

SESSION OF 2020

SUPPLEMENTAL NOTE ON SENATE BILL NO. 253

As Recommended by Senate Committee on
Judiciary

Brief*

SB 253 would amend law related to the Secretary of State (Secretary) and service of process, as follows.

***Service of Process against Nonresidents in Cases
Arising out of Motor Vehicle Accidents or Collisions***

The bill would clarify the requirements for service of process on nonresident drivers or their representatives through the Secretary. Current law provides that nonresident drivers or their representatives are deemed to accept the Secretary as their agent for service of process arising from any accident or collision that occurs while operating a vehicle in Kansas, and requires a notice be delivered to the defendant by registered mail or personally without the state by a sheriff or deputy sheriff in such state.

The bill would provide that a plaintiff may serve a defendant by paying a fee to the Secretary and providing to the Secretary a copy of the summons, petition, and order, and the last known address, residence, or place of abode for each defendant. The Secretary would be directed to immediately mail a notice of service and copy of the summons, petition, and order to each defendant by return receipt delivery. The notice of service would be required to be signed, dated, and in substantial form as specified by the bill.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The bill also would allow a plaintiff, upon written notification to the Secretary, to personally serve a defendant in the foreign state by an adult person not a party to the suit or an officer duly qualified to serve legal process in the state or jurisdiction where the defendant is found, by delivering the appropriate documents, or offering to make such delivery, in the case of refused delivery, on a defendant. The plaintiff would be required to provide the Secretary with a copy of the notice of service, summons, petition, and order provided to the defendant. The process server would be required to file an affidavit, declaration, or any other competent proof, stating the time, manner, and place of service on or before the return day of process or within a further time the court may allow.

The Secretary would be required to keep a record of all process served upon the office pursuant to this section, showing the day of service of each process.

The bill would state compliance with the above provisions would constitute sufficient service on the defendant.

The bill would make technical amendments in this section to ensure consistency in statutory phrasing and references.

Service of Process on Limited Liability Partnerships

The bill would clarify that a domestic limited liability partnership or foreign limited liability partnership authorizes the Secretary, as each entity's agent, to accept service of process on the entity's behalf.

Background

The bill was introduced by Senator Denning. In the Senate Committee on Judiciary hearing, a representative of the Office of the Secretary of State testified in support of the

bill, stating the bill would establish standard procedures, responsibilities, and expectations to allow a plaintiff to serve a defendant through the Secretary in certain cases. No other testimony was provided.

According to the fiscal note prepared by the Division of the Budget on the bill, the Secretary indicates enactment of the bill would cause an increase in revenue from fees from individuals choosing to use the agency for service of process, but the agency is unable to estimate how many individuals would utilize the service. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2021 Governor's Budget Report*.