

HOUSE BILL REPORT

SB 6115

As Passed House:
March 7, 2014

Title: An act relating to process servers.

Brief Description: Exempting licensed private investigators from process server requirements.

Sponsors: Senators Benton, Roach, Billig and Hobbs.

Brief History:

Committee Activity:

Judiciary: 2/20/14, 2/26/14 [DP].

Floor Activity:

Passed House: 3/7/14, 86-12.

Brief Summary of Bill

- Exempts licensed private investigators from the residency and registration requirements for serving legal process for a fee.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 10 members: Representatives Jinkins, Chair; Hansen, Vice Chair; Nealey, Assistant Ranking Minority Member; Kirby, Klippert, Muri, Orwall, Roberts, Shea and Walkinshaw.

Minority Report: Do not pass. Signed by 3 members: Representatives Rodne, Ranking Minority Member; Goodman and Haler.

Staff: Omeara Harrington (786-7136).

Background:

Process Servers.

Under court rule, a sheriff, sheriff's deputy, or any non-party over the age of 18 who is competent to be a witness is authorized to serve legal process. If a person is serving process for a fee, statute requires that the person must be over the age of 18, a Washington resident,

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

and registered with the auditor of the county in which the process server resides or operates his or her principal place of business. County auditors are required to develop registration processes and maintain a register of process servers, and may collect an annual registration fee of up to \$10.

The residency and registration requirements do not apply to certain persons listed in statute. These persons include: sheriffs, sheriff's deputies, and other government employees acting within the course of employment; attorneys and attorneys' employees not serving process for a fee; persons court appointed to serve the court's process; and persons who do not receive a fee or wage for serving process.

Private Investigators.

A person must be licensed by the Department of Licensing (DOL) to work as a private investigator. The DOL will issue a license upon receipt of an application and an investigation to verify the information submitted in the application process. To be licensed as a private investigator, a person must:

- be at least 18 years of age;
- be a United States citizen or resident alien;
- not have been convicted of a crime that directly relates to the person's capacity to perform private investigation duties;
- be employed by or have an employment offer from a private investigator agency;
- submit a set of fingerprints; and
- submit an application including proper identification.

The DOL additionally requires payment of a non-refundable application fee, and completion of preassignment testing and training requirements. Each licensed private investigator is issued a private investigator license card by the DOL.

Summary of Bill:

A person who is licensed in Washington as a private investigator is exempt from the residency and registration requirements for serving process for a fee.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The purpose of this bill is to allow licensed private investigators to serve process without a state residency requirement, as is permitted for attorneys and officers of the court. This should have been incorporated into the statute when it was initially drafted, and has created a problem for border cities. Defendants and witnesses frequently move back and forth across the Washington and Oregon border. Private investigator practice commonly involves service particularly when the person needs to be served in a timely fashion. For

example, when an investigator is conducting a critical witness interview, it is beneficial to serve the witness with a subpoena at that time in case that person cannot be located again.

The point of having process servers register with the county auditor is to allow the server to be located, which is not an issue with private investigators. The private investigator license number would be included in the service, and the DOL has the private investigator's information on file. The private investigation chapter is very comprehensive and the requirements for private investigators are much more restrictive than are those for process servers. Private investigators must pass an examination, which covers procedures for civil service of process. In addition, private investigators have bond and insurance requirements.

(Opposed) There are consumer protection issues with this, as it creates a huge exemption and will confuse consumers. The registration requirements for process servers should be tightened, not alleviated. The registration requirement originated from a case in Spokane in which a server threw away legal documents and claimed that service occurred. In investigations for these kinds of cases it is beneficial to be able to identify the process server involved, and this change would make that more difficult. Additionally, private investigators do not have adequate specialized knowledge of service of process, and private investigator testing and training does not sufficiently cover this topic. Often it would be inappropriate for a private investigator to serve, if they have testimonial knowledge that makes them a party in the case.

This change would be unfair without reciprocity. Oregon law prevents out-of-state process servers from serving in Oregon, so Washington instituted a similar restriction in 2010. Washington process servers would lose business by alleviating the residency requirement for private investigators.

Persons Testifying: (In support) Senator Benton, prime sponsor; Peter Mozena; and Wayne Gunderson.

(Opposed) Robin Mullins; and Steve Lindstrom, Washington State Process Servers Association.

Persons Signed In To Testify But Not Testifying: None.