

1 A bill to be entitled
2 An act relating to service of process; amending
3 s. 48.031, F.S.; deleting the requirement to
4 use certified mail in service of a subpoena on
5 a witness in specified cases; prohibiting a
6 finding of contempt for failure to appear in
7 response to a subpoena that is not certified;
8 allowing the posting of a criminal witness
9 subpoena under specified conditions; requiring
10 the placement of certain information on the
11 copy of the process served; providing for
12 alternative methods of service under certain
13 circumstances; amending s. 48.081, F.S.;
14 providing alternative methods of service on a
15 corporation; amending s. 48.21, F.S.; requiring
16 servers of process to provide certain
17 information on the return of service; amending
18 s. 83.13, F.S.; authorizing the party who had a
19 distress writ issued to deliver the writ to a
20 sheriff in another county; amending s. 624.307,
21 F.S.; allowing the Chief Financial Officer,
22 when serving as the attorney to receive service
23 of all legal process for certain regulated
24 persons, to send the process by any verifiable
25 means to the person last designated by the
26 regulated person to receive the process,
27 instead of requiring the process to be sent by
28 registered or certified mail; providing an
29 effective date.

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31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Subsection (3) of section 48.031, Florida
2 Statutes, is amended, and subsections (5) and (6) are added to
3 that section, to read:

4 48.031 Service of process generally; service of
5 witness subpoenas.--

6 (3)(a) The service of process of witness subpoenas,
7 whether in criminal cases or civil actions, shall ~~is to~~ be
8 made as provided in subsection (1). However, service of a
9 subpoena on a witness in a criminal traffic case, a
10 misdemeanor case, or a second degree or third degree felony
11 may be made by ~~certified~~ United States mail directed to the
12 witness at the last known address, and the such service must
13 be mailed at least 7 days prior to the date of the witness's
14 required appearance. Failure of a witness to appear in
15 response to a subpoena served by United States mail that is
16 not certified may not be grounds for finding the witness in
17 contempt of court.

18 (b) A criminal witness subpoena may be posted by a
19 person authorized to serve process at the witness's residence
20 if three attempts to serve the subpoena, made at different
21 times of the day or night on different dates, have failed. The
22 subpoena must be posted at least 5 days prior to the date of
23 the witness's required appearance.

24 (5) A person serving process shall place on the copy
25 served, the date and time of service and his or her
26 identification number and initials for all service of process.

27 (6) If the only address for a person to be served,
28 which is discoverable through public records, is a private
29 mailbox, substitute service may be made by leaving a copy of
30 the process with the person in charge of the private mailbox,
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1 but only if the process server determines that the person to
2 be served maintains a mailbox at that location.

3 Section 2. Subsection (3) of section 48.081, Florida
4 Statutes, is amended to read:

5 48.081 Service on corporation.--

6 (3)(a) As an alternative to all of the foregoing,
7 process may be served on the agent designated by the
8 corporation under s. 48.091. However, if service cannot be
9 made on a registered agent because of failure to comply with
10 s. 48.091, service of process shall be permitted on any
11 employee at the corporation's principal place of business or
12 on any employee of the registered agent.

13 (b) If the address provided for the registered agent,
14 officer, director, or principal place of business is a
15 residence or private mailbox, service on the corporation may
16 be made by serving the registered agent, officer, or director
17 in accordance with s. 48.031.

18 Section 3. Section 48.21, Florida Statutes, is amended
19 to read:

20 48.21 Return of execution of process.--Each person who
21 effects service of process ~~All officers to whom process is~~
22 ~~directed~~ shall note on it, ~~or on a return-of-service form~~
23 attached thereto, the date and time when it comes to hand, the
24 date and time when it is served ~~executed~~, the manner of
25 service ~~execution~~, the name of the person on whom it was
26 served ~~executed~~ and, if the ~~such~~ person is served in a
27 representative capacity, the position occupied by the person.
28 A failure to state the foregoing facts invalidates the
29 service, but the return is amendable to state the truth at any
30 time on application to the court from which the process
31 issued. On amendment, service is as effective as if the

1 return had originally stated the omitted facts. A failure to
2 state all the facts in the return shall subject the person
3 effecting service ~~officer so failing~~ to a fine not exceeding
4 \$10, in the court's discretion.

5 Section 4. Subsection (6) of section 48.29, Florida
6 Statutes, is amended to read:

7 48.29 Certification of process servers.--

8 (6) A certified process server shall place the
9 information provided in s. 48.031(5) on the copy served.

10 ~~(a) A certified process server shall place on the face of any~~
11 ~~process served by him or her, his or her printed name,~~
12 ~~signature, and identification number, and words stating that~~
13 ~~he or she is a certified process server in the circuit wherein~~
14 ~~he or she is serving the process. In addition, the certified~~
15 ~~process server shall endorse on the original process, and on~~
16 ~~all copies served, the date and hour of service.~~

17 ~~(b)~~ Return of service shall be made by a certified
18 process server on a form which has been reviewed and approved
19 by the court.

20 Section 5. Section 83.13, Florida Statutes, is amended
21 to read:

22 83.13 Levy of writ.--The sheriff shall execute the
23 writ by service on defendant and, upon the order of the court,
24 by levy on property distrainable for rent or advances, if
25 found in the sheriff's jurisdiction. If the property is ~~not so~~
26 ~~found but is~~ in another jurisdiction, the party who had the
27 writ issued ~~sheriff~~ shall deliver the writ to the proper
28 sheriff in the other jurisdiction; and that ~~the other~~ sheriff
29 shall execute the writ, upon order of the court, by levying on
30 the property and delivering it to the sheriff of the county in
31 which the action is pending, to be disposed of according to

1 law, unless he or she is ordered by the court from which the
2 writ emanated to hold the property and dispose of it in his or
3 her jurisdiction according to law. If the plaintiff shows by a
4 sworn statement that the defendant cannot be found within the
5 state, the levy on the property suffices as service on the
6 defendant.

7 Section 6. Subsection (8) is added to section 624.307,
8 Florida Statutes, to read:

9 624.307 General powers; duties.--

10 (8) Upon receiving service of legal process issued in
11 any civil action or proceeding in this state against any
12 regulated person required to appoint the Chief Financial
13 Officer as its attorney to receive service of all legal
14 process, the Chief Financial Officer, as attorney, may, in
15 lieu of sending the process by registered or certified mail,
16 send the process by any other verifiable means to the person
17 last designated by the regulated person to receive the
18 process.

19 Section 7. This act shall take effect July 1, 2004.
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