

HOUSE BILL REPORT

HB 1780

As Reported By House Committee On:

Law & Justice

Title: An act relating to service of process.

Brief Description: Modifying service of process.

Sponsors: Representatives Sheahan, L. Thomas, Pennington, Delvin, Sherstad, Hickel and Kessler.

Brief History:

Committee Activity:

Law & Justice: 2/18/97, 2/27/97 [DPS].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lantz; Radcliff; Sherstad and Skinner.

Minority Report: Do not pass. Signed by 1 member: Representative Lambert.

Staff: Trudes Hutcheson (786-7384).

Background: When a party commences a lawsuit against another party, the initiator of the lawsuit must serve notice of the commencement of the lawsuit on the other party. Service of process is necessary for the court to have jurisdiction over the party being sued.

If the defendant is an individual, as opposed to a corporation or other entity, the plaintiff must either personally serve the defendant or leave a copy of the notice at the defendant's home with a person of suitable age and discretion who resides there.

If the plaintiff cannot with reasonable diligence personally serve the defendant or leave the notice at the defendant's home with a person of suitable age and discretion who reside there, two alternative methods of service are available. The plaintiff may serve the notice either by:

- (a) leaving a copy of the notice at the person's usual mailing address with a person of suitable age and discretion who resides at that address, or if the usual mailing address is a place of business, leaving a copy of the notice with the secretary, office manager, vice-president, other head of the company, or the secretary or office assistant to any of those persons, and by mailing a copy to the person at the mailing address; or
- (b) leaving a copy of the notice at the person's place of employment, with the secretary, office manager, vice-president, president, or other head of the company, or with the secretary or office assistant to the secretary, office manager, vice-president, president, or other head of the company, and mailing a copy to the person at the place of employment.

Service under these two alternative methods is deemed complete 10 days after the notice is mailed.

Summary of Substitute Bill: Leaving a copy of the notice at the person's place of employment is no longer an alternative method of service. "Usual mailing address" expressly excludes a person's place of employment.

Substitute Bill Compared to Original Bill: The original bill deleted both alternative methods of service. The substitute bill retains the alternative method of service by leaving a copy of the notice at the defendant's "usual mailing address."

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: Requiring an employer to give a summons to an employee puts the employer in the middle of a dispute that has nothing to do with the employment. It is embarrassing to both the employer and employee. It is an administrative burden and puts the employee at risk for not delivering notices.

Testimony Against: People are very skilled at avoiding service, and the alternative methods of service are designed to deal with the problem of people purposefully avoiding service at home. The alternative methods are used only as a last resort.

Testified: Douglas Kight, Boeing (pro); Cliff Finch, Association of Washington Business (pro); Bob Gee, Washington Retail Association and Washington Food Industry (pro); Mark Gjurasic and Kevin Underwood, Washington Collectors Association (con); and Suzanne Mager, Department of Labor and Industries (pro).