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February 2, 2021

By: Daniels and Boren

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

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

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

Section 2004.

## PROCESS

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.

B. SUMMONS: FORM.

1. The summons shall be signed by the clerk, be under the seal of the court, contain the name of the court and the names of the

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

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

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

16 1. SERVICE BY PERSONAL DELIVERY.

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

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

19           c.    Service shall be made as follows:

20                (1)   upon an individual other than an infant who is  
21                      less than fifteen (15) years of age or an  
22                      incompetent person, by delivering a copy of the  
23                      summons and of the petition personally or by  
24                      leaving copies thereof at the person's dwelling

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

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

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

requires, by also mailing a copy to the  
defendant,

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

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

(6) upon an inmate incarcerated in an institution  
under the jurisdiction and control of the  
Department of Corrections, by delivering a copy  
of the summons and of the petition to the warden  
or superintendent or the designee of the warden  
or superintendent of the institution where the  
inmate is housed. It shall be the duty of the  
receiving warden or superintendent or a designee  
to promptly deliver the summons and petition to

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

20 2. SERVICE BY MAIL.

21 a. At the election of the plaintiff, a summons and  
22 petition may be served by mail by the plaintiff's  
23 attorney, any person authorized to serve process  
24 pursuant to subparagraph a of paragraph 1 of this

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

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

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

1 notice by certified mail, return receipt requested,  
2 and at the election of the judgment creditor by  
3 restricted delivery, to the addressee.

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



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

1 default or judgment by default but in no event more  
2 than two (2) years after the filing of the judgment.

3 3. SERVICE BY PUBLICATION.

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

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

21 (1) whether a person named as defendant is living or  
22 dead, and, if dead, the names or whereabouts of  
23 the person's successors, if any,  
24

- 1 (2) the names or whereabouts of the unknown  
2 successors, if any, of a named decedent,  
3 (3) whether a partnership, corporation<sup>7</sup> or other  
4 association named as a defendant continues to  
5 have legal existence or not; or the names or  
6 whereabouts of its officers or successors,  
7 (4) whether any person designated in a record as a  
8 trustee continues to be the trustee; or the names  
9 or whereabouts of the successors of the trustee,  
10 or  
11 (5) the names or whereabouts of the owners or holders  
12 of special assessment or improvement bonds, or  
13 any other bonds, sewer warrants or tax bills.

14 c. Service pursuant to this paragraph shall be made by  
15 publication of a notice, signed by the court clerk,  
16 one (1) day a week for three (3) consecutive weeks in  
17 a newspaper authorized by law to publish legal notices  
18 which is published in the county where the petition is  
19 filed. If no newspaper authorized by law to publish  
20 legal notices is published in such county, the notice  
21 shall be published in some such newspaper of general  
22 circulation which is published in an adjoining county.  
23 All named parties and their unknown successors who may  
24 be served by publication may be included in one

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

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

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

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

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

1                   thereof is requested or will be entered if the  
2                   defendant does not answer.

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

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

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

1 during the pendency of the action the applicant had  
2 notice thereof in time to appear in court and make a  
3 defense.

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

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

14 4. SERVICE ON THE SECRETARY OF STATE.

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

18 (1) there is no registered agent for the corporation  
19 listed in the records of the Secretary of State,  
20 or

21 (2) neither the registered agent nor an officer of  
22 the corporation could be found at the registered  
23 office of the corporation, when service of  
24 process was attempted.



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

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

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

11          (3) the corporation's last address known to the  
12          plaintiff.

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

18          c. Service on the Secretary of State shall be made by  
19          filing two (2) copies of the summons and petition with  
20          the Secretary of State, notifying the Secretary of  
21          State that service is being made pursuant to the  
22          provisions of this paragraph, and paying the Secretary  
23          of State the fee prescribed in paragraph 7 of  
24          subsection A of Section 1142 of Title 18 of the

Oklahoma Statutes, which fee shall be taxed as part of the costs of the action, suit or proceeding if the plaintiff shall prevail therein. If a registered agent for the corporation is listed in the records of the Secretary of State, the plaintiff must also furnish a certified copy of the return showing that service on the registered agent has been attempted either in person or by mail, and that neither the registered agent nor an officer of the corporation could be found at the registered office of the corporation.

- d. Within three (3) working days after receiving the summons and petition, the Secretary of State shall send notice by letter, certified mail, return receipt requested, directed to the corporation at its registered office or the last-known address found in the office of the Secretary of State, or if no address is found there, to the corporation's last-known address provided by the plaintiff. The notice shall enclose a copy of the summons and petition and any other papers served upon the Secretary of State. The corporation shall not be required to serve its answer until forty (40) days after service of the summons and petition on the Secretary of State.

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

19 f. The Secretary of State shall maintain an alphabetical  
20 record of service setting forth the name of the  
21 plaintiff and defendant, the title, docket number, and  
22 nature of the proceeding in which the process has been  
23 served upon the defendant, the fact that service has  
24 been effected pursuant to the provisions of this

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

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

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

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

20 7. NO SERVICE BY PRISONER. No prisoner in any jail, Department  
21 of Corrections facility, private prison, or parolee or probationer  
22 under supervision of the Department of Corrections shall be  
23 appointed by any court to serve process on any defendant, party or  
24 witness.

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

13 E. SUMMONS: TERRITORIAL LIMITS OF EFFECTIVE SERVICE.

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

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

- 20 a. by personal delivery in the manner prescribed for  
21 service within this state,  
22 b. in the manner prescribed by the law of the place in  
23 which the service is made for service in that place in  
24

1 an action in any of its courts of general  
2 jurisdiction,

3 c. in the manner prescribed by paragraph 2 of subsection  
4 C of this section,

5 d. as directed by the foreign authority in response to a  
6 letter rogatory,

7 e. in the manner prescribed by paragraph 3 of subsection  
8 C of this section only when permitted by subparagraphs  
9 a and b of paragraph 3 of subsection C of this  
10 section, or

11 f. as directed by the court.

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

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

21 5. When subsection C of this section requires that in order to  
22 effect service one or more designated individuals be served, service  
23 outside this state under this section must be made upon the  
24 designated individual or individuals.

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

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

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

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

18       G.    RETURN.

19       1.    The person serving the process shall make proof of service  
20   thereof to the court promptly and in any event within the time  
21   during which the person served must respond to the process, but the  
22   failure to make proof of service does not affect the validity of the  
23   service.  
24

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

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

23        H. AMENDMENT. At any time in its discretion and upon such  
24 terms as it deems just, the court may allow any process or proof of



1 service thereof to be amended, unless it clearly appears that  
2 material prejudice would result to the substantial rights of the  
3 party against whom the process issued.

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

1 defendant who has been outside of this state for one hundred eighty  
2 (180) days following the filing of the petition.

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

7 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
8 February 2, 2021 - DO PASS  
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