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3 ENGROSSED HOUSE
BILL NO. 1024                          By: Worthen of the House

4
                                       and
5
                                       Daniels of the Senate
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8       An Act relating to process servers; amending 12 O.S.
        2011, Section 158.1, as last amended by Section 1,
9       Chapter 76, O.S.L. 2013 (12 O.S. Supp. 2020, Section
        158.1), which relates to the licensure of private
10      process servers; prohibiting certain persons from
        applying, reapplying or obtaining process server
11      license; deleting hearing notification requirement;
        making certain acts unlawful; providing penalty;
12      amending 21 O.S. 2011, Section 650.6, which relates
        to penalties for assault and battery upon court
13      officials; making certain acts unlawful; providing
        penalty; amending 21 O.S. 2011, Section 1319, which
14      relates to penalties for resisting legal process;
        expanding scope of crime; and providing an effective
15      date.

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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  last amended by Section 1, Chapter 76, O.S.L. 2013 (12 O.S. Supp.

21  2020, Section 158.1), is amended to read as follows:

22      Section 158.1.  A.  Service and return of process in civil cases

23  of court documents may be by an authorized licensed private process

24  server.  The presiding judge of the judicial administrative district

1  in which the county is located, or an associate district judge or

2  district judge of the county as may be designated by the presiding

3  judge, shall be authorized to issue a license to make service of

4  process ~~in civil cases~~ of court documents to persons deemed

5  qualified to do so.

6      B.   Any person who is:

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

8      2.   Of good moral character;

9      3.   Found ethically and mentally fit;

10     4.   A resident of the State of Oklahoma for a period of not less

11  than six (6) months; and

12     5.   A resident of the county or judicial administrative district

13  in which the application is submitted for a period of not less than

14  thirty (30) days,

15  may obtain a license by filing an application with the court clerk

16  on a verified form to be prescribed by the Administrative Office of

17  the Courts.  The form shall require the applicant to identify

18  whether the applicant has had a process server license issued by the

19  State of Oklahoma, any other state, or any county in Oklahoma at any

20  time prior to the current application.

21     Any person who has been convicted of a violent crime, as defined

22  in Section 571 of Title 57 of the Oklahoma Statutes, or a crime that

23  requires the person to register pursuant to the Sex Offenders

24  Registration Act in this state or another state shall be prohibited

1  from applying for or obtaining a license to serve process in this

2  state.  If a person is currently licensed to serve process in this

3  state and the person has a previous felony conviction for a crime

4  enumerated in Section 571 of Title 57 of the Oklahoma Statutes or a

5  crime that requires the person to register pursuant to the Sex

6  Offenders Registration Act, the person shall be prohibited from

7  applying for renewal of the license as provided for in subsection C

8  of this section.

9     C.  The applicant filing for a license to serve process anywhere

10 in this state shall pay a license fee of One Hundred Fifty Dollars

11 ($150.00), and the regular docketing, posting, mailing, and filing

12 fees prescribed by law.  The license shall contain the full legal

13 name, address, county in which the license was issued, a brief

14 description of the licensee and a recent photograph of the licensee.

15 The license shall state that the licensee is an officer of the court

16 only for the purpose of service of process.  The authority of the

17 licensee shall be statewide.  The license shall be carried by the

18 licensee while on duty as a private process server.  At the end of

19 one (1) calendar year from the date of issuance of the initial

20 license, the license shall be renewed for a period of three (3)

21 years.  The license shall be renewed each succeeding three (3)

22 years.  A fee of Fifteen Dollars ($15.00) per renewal shall be

23 charged for each statewide license renewal.  A license issued

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1  pursuant to this subsection entitles the holder of the license to

2  serve process in any county in this state.

3     All fees collected pursuant to this section shall be deposited

4  in the court fund.

5     D.  Upon the filing of an application for a license, the court

6  clerk shall give thirty (30) days' days of notice of hearing by

7  causing the notice to be continually posted for thirty (30) days on

8  the website of the county, or be posted in the courthouse.  The

9  applicant shall cause notice of the hearing to be made no less than

10 twenty (20) days prior to the hearing one time by publication in a

11 legal newspaper of the county, as defined in Section 106 of Title 25

12 of the Oklahoma Statutes, in which the application is filed.  The

13 applicant shall be responsible for payment of the publication fee,

14 and shall file in the case the proof of publication affidavit from

15 the newspaper prior to the hearing.  The court clerk shall mail or

16 deliver a copy of the notice at least twenty (20) days prior to the

17 hearing to the district attorney, the sheriff in the county in which

18 the application was filed, and the Oklahoma State Bureau of

19 Investigation and the Administrative Office of the Courts and shall

20 contain the name of the applicant and the time and place the

21 presiding judge or the associate district judge or district judge

22 designated by the presiding judge, will act upon the application.

23     E.  If, at the time of consideration of the application or

24 renewal, there are no protests and the applicant appears qualified,

1  the application for the license shall be granted by the presiding

2  judge or such associate district judge or district judge as is

3  designated by the presiding judge and, upon executing bond running

4  to the State of Oklahoma in the amount of Five Thousand Dollars

5  ($5,000.00) for faithful performance of his or her duties and filing

6  the bond with the court clerk, the applicant shall be authorized and

7  licensed to serve ~~civil process~~ court documents in any county in

8  this state.  If, at the time of consideration of the application for

9  the license, the presiding judge, associate district judge or

10  district judge as is designated by the presiding judge determines

11  that the applicant does not meet all of the qualifications necessary

12  for a license, the applicant shall be prohibited from reapplying for

13  a license to serve process for a period of not less than one (1)

14  year from the date of denial.

15      F.  If any citizen of this state files a written protest setting

16  forth objections to the licensing of the applicant, the district

17  court clerk shall so advise the presiding judge or such associate

18  district judge or district judge as is designated by the presiding

19  judge, who shall set a later date for hearing of application and

20  protest.  The hearing shall be held within sixty (60) days and after

21  notice to all persons known to be interested.

22      G.  Proof of service of process shall be shown by affidavit as

23  provided for by subsection G of Section 2004 of this title.

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1     H.  The district attorney of the county wherein a license

2 authorized under this act has been issued or the Attorney General

3 may file a petition in the district court to revoke the license

4 issued to any licensee, as authorized pursuant to the provisions of

5 this section, alleging the violation by the licensee of any of the

6 provisions of the law.  After at least thirty (30) ~~days'~~ days of

7 notice by certified mail to the licensee, the chief or presiding

8 judge, sitting without jury, shall hear the petition and enter an

9 order thereon.  If the license is revoked, the licensee shall not be

10 permitted to reapply for a license for a period of five (5) years

11 from the date of revocation.  Notwithstanding any other provision of

12 this section, any licensee whose license has been revoked one time

13 shall pay the sum of One Thousand Dollars ($1,000.00) as a renewal

14 fee.  If a second revocation occurs, the chief or presiding judge

15 shall not allow an applicant to renew the license.

16     I.  Any person who knowingly and willfully serves process in

17 Oklahoma without a process server license issued by the State of

18 Oklahoma or who holds himself or herself out to be a process server

19 licensed by the State of Oklahoma when the person is not licensed as

20 such shall, upon conviction, be guilty of a misdemeanor.  The

21 provisions of this subsection shall not apply to a process server

22 licensed in another state who is serving court documents issued by a

23 court in another state to a person in Oklahoma.

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1    J.  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.~~ K.  No later than January 1, 2013, the Administrative Office

8  of the Courts shall establish and maintain a statewide registry

9  which 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.    AMENDATORY    21 O.S. 2011, Section 650.6, is

15  amended to read as follows:

16    Section 650.6.  A.  Every person who commits any assault upon

17  any officer of a state district or appellate court, or the Workers'

18  Compensation Court, including but not limited to judges, bailiffs,

19  court reporters, court clerks or deputy court clerks, or upon any

20  witnesses or juror, because of said person's service in such

21  capacity or within six (6) months of said person's service in such

22  capacity, shall be guilty of a misdemeanor punishable by

23  imprisonment in the county jail for not more than one (1) year, by a

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1 fine not to exceed One Thousand Dollars ($1,000.00), or by both such

2 imprisonment and fine.

3     B.  Every person who commits any battery or assault and battery

4 upon any officer of a state district or appellate court, or the

5 Workers' Compensation Court, including but not limited to judges,

6 bailiffs, court reporters, court clerks or deputy court clerks, or

7 upon any witnesses or juror, because of said person's service in

8 such capacity or within six (6) months of said person's service in

9 such capacity, shall be guilty of a felony punishable by

10 imprisonment in the custody of the Department of Corrections for not

11 more than five (5) years, by a fine of not more than Five Thousand

12 Dollars ($5,000.00), or by both such imprisonment and fine.

13     C.  Every person who knowingly commits any assault, battery or

14 assault and battery upon a process server licensed in this state

15 while the person is in the performance of his or her duties shall,

16 upon conviction, be guilty of a misdemeanor punishable by

17 imprisonment in the county jail for not more than one (1) year, by a

18 fine not to exceed One Thousand Dollars ($1,000.00), or by both such

19 imprisonment and fine.

20     SECTION 3.    AMENDATORY    21 O.S. 2011, Section 1319, is

21 amended to read as follows:

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

23     1.  Resists the execution of any legal process;

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1    2.  Enters into a combination with any other person to resist

2    the execution of any legal process~~, under circumstances not~~

3    ~~amounting to a riot,~~; or

4    3.  In retaliation for serving process, releases or fails to

5    control an animal at the time legal process is being executed,

6    is, upon conviction, punishable by imprisonment in a county jail not

7    exceeding one (1) year, or by a fine not exceeding One Thousand

8    Dollars ($1,000.00), or by both such imprisonment and fine.

9    SECTION 4.  This act shall become effective November 1, 2021.

10   COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
     April 7, 2021 - DO PASS AS AMENDED

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