

1 A bill to be entitled
 2 An act relating to service of process; amending s.
 3 48.031, F.S.; providing for service of process when
 4 the only address discoverable through public records
 5 for a person to be served is a virtual office or an
 6 executive or mini office suite; providing definitions;
 7 amending ss. 49.011 and 49.021, F.S.; conforming
 8 provisions; amending s. 49.031, F.S.; defining the
 9 term "electronically"; conforming provisions; amending
 10 ss. 49.041, 49.051, and 49.061, F.S.; conforming
 11 provisions; creating s. 49.13, F.S.; providing for
 12 electronic service of process; providing for
 13 perfection of electronic service of process; creating
 14 s. 49.14, F.S.; providing for proof of delivery of
 15 electronic service of process; providing an effective
 16 date.

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

19
 20 Section 1. Subsection (6) of section 48.031, Florida
 21 Statutes, is amended to read:

22 48.031 Service of process generally; service of witness
 23 subpoenas.—

24 (6) (a) If the only address for a person to be served,
 25 which is discoverable through public records, is a private
 26 mailbox, a virtual office, or an executive or mini office suite,

27 substitute service may be made by leaving a copy of the process
 28 with the person in charge of the private mailbox, virtual
 29 office, or executive or mini office suite, but only if the
 30 process server determines that the person to be served maintains
 31 a mailbox, a virtual office, or an executive or mini office
 32 suite at that location.

33 (b) As used in this subsection, the term "virtual office"
 34 means an office that provides communication and address services
 35 without providing any dedicated office space, and the term
 36 "executive or mini office suite" means an office that provides
 37 communication, dedicated office space, and other support
 38 services. In both types of offices, all communication is routed
 39 through a common receptionist.

40 Section 2. Section 49.011, Florida Statutes, is amended to
 41 read:

42 49.011 Service of process by publication or
 43 electronically; cases in which allowed.—Service of process by
 44 publication or electronically, if ordered by the court, may be
 45 made in any court on any party identified in s. 49.021 in any
 46 action or proceeding:

47 (1) To enforce any legal or equitable lien or claim to any
 48 title or interest in real or personal property within the
 49 jurisdiction of the court or any fund held or debt owing by any
 50 party on whom process can be served within this state.

51 (2) To quiet title or remove any encumbrance, lien, or
 52 cloud on the title to any real or personal property within the

53 jurisdiction of the court or any fund held or debt owing by any
54 party on whom process can be served within this state.

55 (3) To partition real or personal property within the
56 jurisdiction of the court.

57 (4) For dissolution or annulment of marriage.

58 (5) For the construction of any will, deed, contract, or
59 other written instrument and for a judicial declaration or
60 enforcement of any legal or equitable right, title, claim, lien,
61 or interest thereunder.

62 (6) To reestablish a lost instrument or record which has
63 or should have its situs within the jurisdiction of the court.

64 (7) In which a writ of replevin, garnishment, or
65 attachment has been issued and executed.

66 (8) In which any other writ or process has been issued and
67 executed which places any property, fund, or debt in the custody
68 of a court.

69 (9) To revive a judgment by motion or scire facias.

70 (10) For adoption.

71 (11) In which personal service of process or notice is not
72 required by the statutes or constitution of this state or by the
73 Constitution of the United States.

74 (12) In probate or guardianship proceedings in which
75 personal service of process or notice is not required by the
76 statutes or constitution of this state or by the Constitution of
77 the United States.

78 (13) For termination of parental rights pursuant to part

79 VIII of chapter 39 or chapter 63.

80 (14) For temporary custody of a minor child, under chapter
81 751.

82 (15) To determine paternity, but only as to the legal
83 father in a paternity action in which another man is alleged to
84 be the biological father, in which case it is necessary to serve
85 process on the legal father in order to establish paternity with
86 regard to the alleged biological father.

87 Section 3. Section 49.021, Florida Statutes, is amended to
88 read:

89 49.021 Service of process by publication or
90 electronically, upon whom.—~~When~~ ~~Where~~ personal service of
91 process or, if appropriate, service of process under s. 48.194
92 cannot be had, service of process by publication or
93 electronically may be had upon any party, natural or corporate,
94 known or unknown, including:

95 (1) Any known or unknown natural person, and, when
96 described as such, the unknown spouse, heirs, devisees,
97 grantees, creditors, or other parties claiming by, through,
98 under, or against any known or unknown person who is known to be
99 dead or is not known to be either dead or alive;

100 (2) Any corporation or other legal entity, whether its
101 domicile be foreign, domestic, or unknown, and whether dissolved
102 or existing, including corporations or other legal entities not
103 known to be dissolved or existing, and, when described as such,
104 the unknown assigns, successors in interest, trustees, or any

105 other party claiming by, through, under, or against any named
 106 corporation or legal entity;

107 (3) Any group, firm, entity, or persons who operate or do
 108 business, or have operated or done business, in this state,
 109 under a name or title which includes the word "corporation,"
 110 "company," "incorporated," "inc.," or any combination thereof,
 111 or under a name or title which indicates, tends to indicate or
 112 leads one to think that the same may be a corporation or other
 113 legal entity; and

114 (4) All claimants under any of such parties.

115

116 Unknown parties may be proceeded against exclusively or together
 117 with other parties.

118 Section 4. Section 49.031, Florida Statutes, is amended to
 119 read:

120 49.031 Sworn statement as condition precedent.—

121 (1) As a condition precedent to service by publication or
 122 electronically, a statement shall be filed in the action
 123 executed by the plaintiff, the plaintiff's agent or attorney,
 124 setting forth substantially the matters hereafter required,
 125 which statement may be contained in a verified pleading, or in
 126 an affidavit or other sworn statement.

127 (2) As used in this chapter, the term:

128 (a) ~~(b)~~—~~The word~~ "Defendant" means any party on whom
 129 service by publication or electronically is authorized by this
 130 chapter, without regard to his or her designation in the

131 pleadings or position in the action.

132 (b) "Electronically" means any electronic method of
 133 delivering notice to a defendant by e-mail, social media, or any
 134 other electronic means in which a reasonable expectation of
 135 delivery to the party can be ascertained.

136 (c) (a) ~~The word "Plaintiff"~~ means any party in the action
 137 who is entitled to service of original process on any other
 138 party to the action or any person who may be brought in or
 139 allowed to come in as a party by any lawful means.

140 (d) (e) ~~The word "Publication"~~ includes the posting of the
 141 notice of action as provided for in ss. 49.10(1)(b) and 49.11.

142 (3) After the entry of a final judgment or decree in any
 143 action no sworn statement shall ever be held defective for
 144 failure to state a required fact if the fact otherwise appears
 145 from the record in the action.

146 Section 5. Section 49.041, Florida Statutes, is amended to
 147 read:

148 49.041 Sworn statement, natural person as defendant.—The
 149 sworn statement of the plaintiff, his or her agent or attorney,
 150 for service of process by publication or electronically against
 151 a natural person, shall show:

152 (1) That diligent search and inquiry have been made to
 153 discover the name, and residence, e-mail address, and social
 154 media accounts of such person, and that the same is set forth in
 155 said sworn statement as particularly as is known to the affiant;
 156 and

157 (2) Whether such person is over or under the age of 18
 158 years, if his or her age is known, or that the person's age is
 159 unknown; and

160 (3) In addition to the above, that the residence of such
 161 person is, either:

162 (a) Unknown to the affiant; or

163 (b) In some state or country other than this state,
 164 stating said residence if known; or

165 (c) In the state, but that he or she has been absent from
 166 the state for more than 60 days next preceding the making of the
 167 sworn statement, or conceals himself or herself so that process
 168 cannot be personally served, and that affiant believes that
 169 there is no person in the state upon whom service of process
 170 would bind said absent or concealed defendant.

171 Section 6. Section 49.051, Florida Statutes, is amended to
 172 read:

173 49.051 Sworn statement, corporation as defendant.—The
 174 sworn statement of the plaintiff, or his or her agent or
 175 attorney, for service of process by publication or
 176 electronically against a corporation, shall show:

177 (1) That diligent search and inquiry have been made to
 178 discover the true name, domicile, principal place of business,
 179 website, e-mail address, social media accounts, and status (that
 180 is, whether foreign, domestic, or dissolved) of the corporate
 181 defendant, and that the same is set forth in said sworn
 182 statement as particularly as is known to the affiant, and that

183 diligent search and inquiry have also been made, to discover the
 184 names, e-mail addresses, social media accounts, and whereabouts
 185 of all persons upon whom the service of process would bind the
 186 said corporation and that the same is specified as particularly
 187 as is known to the affiant; and

188 (2) Whether or not the corporation has ever qualified to
 189 do business in this state, unless shown to be a Florida
 190 corporation; and

191 (3) That all officers, directors, general managers,
 192 cashiers, resident agents, and business agents of the
 193 corporation, either:

194 (a) Are absent from the state; or

195 (b) Cannot be found within the state; or

196 (c) Conceal themselves so that process cannot be served
 197 upon them so as to bind the said corporation; or

198 (d) That their whereabouts are unknown to the affiant; or

199 (e) That said officers, directors, general managers,
 200 cashiers, resident agents, and business agents of the
 201 corporation are unknown to affiant.

202 Section 7. Section 49.061, Florida Statutes, is amended to
 203 read:

204 49.061 Sworn statement, parties doing business under a
 205 corporate name as defendants.—The sworn statement of the
 206 plaintiff, or his or her agent or attorney, for service of
 207 process by publication or electronically against parties who
 208 have or may have done business under a corporate name, shall

209 show:

210 (1) The name under which said parties have operated or
 211 done business; and

212 (2) That, after diligent search and inquiry, the affiant
 213 has been unable to ascertain whether or not the organization
 214 operating under said name was a corporation, either domestic or
 215 foreign; and

216 (3) The names, e-mail addresses, social media accounts,
 217 and places of residence, if known, of all persons known to have
 218 been interested in such organization, and whether or not other
 219 or unknown persons may have been interested in such
 220 organization; or that, after diligent search and inquiry, all
 221 persons interested in such organization are unknown to the
 222 affiant, and, unless all such persons are unknown to the
 223 affiant,

224 (4) That the known persons interested in such
 225 organization, either:

- 226 (a) Are absent from this state; or
- 227 (b) Cannot be found within this state; or
- 228 (c) Conceal themselves so that process cannot be
 229 personally served upon them; or
- 230 (d) That their whereabouts are unknown to the affiant.

231 Section 8. Section 49.13, Florida Statutes, is created to
 232 read:

233 49.13 Electronic service of process.—On filing a motion
 234 with the sworn statement attached as an exhibit, and otherwise

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235 complying with the requirements of this chapter, the plaintiff
236 is entitled to have an order from the judge granting service of
237 process electronically. Service of process electronically may
238 only be perfected by a special process server authorized to
239 serve process under s. 48.021.

240 Section 9. Section 49.14, Florida Statutes, is created to
241 read:

242 49.14 Proof of delivery of electronic service of process.—
243 Proof of the delivery of service of process electronically shall
244 be by affidavit of the person having knowledge of such
245 electronic service. The affidavit shall set forth or have
246 attached a copy of the notice, set forth the dates on which each
247 form of electronic service was sent, and otherwise comply with
248 the requirements of law.

249 Section 10. This act shall take effect July 1, 2016.