

**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

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**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 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

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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 (4), 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 ~~[(3) Private investigators licensed in accordance with Title 53, Chapter 9, 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].~~

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

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

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

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

49 ~~[(C) 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;]~~

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

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

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

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

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

65 (3) Any service under this section where breach of the peace is authorized on the face  
66 of the document, imminent, or likely under the totality of the 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 (4) The following persons may not serve process issued by the courts:

71 (a) a sex offender, as defined in Section 77-41-102; 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) 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.