

Representative Lee B. Perry proposes the following substitute bill:

PROCESS SERVER AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lee B. Perry

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends the qualification criteria for process servers.

Highlighted Provisions:

This bill:

- ▶ clarifies who may serve judicial process in the state;
- ▶ prohibits a ~~H~~→ convicted felony ←~~H~~ sex offender or a person with a current protective order from serving process issued by a court;
- ▶ requires any service of process where there is a likely or imminent breach of the peace to be carried out by a law enforcement officer; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-8-302, as last amended by Laws of Utah 2012, Chapter 413



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

27 Section 1. Section **78B-8-302** is amended to read:

28 **78B-8-302. Process servers.**

29 (1) Complaints, summonses, and subpoenas may be served by any person 18 years of
30 age or older at the time of service, and who is not a party to the action or a party's attorney.

31 (2) ~~[The]~~ Except as provided in Subsection ~~H→~~ [(4)] (5) ←H, the following persons
31a may serve all
32 process issued by the courts of this state:

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

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

36 (c) a constable, or the constable's deputy, serving in compliance with applicable law;

37 ~~[and]~~

38 (d) an investigator employed by the state and authorized by law to serve civil
39 process[-]; and

39a ~~H→~~ **(e) a private investigator licensed in accordance with Title 53, Chapter 9, Private**
39b **Investigator Regulation Act.**

40 ~~[F]~~ **(3) Private investigators licensed in accordance with Title 53, Chapter 9,**

40a **Private**

41 **Investigator Regulation Act** ~~[, may serve all forms of process in a civil proceeding, including~~
42 ~~bench warrants, however private investigators]~~ **may not arrest anyone pursuant to a bench**
43 **warrant [F] .**

44 ~~[f(a)]~~ **While serving process, a private investigator shall: [F]**

45 ~~[F]~~ **[(†)] (a) have on the investigator's person a visible form of credentials and**
45a **identification**

46 **identifying: [F]**

47 ~~[F]~~ **[(A)] (i) the person by name; [F]**

48 ~~[F]~~ **[(B)] (ii) the person as a licensed private investigator; and [F]**

49 ~~[F]~~ **[(C)] (iii) the name and address of the agency employing the investigator or, if the**
50 **investigator is self-employed, the address of the investigator's place of business; [F]**

51 ~~[F]~~ **[(††)] (b) verbally communicate to the person being served that the investigator is**
51a **acting as a**

52 **process server; and [F]**

53 ~~[F]~~ **[(†††)] (c) print on the first page of each document served: [F]**

- 54 [F] [~~(A)~~] (i) the investigator's name and identification as a private investigator; and [F]
- 55 [F] [~~(B)~~] (ii) the address and phone number for the investigator's place of
- 55a business. [F] ~~←H~~
- 56 [~~(b)~~] A private investigator may not use physical force or cause a breach of the peace

57 while serving or attempting to serve process.]

58 ~~[(c) A complaint regarding a private investigator serving process may be made to and~~
 59 ~~investigated by the sheriff of the county where the incident being complained of occurred. If~~
 60 ~~the sheriff determines the complaint is credible, the sheriff may restrict or prohibit a licensed~~
 61 ~~private investigator from serving any or all types of process within the county.]~~

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

63 **H→ [(c) a private investigator licensed in accordance with Title 53, Chapter 9, Private**
 64 **Investigator Regulation Act.] ←H**

65 **H→ [(3)] (4) ←H** Any service under this section where **H→ [breach of the peace] the use of**
 65a **force ←H** is authorized on the face

66 of the document, **H→ a breach of the peace is ←H** imminent, or likely under the totality of the
 66a circumstances may only be served

67 by:

68 (a) a law enforcement officer, as defined in Section 53-13-103; or

69 (b) a constable, as defined in Subsection 53-13-105(b)(ii).

70 **H→ [(4)] (5) ←H** The following persons may not serve process issued by the courts:

71 (a) a **H→ person convicted of a felony [sex offender, as defined] violation of an**
 71a **offense listed ←H** in Section 77-41-102 **H→ (16) ←H** ; or

72 (b) a person who is a respondent in a proceeding described in Title 78B, Chapter 7,
 73 Protective Orders, in which a court has granted the petitioner a protective order.

74 **H→ [(5)] (6) ←H** A person serving process shall:

75 (a) legibly document the date and time of service [and];

76 (b) legibly print the person's name and address on the return of service[-]; and

77 (c) sign the return of service in substantial compliance with Section 78B-5-705.