

By Senator Stargel

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1                   A bill to be entitled  
2           An act relating to service of process; amending s.  
3           48.031, F.S.; expanding the locations at which  
4           substitute service of process may be made when such  
5           location is the only discoverable address for the  
6           person to be served; defining the terms "virtual  
7           office" and "executive office or mini suite"; amending  
8           ss. 49.011 and 49.021, F.S.; authorizing electronic  
9           service of process as an alternative to service of  
10          process by publication; amending s. 49.031, F.S.;  
11          defining the term "electronic"; conforming provisions  
12          to changes made by the act; amending ss. 49.041,  
13          49.051, and 49.061, F.S.; revising the information  
14          that must be included in a sworn statement for certain  
15          service of process; creating s. 49.13, F.S.; providing  
16          that a plaintiff is entitled to be granted electronic  
17          service of process under certain circumstances;  
18          creating s. 49.14, F.S.; providing the requirements  
19          for electronic service of process; providing an  
20          effective date.

21  
22 Be It Enacted by the Legislature of the State of Florida:

23  
24           Section 1. Subsection (6) of section 48.031, Florida  
25           Statutes, is amended to read:

26           48.031 Service of process generally; service of witness  
27           subpoenas.—

28           (6) (a) If the only address for a person to be served, ~~which~~  
29           is discoverable through public records, ~~is a private mailbox,~~ a  
30           virtual office, or an executive office or mini suite, substitute  
31           service may be made by leaving a copy of the process with the  
32           person in charge of the private mailbox, virtual office, or

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33 executive office or mini suite, but only if the process server  
34 determines that the person to be served maintains a mailbox, a  
35 virtual office, or an executive office or mini suite at that  
36 location.

37 (b) For purposes of this subsection, the term "virtual  
38 office" means an office that provides communications services,  
39 such as telephone or facsimile services, and address services  
40 without providing dedicated office space, and where all  
41 communications are routed through a common receptionist. The  
42 term "executive office or mini suite" means an office that  
43 provides communications services, such as telephone and  
44 facsimile services, a dedicated office space, and other  
45 supportive services, and where all communications are routed  
46 through a common receptionist.

47 Section 2. Section 49.011, Florida Statutes, is amended to  
48 read:

49 49.011 Service of process by publication or electronic  
50 service; cases in which allowed.—Service of process by  
51 publication or electronic service, if so ordered by the court,  
52 may be made in any court on any party identified in s. 49.021 in  
53 any action or proceeding:

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

58 (2) To quiet title or remove any encumbrance, lien, or  
59 cloud on the title to any real or personal property within the  
60 jurisdiction of the court or any fund held or debt owing by any  
61 party on whom process can be served within this state.

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62 (3) To partition real or personal property within the  
63 jurisdiction of the court.

64 (4) For dissolution or annulment of marriage.

65 (5) For the construction of any will, deed, contract, or  
66 other written instrument and for a judicial declaration or  
67 enforcement of any legal or equitable right, title, claim, lien,  
68 or interest thereunder.

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

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

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

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

77 (10) For adoption.

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

81 (12) In probate or guardianship proceedings in which  
82 personal service of process or notice is not required by the  
83 statutes or constitution of this state or by the Constitution of  
84 the United States.

85 (13) For termination of parental rights pursuant to part  
86 VIII of chapter 39 or chapter 63.

87 (14) For temporary custody of a minor child, under chapter  
88 751.

89 (15) To determine paternity, but only as to the legal  
90 father in a paternity action in which another man is alleged to

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91 be the biological father, in which case it is necessary to serve  
92 process on the legal father in order to establish paternity with  
93 regard to the alleged biological father.

94 Section 3. Section 49.021, Florida Statutes, is amended to  
95 read:

96 49.021 Service of process by publication or electronic  
97 service, upon whom.—~~When~~ ~~where~~ personal service of process or,  
98 if appropriate, service of process under s. 48.194 cannot be  
99 had, service of process by publication or electronic service may  
100 be had upon any party, natural or corporate, known or unknown,  
101 including:

102 (1) Any known or unknown natural person, and, when  
103 described as such, the unknown spouse, heirs, devisees,  
104 grantees, creditors, or other parties claiming by, through,  
105 under, or against any known or unknown person who is known to be  
106 dead or is not known to be either dead or alive.~~†~~

107 (2) Any corporation or other legal entity, whether its  
108 domicile be foreign, domestic, or unknown, and whether dissolved  
109 or existing, including corporations or other legal entities not  
110 known to be dissolved or existing, and, when described as such,  
111 the unknown assigns, successors in interest, trustees, or any  
112 other party claiming by, through, under, or against any named  
113 corporation or legal entity.~~†~~

114 (3) Any group, firm, entity, or persons who operate or do  
115 business, or have operated or done business, in this state,  
116 under a name or title which includes the word "corporation,"  
117 "company," "incorporated," "inc.," or any combination thereof,  
118 or under a name or title which indicates, tends to indicate or  
119 leads one to think that the same may be a corporation or other

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120 legal entity.~~;~~ and

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

122

123 Unknown parties may be proceeded against exclusively or together  
124 with other parties.

125 Section 4. Subsection (1) of section 49.031, Florida  
126 Statutes, is amended, and subsection (2) of that section is  
127 reordered and amended, to read:

128 49.031 Sworn statement as condition precedent.—

129 (1) As a condition precedent to service by publication or  
130 electronic service, a statement shall be filed in the action  
131 executed by the plaintiff, or the plaintiff's agent or attorney,  
132 setting forth substantially the matters hereafter required,  
133 which statement may be contained in a verified pleading, or in  
134 an affidavit or other sworn statement.

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

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 (a) ~~(b)~~ ~~The word~~ "Defendant" means any party on whom service  
141 by publication or electronic service is authorized by this  
142 chapter, without regard to his or her designation in the  
143 pleadings or position in the action.

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

146 (b) "Electronic" means any electronic method of delivering  
147 notice to a defendant by electronic mail, social media, or other  
148 electronic means in which a reasonable expectation of delivery

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149 to the party can be ascertained.

150 Section 5. Section 49.041, Florida Statutes, is amended to  
151 read:

152 49.041 Sworn statement, natural person as defendant.—The  
153 sworn statement of the plaintiff, or his or her agent or  
154 attorney, for service of process by publication or electronic  
155 service against a natural person, must ~~shall~~ show:

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

161 (2) Whether such person is over or under the age of 18  
162 years, if his or her age is known, or that the person's age is  
163 unknown. ~~;~~ ~~and~~

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

166 (a) Unknown to the affiant; ~~or~~

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

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

175 Section 6. Section 49.051, Florida Statutes, is amended to  
176 read:

177 49.051 Sworn statement, corporation as defendant.—The sworn

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178 statement of the plaintiff, or his or her agent or attorney, for  
179 service of process by publication or electronic service against  
180 a corporation, must ~~shall~~ show:

181 (1) That diligent search and inquiry have been made to  
182 discover the corporate defendant's true name, domicile,  
183 principal place of business, website, e-mail addresses, social  
184 media accounts, and status as a ~~(that is, whether~~ foreign,  
185 domestic, or dissolved corporation) ~~of the corporate defendant,~~  
186 and that the same is set forth in said sworn statement as  
187 particularly as is known to the affiant, and that diligent  
188 search and inquiry have also been made, to discover the names,  
189 ~~and~~ whereabouts, e-mail addresses, and social media accounts of  
190 all persons upon whom the service of process would bind the said  
191 corporation and that the same is specified as particularly as is  
192 known to the affiant. ~~;~~ . ~~and~~

193 (2) Whether ~~or not~~ the corporation has ever qualified to do  
194 business in this state, unless shown to be a Florida  
195 corporation. ~~;~~ . ~~and~~

196 (3) That all officers, directors, general managers,  
197 cashiers, resident agents, and business agents of the  
198 corporation, either:

199 (a) Are absent from the state; ~~or~~

200 (b) Cannot be found within the state; ~~or~~

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

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

204 (e) That said officers, directors, general managers,  
205 cashiers, resident agents, and business agents of the  
206 corporation are unknown to affiant.

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207 Section 7. Section 49.061, Florida Statutes, is amended to  
208 read:

209 49.061 Sworn statement, parties doing business under a  
210 corporate name as defendants.—The sworn statement of the  
211 plaintiff, or his or her agent or attorney, for service of  
212 process by publication or electronic service against parties who  
213 have or may have done business under a corporate name, must  
214 ~~shall~~ show:

215 (1) The name under which the ~~said~~ parties have operated or  
216 done business. ~~;~~ and

217 (2) That, after diligent search and inquiry, the affiant  
218 has been unable to ascertain whether ~~or not~~ the organization  
219 operating under the corporate ~~said~~ name was a corporation,  
220 either domestic or foreign. ~~;~~ and

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

228 (4) That the known persons interested in such organization,  
229 either:

230 (a) Are absent from this state; ~~or~~

231 (b) Cannot be found within this state; ~~or~~

232 (c) Conceal themselves so that process cannot be personally  
233 served upon them; or

234 (d) That their whereabouts are unknown to the affiant.

235 Section 8. Section 49.13, Florida Statutes, is created to



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236 read:

237 49.13 Electronic service of process.—On filing a motion  
238 with the sworn statement attached as an exhibit and otherwise  
239 complying with the requirements of this chapter, the plaintiff  
240 is entitled to have an order from the judge granting electronic  
241 service of process. Electronic service of process may only be  
242 perfected by a trusted third party authorized to serve process  
243 as defined in s. 48.021.

244 Section 9. Section 49.14, Florida Statutes, is created to  
245 read:

246 49.14 Proof of electronic service of process.—Proof of the  
247 electronic delivery of service of process must be by affidavit  
248 of the person having knowledge of such electronic service. The  
249 affidavit must include or have attached a copy of the notice,  
250 must specify the dates that each form of electronic service was  
251 transmitted, and must otherwise comply with the requirements of  
252 law.

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