

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 619 Service of Process

SPONSOR(S): Rouson

TIED BILLS: None **IDEN./SIM. BILLS:** SB 570

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	12 Y, 0 N	Bond	Bond
2) Judiciary Committee	18 Y, 0 N	Bond	Havlicak

SUMMARY ANALYSIS

Traditionally, a witness in a trial was required to be personally served with a subpoena in order to require that witness to appear at a hearing or trial. Current law allows, however, for service of witness subpoena by regular mail in certain felony, misdemeanor and criminal traffic cases. A witness subpoena served by mail cannot be enforced by contempt of court.

This bill adds civil traffic cases to the types of action in which a witness subpoena may be served by regular mail.

This bill appears to have an unknown significant positive fiscal impact on local government expenditures. This bill does not appear to have a fiscal impact on local governments.

The effective date of the bill is July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The role of a process server is to serve summons, subpoenas, and other forms of process in civil and criminal actions.¹ The term “to serve” means to make legal delivery of a notice or a pleading.² A summons is a writ or a process beginning a plaintiff’s legal action and requiring a defendant to appear in court to answer the summons.³ A subpoena is a legal writ or order commanding a person to appear before a court or other tribunal.⁴ A subpoena can command a person to be present for a deposition or for a court appearance.

In general, service of process is accomplished by personal delivery upon a person. However, service of process of a witness subpoena may be accomplished through United States mail for criminal traffic, misdemeanors, third degree felonies, and second degree felonies.⁵

To serve a subpoena on a witness by mail, the subpoena must be sent to the last known address of the witness at least 7 days before the appearance required in the subpoena. If a witness fails to appear in response to a subpoena served by mail, the court may not find the person in contempt of court.

Civil traffic offenses are only punishable by a fine, and thus are generally regarded as being less serious than criminal traffic, misdemeanor or felony cases. Yet, current law does not allow service of a subpoena by mail in civil traffic cases, requiring instead the more expensive service of process by personal delivery.

Effect of the Bill

The bill adds civil traffic cases to the list of court cases for which service of process of a witness subpoena may be accomplished by United States mail.

B. SECTION DIRECTORY:

Section 1 amends s. 48.031, F.S., regarding service of process generally and service of witness subpoenas.

Section 2 provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill does not appear to have any impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

¹ ss. 48.011 and 48.021, F.S.

² BLACK’S LAW DICTIONARY (10th ed. 2014).

³ Id.

⁴ Id.

⁵ s. 48.031(3)(a), F.S.

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

This bill may result in a cost savings for local sheriffs by giving them the option of serving witness subpoenas by mail for appearances in civil traffic cases. The statewide cost savings is indeterminate. As an example, however, Hillsborough County delivered 5,878 witness subpoenas in civil traffic cases in 2014. That county alone estimates a cost savings from this bill of almost \$100,000 a year in manpower costs.⁶

The Office of the State Courts Administrator anticipates a minimal fiscal impact from the bill.⁷

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A person who challenges a civil traffic citation bears the costs of service of process for witness subpoenas should the person require the attendance of a witness. The fee for in-person service of a witness subpoena is \$40.⁸ Allowing witness subpoenas to be served by mail may decrease the costs of challenging a civil traffic citation.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

⁶ Email correspondence from Lorelei Bowden, Manager, Legislative Affairs and Grants, Hillsborough County Sheriff's Office, dated February 27, 2015. (on file with Civil Justice Subcommittee).

⁷ Office of the State Courts Administrator, *2015 Judicial Impact Statement on [companion bill] SB 570* (February 20, 2015).

⁸ Section 30.231(1)(c), F.S.