

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 694
Committee Substitute Favorable 5/31/95

Short Title: Service of Process.

(Local)

Sponsors:

Referred to:

March 30, 1995

A BILL TO BE ENTITLED
AN ACT TO PROVIDE FOR PRIVATE SERVICE OF PROCESS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 4 is amended by adding a new subsection to read:

"(a1) Private Service of Process.—

(1) At the option of the plaintiff or the plaintiff's agent or attorney, the clerk of the issuing court shall allow service of process by a private process server. The clerk of court of each county shall establish a list of persons who have met the requirements provided for in this subsection and designate them as private process servers. The clerk of court shall add to the list the names of the persons who have met the requirements provided for in this subsection. Each person whose name has been added to the approved list is subject to annual recertification and reappointment by the clerk of court. The clerk of court shall prescribe an appropriate form for application for appointment to be available at the clerk of court office in each county. In the discretion of the clerk, a uniform fee not to exceed one hundred dollars (\$100.00) may be charged for the processing of the application.

(2) A person applying to become a private process server shall:

- 1 a. Submit a sworn affidavit affirming that the person:
2 1. Is at least 21 years of age.
3 2. Has no mental or legal disability.
4 3. Is a permanent resident of the State.
5 b. Obtain and file with the application a certificate of good conduct
6 that specifies:
7 1. There is no pending criminal case against the applicant.
8 2. The applicant has no felony convictions.
9 3. The applicant has no misdemeanor convictions within the
10 previous five years involving moral turpitude or
11 dishonesty.
12 c. Submit to an examination testing the applicant's knowledge of
13 the laws and rules regarding the service of process. The content
14 of the examination and the passing grade thereon, and the
15 frequency and the location at which such examination shall be
16 offered shall be prescribed by the clerk of court. The
17 examination shall be offered at least once annually. A reasonable
18 fee may be charged for administering this examination.
19 d. Post a performance bond in the amount of one hundred thousand
20 dollars (\$100,000) approved by and filed with the clerk of court
21 for the benefit of any person wrongfully injured by malfeasance,
22 misfeasance, or neglect of duty, or incompetence of the
23 applicant, in connection with the person's duties as a private
24 process server. In the event the applicant is or will be employed
25 by an entity already bonded pursuant to this section, the applicant
26 must provide a written statement from his employer affirming
27 that the applicant is or will be covered under the entity's bond.
28 Such bond shall be renewable annually.
29 e. Take an oath that the applicant will honestly, diligently, and
30 faithfully exercise the duties of a private process server.
31 f. Execute such process in the same manner, with like effect, and
32 subject to the same liabilities, as if such person were a proper
33 officer regularly serving process in this State.
34 (3) An applicant who completes the requirements set forth in this
35 subsection shall be appointed as a private process server. Each private
36 process server shall be issued an identification card bearing the process
37 server's identification number, printed name, signature, and photograph,
38 and an expiration date. The clerk of court may contract with the City-
39 County Bureau of Identification for making the identification cards.
40 The costs of making the identification card shall be borne by the process
41 server in an amount not to exceed ten dollars (\$10.00). Each
42 identification card shall be renewable annually upon proof that the

1 process server has violated none of the rules set out in this subsection
2 and that the process server has current bond posted.

3 (4) The clerk of court shall have the discretion to revoke an appointment at
4 any time that the clerk determines that a private process server is not
5 fully and properly discharging the duties as a private process server.
6 When the clerk of court has reason to believe that cause for revocation
7 of an appointment exists, the clerk shall notify the server that a hearing
8 is to be held at a certain time and date. At the hearing the process server
9 shall have the opportunity to be present, to cross-examine witnesses, to
10 present evidence, and be heard. If the clerk finds cause to revoke the
11 appointment, the clerk shall make a written record of findings of fact
12 that set out in detail the reasons the decision to revoke was made. If an
13 appointment is revoked pursuant to the authority of the clerk of court,
14 the person whose appointment was revoked may appeal the revocation
15 to the superior court sitting in the county in which the appointment was
16 issued.

17 (5) A private process server appointed in accordance with this subsection
18 shall be authorized to serve civil process in this county and may charge
19 a reasonable fee for the services provided. A payment of five dollars
20 (\$5.00) shall be made by the plaintiff or the plaintiff's agent to the
21 sheriff of the county in which the process is served. The proceeds from
22 the five dollar (\$5.00) payment shall be distributed as follows: one
23 dollar (\$1.00) to the Law Enforcement Officer's Benefit and Retirement
24 Fund, and four dollars (\$4.00) to the general fund of the county in which
25 the process is served."

26 Sec. 2. This act applies to Wake County only.

27 Sec. 3. This act becomes effective July 1, 1995, and applies to actions that are
28 filed or have not reached final judgment on or after that date.