

PROCESS SERVER AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: LaWanna Lou Shurtliff

Senate Sponsor: _____

LONG TITLE

General Description:

This bill adds subpoenas to the list of documents that private investigators may serve and makes it a class C misdemeanor to serve process without authority to do so.

Highlighted Provisions:

This bill:

- ▶ allows private investigators to serve subpoenas; and
- ▶ makes it a class C misdemeanor to serve court documents without authority.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78-12a-2, as last amended by Chapter 204, Laws of Utah 2003

78-12a-3, as enacted by Chapter 20, Laws of Utah 1990

78-12a-4, as enacted by Chapter 20, Laws of Utah 1990

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78-12a-2** is amended to read:

78-12a-2. Process servers.



(1) Persons who are not peace officers, constables, sheriffs, or lawfully appointed deputies of such officers, or authorized state investigators, or licensed private investigators may not serve any forms of civil or criminal process other than complaints, summonses, and subpoenas.

(2) The following persons may serve all process issued by the courts of this state except as otherwise limited by Subsection ~~[(1)]~~ (3):

(a) a peace officer employed by any political subdivision of the state acting within the scope and jurisdiction of his employment;

(b) a sheriff or appointed deputy sheriff employed by any county of the state;

(c) a constable serving in compliance with applicable law;

(d) an investigator employed by the state and authorized by law to serve civil process.

(3) Private investigators licensed in accordance with Title 53, Chapter 9, Private Investigator Regulation Act, may only serve the following forms of process:

(a) petitions;

(b) complaints;

(c) summonses;

(d) supplemental orders;

(e) orders to show cause;

(f) notices;

(g) small claims affidavits;

(h) small claims orders;

(i) writs of garnishment;

(j) garnishee orders; and

(k) subpoenas ~~[duces tecum]~~.

~~[(4) Other persons may serve process as prescribed by Subsection (1).]~~

~~[(5)]~~ (4) A person serving process shall legibly document the date and time of service and his name and address on the return of service.

Section 2. Section **78-12a-3** is amended to read:

78-12a-3. Recoverable rates.

If the rates charged by ~~[private]~~ authorized process servers exceed the rates established by law for service of process by persons under Subsection 78-12a-2 (1), the excess charge may

59 be recovered as costs of an action only if the court determines the service and charge were
60 justifiable under the circumstances.

61 Section 3. Section **78-12a-4** is amended to read:

62 **78-12a-4. Violations of service of process authority.**

63 (1) It is a class A misdemeanor for a person serving process to falsify a return of
64 service.

65 (2) It is a class C misdemeanor for a person to bill falsely for process service.

66 (3) It is a class C misdemeanor for a person to serve process in the state when they are
67 not authorized to do so under Subsection 78-12a-2(1).

Legislative Review Note
as of 1-29-07 2:53 PM

Office of Legislative Research and General Counsel

H.B. 385 - Process Server Amendments

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
