

5018

Sponsor(s): Senator Nelson

Brief Description: Allowing service of process on a marital community by serving either spouse.

SB 5018.E - DIGEST

(DIGEST AS PASSED LEGISLATURE)

Provides that, if the spouses do not reside together, each must be served as for personal service on an individual.

VETO MESSAGE ON SB 5018

April 1, 1994

To the Honorable President and Members,
The Senate of the State of Washington
Ladies and Gentlemen:

I am returning herewith, without my approval Engrossed Senate Bill No. 5018 entitled:

"AN ACT Relating to service of process;"

This bill would amend current law relating to service of process, by allowing a notice of legal action against one or both spouses of a marital community to be served to either spouse personally, or by leaving a copy of the summons at their home with a resident who is of suitable age and discretion.

The bill's intended purpose is to make service of process easier in cases against the marital community by allowing service of process on either spouse even if they are away from home. An issue is raised in this situation when the spouses are not living together. The legislation attempts to address this concern by providing that where the spouses do not reside together, process must be made upon each personally.

However, the bill's language not only makes it easier to serve process on cases against the marital community but, as written, also makes it easier to serve process on cases against a spouse's separate property. Specifically, the language would allow a process server, in a case involving one spouse's separate property, to serve the other spouse at work. This raises serious due process concerns that I believe justify a veto. It is inconsistent with the purpose of service of process, which is to effect due process so that a court may exercise jurisdiction over the person and property of a defendant in an action. This language represents a significant departure from current law on cases against individual/separate property which require some kind of personal notice or that notice be delivered to your home.

For these reasons, I have vetoed Engrossed Senate Bill No. 5018 in its entirety.

Respectfully submitted,
Mike Lowry
Governor