



866752

LEGISLATIVE ACTION

Senate

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House

The Committee on Judiciary (Leek) recommended the following:

Senate Amendment (with title amendment)

Delete lines 180 - 222

and insert:

additional time as the court allows. The affidavit of compliance must set forth the facts that justify such substituted service ~~under this section~~ and must contain sufficient facts showing:

(a) That ~~show~~ due diligence was exercised in attempting to locate and effectuate personal service on the party; and

(b) To the extent applicable, the party's nonresidence or concealment, or that the party is a business entity for which



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12 substituted service is otherwise authorized by law before using
13 ~~substituted service under this section.~~ The party effectuating
14 service does not need to allege in its original or amended
15 complaint the facts required to be set forth in the affidavit of
16 compliance.

17 (4)~~(3)~~ When an individual or a business entity conceals its
18 whereabouts, the party seeking to effectuate service may, after
19 exercising due diligence to locate and effectuate personal
20 service, ~~may~~ use substituted service pursuant to subsection (1)
21 in connection with any action in which the court has
22 jurisdiction over such individual or business entity. The party
23 seeking to effectuate service must also comply with subsection
24 (3) ~~(2)~~; however, a return receipt or other proof showing
25 acceptance of receipt of the notice of service and a copy of the
26 process by the concealed party need not be filed.

27 (5)~~(4)~~ The party effectuating service is considered to have
28 used due diligence if that party:

29 (a) Made diligent inquiry and exerted an honest and
30 conscientious effort appropriate to the circumstances to acquire
31 the information necessary to effectuate personal service;

32 (b) In seeking to effectuate personal service, reasonably
33 employed the knowledge at the party's command, including
34 knowledge obtained pursuant to paragraph (a); and

35 (c) Made an appropriate number of attempts to serve the
36 party, taking into account the particular circumstances, during
37 such times when and where such party is reasonably likely to be
38 found, as determined through resources reasonably available to
39 the party seeking to secure service of process.

40 (6)~~(5)~~ If any individual on whom service of process is



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41 authorized under subsection (1) dies, service may be made in the
42 same manner on his or her administrator, executor, curator, or
43 personal representative.

44 (7)~~(6)~~ The Secretary of State may designate an individual
45 in his or her office to accept service.

46 (8)~~(7)~~ Service of process is effectuated under this section
47 on the date the affidavit of compliance is filed, or the date
48 when the notice of service requirements under subsection (3) are
49 completed, whichever is later ~~service is received by the~~
50 ~~Department of State.~~

51
52 ===== T I T L E A M E N D M E N T =====

53 And the title is amended as follows:

54 Delete line 27

55 and insert:

56 certain affidavit of compliance; providing that a
57 certain service of process is effectuated under
58 specified circumstances; providing that the