in ~~said~~ the institution, and  
7 (7) upon an inmate incarcerated in a county jail or  
8 detention center under the jurisdiction and  
9 control of the county sheriff or the jail trust  
10 of the county, by delivering a copy of the  
11 summons and of the petition to the jail or  
12 detention center administrator or the designee of  
13 such administrator of the jail or detention  
14 center where the inmate is housed. It shall be  
15 the duty of the receiving jail or detention  
16 center administrator or designee to promptly  
17 deliver the summons and petition to the inmate  
18 named therein. The jail or detention center  
19 administrator or designee shall reject service of  
20 process for any inmate who is not actually  
21 present in the jail or detention center.

22 2. SERVICE BY MAIL.

- 23 a. At the election of the plaintiff, a summons and  
24 petition may be served by mail by the plaintiff's

1 attorney, any person authorized to serve process  
2 pursuant to subparagraph a of paragraph 1 of this  
3 subsection~~7~~ or by the court clerk upon a defendant of  
4 any class referred to in division (1), (3) or (5) of  
5 subparagraph c of paragraph 1 of this subsection.

6 Service by mail shall be effective on the date of  
7 receipt or if refused, on the date of refusal of the  
8 summons and petition by the defendant.

- 9 b. Service by mail shall be accomplished by mailing a  
10 copy of the summons and petition by certified mail,  
11 return receipt requested and delivery restricted to  
12 the addressee. When there is more than one defendant,  
13 the summons and a copy of the petition or order shall  
14 be mailed in a separate envelope to each defendant.  
15 If the summons is to be served by mail by the court  
16 clerk, the court clerk shall enclose the summons and a  
17 copy of the petition or order of the court to be  
18 served in an envelope, prepared by the plaintiff,  
19 addressed to the defendant, or to the resident service  
20 agent if one has been appointed. The court clerk  
21 shall prepay the postage and mail the envelope to the  
22 defendant, or service agent, by certified mail, return  
23 receipt requested and delivery restricted to the  
24 addressee. The return receipt shall be prepared by

1 the plaintiff. Service by mail to a garnishee shall  
2 be accomplished by mailing a copy of the summons and  
3 notice by certified mail, return receipt requested,  
4 and at the election of the judgment creditor by  
5 restricted delivery, to the addressee.

6 c. Service by mail shall not be the basis for the entry  
7 of a default or a judgment by default unless the  
8 record contains a return receipt showing acceptance by  
9 the defendant or a returned envelope showing refusal  
10 of the process by the defendant. Acceptance or  
11 refusal of service by mail by a person who is fifteen  
12 (15) years of age or older who resides at the  
13 defendant's dwelling house or usual place of abode  
14 shall constitute acceptance or refusal by the party  
15 addressed. In the case of an entity described in  
16 division (3) of subparagraph c of paragraph 1 of this  
17 subsection, acceptance or refusal by any officer or by  
18 any employee of the registered office or principal  
19 place of business who is authorized to or who  
20 regularly receives certified mail shall constitute  
21 acceptance or refusal by the party addressed. A  
22 return receipt signed at such registered office or  
23 principal place of business shall be presumed to have  
24 been signed by an employee authorized to receive



1 certified mail. In the case of a state municipal  
2 corporation, or other governmental organization  
3 thereof subject to suit, acceptance or refusal by an  
4 employee of the office of the officials specified in  
5 division (5) of subparagraph c of paragraph 1 of this  
6 subsection who is authorized to or who regularly  
7 receives certified mail shall constitute acceptance or  
8 refusal by the party addressed. If delivery of the  
9 process is refused, upon the receipt of notice of such  
10 refusal and at least ten (10) days before applying for  
11 entry of default, the person elected by plaintiff  
12 pursuant to subparagraph a of this paragraph to serve  
13 the process shall mail to the defendant by first-class  
14 mail a copy of the summons and petition and a notice  
15 prepared by the plaintiff that despite such refusal  
16 the case will proceed and that judgment by default  
17 will be rendered against him unless he appears to  
18 defend the suit. Any default or judgment by default  
19 shall be set aside upon motion of the defendant in the  
20 manner prescribed in Section 1031.1 of this title, or  
21 upon petition of the defendant in the manner  
22 prescribed in Section 1033 of this title if the  
23 defendant demonstrates to the court that the return  
24 receipt was signed or delivery was refused by an

1 unauthorized person. A petition shall be filed within  
2 one (1) year after the defendant has notice of the  
3 default or judgment by default but in no event more  
4 than two (2) years after the filing of the judgment.

5 3. SERVICE BY PUBLICATION.

6 a. Service of summons upon a named defendant may be made  
7 by publication when it is stated in the petition,  
8 verified by the plaintiff or the plaintiff's attorney<sub>T</sub>  
9 or in a separate affidavit by the plaintiff or the  
10 plaintiff's attorney filed with the court, that with  
11 due diligence service cannot be made upon the  
12 defendant by any other method.

13 b. Service of summons upon the unknown successors of a  
14 named defendant, a named decedent<sub>T</sub> or a dissolved  
15 partnership, corporation<sub>T</sub> or other association may be  
16 made by publication when it is stated in a petition,  
17 verified by the plaintiff or the plaintiff's attorney<sub>T</sub>  
18 or in a separate affidavit by the plaintiff or the  
19 plaintiff's attorney filed with the court, that the  
20 person who verified the petition or the affidavit does  
21 not know and with due diligence cannot ascertain the  
22 following:  
23  
24

- (1) whether a person named as defendant is living or dead, and, if dead, the names or whereabouts of the person's successors, if any,
- (2) the names or whereabouts of the unknown successors, if any, of a named decedent,
- (3) whether a partnership, corporation, or other association named as a defendant continues to have legal existence or not; or the names or whereabouts of its officers or successors,
- (4) whether any person designated in a record as a trustee continues to be the trustee; or the names or whereabouts of the successors of the trustee, or
- (5) the names or whereabouts of the owners or holders of special assessment or improvement bonds, or any other bonds, sewer warrants or tax bills.

c. Service pursuant to this paragraph shall be made by publication of a notice, signed by the court clerk, one (1) day a week for three (3) consecutive weeks in a newspaper authorized by law to publish legal notices which is published in the county where the petition is filed. If no newspaper authorized by law to publish legal notices is published in such county, the notice shall be published in some such newspaper of general

1           circulation which is published in an adjoining county.  
2           All named parties and their unknown successors who may  
3           be served by publication may be included in one  
4           notice. The notice shall state the court in which the  
5           petition is filed and the names of the plaintiff and  
6           the parties served by publication, and shall designate  
7           the parties whose unknown successors are being served.  
8           The notice shall also state that the named defendants  
9           and their unknown successors have been sued and must  
10          answer the petition on or before a time to be stated  
11          (which shall not be less than forty-one (41) days from  
12          the date of the first publication), or judgment, the  
13          nature of which shall be stated, will be rendered  
14          accordingly. If jurisdiction of the court is based on  
15          property, any real property subject to the  
16          jurisdiction of the court and any property or debts to  
17          be attached or garnished must be described in the  
18          notice.

19          (1) When the recovery of money is sought, it is not  
20                necessary for the publication notice to state the  
21                separate items involved, but the total amount  
22                that is claimed must be stated. When interest is  
23                claimed, it is not necessary to state the rate of  
24                interest, the date from which interest is

1                   claimed~~7~~ or that interest is claimed until the  
2                   obligation is paid.

3           (2)   It is not necessary for the publication notice to  
4                   state that the judgment will include recovery of  
5                   costs in order for a judgment following the  
6                   publication notice to include costs of suit.

7           (3)   In an action to quiet title to real property, it  
8                   is not necessary for the publication notice to  
9                   state the nature of the claim or interest of  
10                  either party, and in describing the nature of the  
11                  judgment that will be rendered should the  
12                  defendant fail to answer, it is sufficient to  
13                  state that a decree quieting plaintiff's title to  
14                  the described property will be entered. It is  
15                  not necessary to state that a decree forever  
16                  barring the defendant from asserting any interest  
17                  in or to the property is sought or will be  
18                  entered if the defendant does not answer.

19          (4)   In an action to foreclose a mortgage, it is  
20                  sufficient that the publication notice state that  
21                  if the defendant does not answer, the defendant's  
22                  interest in the property will be foreclosed. It  
23                  is not necessary to state that a judgment forever  
24                  barring the defendant from all right, title,

1 interest, estate, property and equity of  
2 redemption in or to ~~said~~ the property or any part  
3 thereof is requested or will be entered if the  
4 defendant does not answer.

5 d. Service by publication is complete when made in the  
6 manner and for the time prescribed in subparagraph c  
7 of this paragraph. Service by publication shall be  
8 proved by the affidavit of any person having knowledge  
9 of the publication. No default judgment may be  
10 entered on such service until proof of service by  
11 publication is filed with and approved by the court.

12 e. Before entry of a default judgment or order against a  
13 party who has been served solely by publication under  
14 this paragraph, the court shall conduct an inquiry to  
15 determine whether the plaintiff, or someone acting in  
16 behalf of the plaintiff, made a distinct and  
17 meaningful search of all reasonably available sources  
18 to ascertain the whereabouts of any named parties who  
19 have been served solely by publication under this  
20 paragraph. Before entry of a default judgment or  
21 order against the unknown successors of a named  
22 defendant, a named decedent, or a dissolved  
23 partnership, corporation or association, the court  
24 shall conduct an inquiry to ascertain whether the

1 requirements described in subparagraph b of this  
2 paragraph have been satisfied.

3 f. A party against whom a default judgment or order has  
4 been rendered, without other service than by  
5 publication in a newspaper, may, at any time within  
6 three (3) years after the filing of the judgment or  
7 order, have the judgment or order set aside in the  
8 manner prescribed in Sections 1031.1 and 1033 of this  
9 title. Before the judgment or order is set aside, the  
10 applicant shall notify the adverse party of the  
11 intention to make an application and shall file a full  
12 answer to the petition, pay all costs if the court  
13 requires them to be paid, and satisfy the court by  
14 affidavit or other evidence that during the pendency  
15 of the action the applicant had no actual notice  
16 thereof in time to appear in court and make a defense.  
17 The title to any property which is the subject of and  
18 which passes to a purchaser in good faith by or in  
19 consequence of the judgment or order to be opened  
20 shall not be affected by any proceedings under this  
21 subparagraph. Nor shall proceedings under this  
22 subparagraph affect the title of any property sold  
23 before judgment under an attachment. The adverse  
24 party, on the hearing of an application to open a

1 judgment or order as provided by this subparagraph,  
2 shall be allowed to present evidence to show that  
3 during the pendency of the action the applicant had  
4 notice thereof in time to appear in court and make a  
5 defense.

6 g. The term "successors" includes all heirs, executors,  
7 administrators, devisees, trustees<sup>7</sup> and assigns,  
8 immediate and remote, of a named individual,  
9 partnership, corporation<sup>7</sup> or association.

10 h. Service outside of the state does not give the court  
11 in personal jurisdiction over a defendant who is not  
12 subject to the jurisdiction of the courts of this  
13 state or who has not, either in person or through an  
14 agent, submitted to the jurisdiction of the courts of  
15 this state.

16 4. SERVICE ON THE SECRETARY OF STATE.

17 a. Service of process on a domestic or foreign  
18 corporation may be made by serving the Secretary of  
19 State as the corporation's agent, if:

- 20 (1) there is no registered agent for the corporation  
21 listed in the records of the Secretary of State,  
22 or  
23 (2) neither the registered agent nor an officer of  
24 the corporation could be found at the registered



1 office of the corporation, when service of  
2 process was attempted.

3 b. Before resorting to service on the Secretary of State  
4 the plaintiff must have attempted service either in  
5 person or by mail on the corporation at:

6 (1) the corporation's last-known address shown on the  
7 records of the Franchise Tax Division of the  
8 Oklahoma Tax Commission, if any is listed there,  
9 and

10 (2) the corporation's last-known address shown on the  
11 records of the Secretary of State, if any is  
12 listed there, and

13 (3) the corporation's last address known to the  
14 plaintiff.

15 If any of these addresses are the same, the plaintiff  
16 is not required to attempt service more than once at  
17 any address. The plaintiff shall furnish the  
18 Secretary of State with a certified copy of the return  
19 or returns showing the attempted service.

20 c. Service on the Secretary of State shall be made by  
21 filing two (2) copies of the summons and petition with  
22 the Secretary of State, notifying the Secretary of  
23 State that service is being made pursuant to the  
24 provisions of this paragraph, and paying the Secretary

1 of State the fee prescribed in paragraph 7 of  
2 subsection A of Section 1142 of Title 18 of the  
3 Oklahoma Statutes, which fee shall be taxed as part of  
4 the costs of the action, suit or proceeding if the  
5 plaintiff shall prevail therein. If a registered  
6 agent for the corporation is listed in the records of  
7 the Secretary of State, the plaintiff must also  
8 furnish a certified copy of the return showing that  
9 service on the registered agent has been attempted  
10 either in person or by mail, and that neither the  
11 registered agent nor an officer of the corporation  
12 could be found at the registered office of the  
13 corporation.

- 14 d. Within three (3) working days after receiving the  
15 summons and petition, the Secretary of State shall  
16 send notice by letter, certified mail, return receipt  
17 requested, directed to the corporation at its  
18 registered office or the last-known address found in  
19 the office of the Secretary of State, or if no address  
20 is found there, to the corporation's last-known  
21 address provided by the plaintiff. The notice shall  
22 enclose a copy of the summons and petition and any  
23 other papers served upon the Secretary of State. The  
24 corporation shall not be required to serve its answer

1           until forty (40) days after service of the summons and  
2           petition on the Secretary of State.

3           e.   Before entry of a default judgment or order against a  
4           corporation that has been served by serving the  
5           Secretary of State as its agent under this paragraph,  
6           the court shall determine whether the requirements of  
7           this paragraph have been satisfied. A default  
8           judgment or order against a corporation that has been  
9           served only by service on the Secretary of State may  
10          be set aside upon motion of the corporation in the  
11          manner prescribed in Section 1031.1 of this title, or  
12          upon petition of the corporation in the manner  
13          prescribed in Section 1033 of this title, if the  
14          corporation demonstrates to the court that it had no  
15          actual notice of the action in time to appear and make  
16          its defense. A petition shall be filed within one (1)  
17          year after the corporation has notice of the default  
18          judgment or order but in no event more than two (2)  
19          years after the filing of the default judgment or  
20          order.

21          f.   The Secretary of State shall maintain an alphabetical  
22          record of service setting forth the name of the  
23          plaintiff and defendant, the title, docket number, and  
24          nature of the proceeding in which the process has been

1 served upon the defendant, the fact that service has  
2 been effected pursuant to the provisions of this  
3 paragraph, the return date thereof<sup>7</sup> and the date when  
4 the service was made. The Secretary of State shall  
5 not be required to retain this information for a  
6 period longer than five (5) years from receipt of the  
7 service of process.

8 g. The provisions of this paragraph shall not apply to a  
9 foreign insurance company doing business in this  
10 state.

11 5. SERVICE BY ACKNOWLEDGMENT. An acknowledgment on the back of  
12 the summons or the voluntary appearance of a defendant is equivalent  
13 to service.

14 6. SERVICE BY OTHER METHODS. If service cannot be made by  
15 personal delivery or by mail, a defendant of any class referred to  
16 in division (1) or (3) of subparagraph c of paragraph 1 of this  
17 subsection may be served as provided by court order in a manner  
18 which is reasonably calculated to give the defendant actual notice  
19 of the proceedings and an opportunity to be heard and upon filing an  
20 affidavit by the plaintiff or plaintiff's attorney that with due  
21 diligence service cannot otherwise be made upon the defendant.

22 7. NO SERVICE BY PRISONER. No prisoner in any jail, Department  
23 of Corrections facility, private prison, or parolee or probationer  
24 under supervision of the Department of Corrections shall be

1 appointed by any court to serve process on any defendant, party or  
2 witness.

3 D. SUMMONS AND PETITION. The summons and petition shall be  
4 served together. The plaintiff shall furnish the person making  
5 service with such copies as are necessary. The failure to serve a  
6 copy of the petition with the summons is not a ground for dismissal  
7 for insufficiency of service of process, but on motion of the party  
8 served, the court may extend the time to answer or otherwise plead.  
9 If a summons and petition are served by personal delivery, the  
10 person serving the summons shall state on the copy that is left with  
11 the person served the date that service is made. This provision is  
12 not jurisdictional, but if the failure to comply with it prejudices  
13 the party served, the court, on motion of the party served, may  
14 extend the time to answer or otherwise plead.

15 E. SUMMONS: TERRITORIAL LIMITS OF EFFECTIVE SERVICE.

16 1. Service of the summons and petition may be made anywhere  
17 within this state in the manner provided by subsection C of this  
18 section.

19 2. When the exercise of jurisdiction is authorized by  
20 subsection F of this section, service of the summons and petition  
21 may be made outside this state:

22 a. by personal delivery in the manner prescribed for  
23 service within this state,  
24

- 1           b.    in the manner prescribed by the law of the place in  
2                which the service is made for service in that place in  
3                an action in any of its courts of general  
4                jurisdiction,  
5           c.    in the manner prescribed by paragraph 2 of subsection  
6                C of this section,  
7           d.    as directed by the foreign authority in response to a  
8                letter rogatory,  
9           e.    in the manner prescribed by paragraph 3 of subsection  
10               C of this section only when permitted by subparagraphs  
11               a and b of paragraph 3 of subsection C of this  
12               section, or  
13           f.    as directed by the court.

14           3.   Proof of service outside this state may be made in the  
15               manner prescribed by subsection G of this section, the order  
16               pursuant to which the service is made, or the law of the place in  
17               which the service is made for proof of service in an action in any  
18               of its courts of general jurisdiction.

19           4.   Service outside this state may be made by an individual  
20               permitted to make service of process under the law of this state or  
21               under the law of the place in which the service is made or who is  
22               designated to make service by a court of this state.

23           5.   When subsection C of this section requires that in order to  
24               effect service one or more designated individuals be served, service

1 outside this state under this section must be made upon the  
2 designated individual or individuals.

3       6.    a.    A court of this state may order service upon any  
4                person who is domiciled or can be found within this  
5                state of any document issued in connection with a  
6                proceeding in a tribunal outside this state. The  
7                order may be made upon application of any interested  
8                person or in response to a letter rogatory issued by a  
9                tribunal outside this state and shall direct the  
10              manner of service.

11       b.    Service in connection with a proceeding in a tribunal  
12              outside this state may be made within this state  
13              without an order of court.

14       c.    Service under this paragraph does not, of itself,  
15              require the recognition or enforcement of an order,  
16              judgment, or decree rendered outside this state.

17       F.    ASSERTION OF JURISDICTION. A court of this state may  
18              exercise jurisdiction on any basis consistent with the Constitution  
19              of this state and the Constitution of the United States.

20       G.    RETURN.

21       1.    The person serving the process shall make proof of service  
22              thereof to the court promptly and in any event within the time  
23              during which the person served must respond to the process, but the  
24

1 failure to make proof of service does not affect the validity of the  
2 service.

3 2. When process has been served by a sheriff or deputy sheriff  
4 and return thereof is filed in the office of the court clerk, a copy  
5 of the return shall be sent by the court clerk to the plaintiff's  
6 attorney within three (3) days after the return is filed. If  
7 service is made by a person other than a sheriff or deputy sheriff,  
8 the licensed process server shall make affidavit thereof. The  
9 return shall set forth the county of issuance, the name of the  
10 person served and the date, place, and method of service.

11 3. If service was by mail, the person mailing the summons and  
12 petition shall endorse on the copy of the summons or order of the  
13 court that is filed in the action the date and place of mailing and  
14 the date when service was receipted or service was rejected, and  
15 shall attach to the copy of the summons or order a copy of the  
16 return receipt or returned envelope, if and when received, showing  
17 whether the mailing was accepted, refused, or otherwise returned.  
18 If the mailing was refused, the return shall also show the date and  
19 place of any subsequent mailing pursuant to paragraph 2 of  
20 subsection C of this section. When the summons and petition are  
21 mailed by the court clerk, the court clerk shall notify the  
22 plaintiff's attorney within three (3) days after receipt of the  
23 returned card or envelope showing that the card or envelope has been  
24 received.



1 H. AMENDMENT. At any time in its discretion and upon such  
2 terms as it deems just, the court may allow any process or proof of  
3 service thereof to be amended, unless it clearly appears that  
4 material prejudice would result to the substantial rights of the  
5 party against whom the process issued.

6 I. SUMMONS: TIME LIMIT FOR SERVICE. If service of process is  
7 not made upon a defendant within one hundred eighty (180) days after  
8 the filing of the petition and the plaintiff has not shown good  
9 cause why such service was not made within that period, the action  
10 shall be deemed dismissed as to that defendant without prejudice and  
11 Section 100 of this title shall be applicable to any refiling of the  
12 action. Upon application of a defendant not timely served, the  
13 court shall enter an order dismissing the action as to that  
14 defendant. The court shall enter a dismissal order of an action  
15 within two hundred (200) days after the filing of the action in  
16 which no service has been made on any defendant as required pursuant  
17 to this section and such order shall be mailed to the address of the  
18 party or the party's attorney of record. The action shall not be  
19 dismissed if a summons was served on the defendant within one  
20 hundred eighty (180) days after the filing of the petition and a  
21 court later holds that the summons or its service was invalid.  
22 After a court quashes a summons or its service, a new summons may be  
23 served on the defendant within a time specified by the judge. If  
24 the new summons is not served within the specified time, the action

1 shall be deemed to have been dismissed without prejudice as to that  
2 defendant. This subsection shall not apply with respect to a  
3 defendant who has been outside of this state for one hundred eighty  
4 (180) days following the filing of the petition.

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

9  
10 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CIVIL, dated  
11 04/07/2021 - DO PASS.  
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