An Act

ENROLLED HOUSE
BILL NO. 1618

By: Worthen of the House

and

Gollihare of the Senate

An Act relating to civil procedure; amending 12 O.S. 2021, Section 158.1, which relates to the licensure of private process servers; deleting mailing requirement; authorizing notice to be delivered by electronic means; and providing an effective date.

SUBJECT: Civil Procedure

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

SECTION 1. AMENDATORY 12 O.S. 2021, Section 158.1, is amended to read as follows:

Section 158.1 A. Service and return of process 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 district judge of the county as may be designated by the presiding judge, shall be authorized to issue a license to make service of process of court documents to persons deemed qualified to do so.

B. Any person who is:

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

2. Of good moral character;

3. Found ethically and mentally fit;

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

5. A resident of the county or judicial administrative district in which the application is submitted for a period of not less than thirty (30) days,

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

Any person who has been convicted of a violent crime, as defined in Section 571 of Title 57 of the Oklahoma Statutes, or a crime that requires the person to register pursuant to the Sex Offenders Registration Act in this state or another state shall be prohibited from applying for or obtaining a license to serve process in this state. If a person is currently licensed to serve process in this state and the person has a previous felony conviction for a crime enumerated in Section 571 of Title 57 of the Oklahoma Statutes or a crime that requires the person to register pursuant to the Sex Offenders Registration Act, the person shall be prohibited from applying for renewal of the license as provided for in subsection C of this section.

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

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

D. Upon the filing of an application for a license, the court clerk shall give thirty (30) days of notice of hearing by causing the notice to be continually posted for thirty (30) days on the website of the county, or be posted in the courthouse. The applicant shall cause notice of the hearing to be made no less than twenty (20) days prior to the hearing one time by publication in a legal newspaper of the county, as defined in Section 106 of Title 25 of the Oklahoma Statutes, in which the application is filed. The applicant shall be responsible for payment of the publication fee, and shall file in the case the proof of publication affidavit from the newspaper prior to the hearing. The court clerk shall ~~mail~~ deliver by electronic means or deliver a copy of the notice at least twenty (20) days prior to the hearing to the district attorney, the sheriff in the county in which the application was filed, the Oklahoma State Bureau of Investigation and the Administrative Office of the Courts ~~and~~. The notice shall contain the name of the applicant and the time and place the presiding judge ~~or~~, the associate district judge, or district judge designated by the presiding judge, will act upon the application.

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

F. If any citizen of this state files a written protest setting forth objections to the licensing of the applicant, the district court clerk shall so advise the presiding judge or such associate district judge or district judge as is designated by the presiding judge, who shall set a later date for hearing of application and

protest. The hearing shall be held within sixty (60) days and after notice to all persons known to be interested.

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

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

I. Any person who knowingly and willfully serves process in Oklahoma without a process server license issued by the State of Oklahoma or who holds himself or herself out to be a process server licensed by the State of Oklahoma when the person is not licensed as such shall, upon conviction, be guilty of a misdemeanor. The provisions of this subsection shall not apply to a process server licensed in another state who is serving court documents issued by a court in another state to a person in Oklahoma.

J. The court clerk shall make available at all times in the office of the court clerk the list of licensed private process servers. Any person in need of the services of a process server may designate one from the names on the list, before presenting summons to the court clerk for issuance, without necessity for individual judicial appointment.

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

SECTION 2. This act shall become effective November 1, 2023.

Passed the House of Representatives the 1st day of March, 2023.

Presiding Officer of the House
of Representatives

Passed the Senate the 17th day of April, 2023.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 18th
day of April, 20 23, at 11:44 o'clock a. M.
By: Pamela Curry

Approved by the Governor of the State of Oklahoma this 19th
day of April, 20 23, at 4:30 o'clock p. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 19th
day of April, 20 23, at 5:05 o'clock P. M.
By: Brian Bingman