

PROCESS SERVER AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Andrew Stoddard

Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill amends the qualifications for process servers.

Highlighted Provisions:

This bill:

▶ allows certain special function officers to serve court documents when the use of force is authorized or when a breach of the peace is imminent or likely; and

▶ makes technical and conforming 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 2018, Chapter 298

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~~] A complaint, a summons, or a subpoena may be served by a person who is:



28 (a) 18 years [~~of age~~] old or older at the time of service; and

29 (b) not a party to the action or a party's attorney.

30 (2) Except as provided in Subsection (5), the following may serve all process issued by
31 the courts of this state:

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

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

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

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

37 and

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

40 (3) A private investigator licensed in accordance with Title 53, Chapter 9, Private
41 Investigator Regulation Act, may not make an arrest pursuant to a bench warrant.

42 (4) While serving process, a private investigator shall:

43 (a) have on the investigator's person a visible form of credentials and identification
44 identifying:

45 (i) the investigator's name;

46 (ii) that the investigator is a licensed private investigator; and

47 (iii) the name and address of the agency employing the investigator or, if the
48 investigator is self-employed, the address of the investigator's place of business;

49 (b) verbally communicate to the person being served that the investigator is acting as a
50 process server; and

51 (c) print on the first page of each document served:

52 (i) the investigator's name and identification number as a private investigator; and

53 (ii) the address and phone number for the investigator's place of business.

54 (5) Any service under this section when the use of force is authorized on the face of the
55 document, or when a breach of the peace is imminent or likely under the totality of the
56 circumstances, may only be served by:

57 (a) a law enforcement officer, as defined in Section [53-13-103](#); or

58 (b) a special function officer, as defined in Section [53-13-105](#), who is:

- 59 (i) employed as an appointed deputy sheriff by a county of the state; or
- 60 [~~(b)~~] (ii) a constable[~~as listed in Subsection 53-13-105(1)(b)(ii)~~].
- 61 (6) The following may not serve process issued by a court:
- 62 (a) a person convicted of a felony violation of an offense listed in Subsection
- 63 77-41-102(17); or
- 64 (b) a person who is a respondent in a proceeding described in Title 78B, Chapter 7,
- 65 Protective Orders and Stalking Injunctions, in which a court has granted the petitioner a
- 66 protective order.
- 67 (7) A person serving process shall:
- 68 (a) legibly document the date and time of service on the front page of the document
- 69 being served;
- 70 (b) legibly print the process server's name, address, and telephone number on the return
- 71 of service;
- 72 (c) sign the return of service in substantial compliance with Title 78B, Chapter 18a,
- 73 Uniform Unsworn Declarations Act;
- 74 (d) if the process server is a peace officer, sheriff, or deputy sheriff, legibly print the
- 75 badge number of the process server on the return of service; and
- 76 (e) if the process server is a private investigator, legibly print the private investigator's
- 77 identification number on the return of service.