

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 convicted felony 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

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

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

78B-8-302. Process servers.

(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 (5), the following persons 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~~

40 (e) a private investigator licensed in accordance with Title 53, Chapter 9, Private
41 Investigator Regulation Act.

42 (3) Private investigators licensed in accordance with Title 53, Chapter 9, Private
43 Investigator Regulation Act~~[-, may serve all forms of process in a civil proceeding, including~~
44 ~~bench warrants, however private investigators]~~ may not arrest anyone pursuant to a bench
45 warrant. ~~[(a)]~~ While serving process, a private investigator shall:

46 ~~[(i)]~~ (a) have on the investigator's person a visible form of credentials and identification
47 identifying:

48 ~~[(A)]~~ (i) the person by name;

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

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

52 ~~[(ii)]~~ (b) verbally communicate to the person being served that the investigator is acting
53 as a process server; and

54 ~~[(iii)]~~ (c) print on the first page of each document served:

55 ~~[(A)]~~ (i) the investigator's name and identification as a private investigator; and

56 ~~[(B)]~~ (ii) the address and phone number for the investigator's place of business.

57 ~~[(b)]~~ A private investigator may not use physical force or cause a breach of the peace

58 while serving or attempting to serve process.]

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

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

64 (4) Any service under this section where the use of force is authorized on the face of
65 the document, a breach of the peace is imminent, or likely under the totality of the
66 circumstances may only be served by:

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

68 (b) a constable, as defined in Subsection 53-13-105(1)(b)(ii).

69 (5) The following persons may not serve process issued by the courts:

70 (a) a person convicted of a felony violation of an offense listed in Subsection
71 77-41-102(16); 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 ~~[(5)] (6) 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.