

SESSION OF 2021

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2298

As Recommended by House Committee on
Commerce, Labor and Economic Development

Brief*

HB 2298 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 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 the House Committee on Commerce, Labor and Economic Development at the request of a representative of the Office of the Secretary of State.

[*Note*: The bill is identical to 2020 SB 253, as recommended by the Senate Committee on Judiciary.]

House Committee on Commerce, Labor and Economic Development

In the House Committee hearing, **proponent** testimony was provided by a representative of the Office of the Secretary of State. The proponent stated 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.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, the Office of the Secretary of State indicates enactment of the bill would have no fiscal effect on the agency.

Secretary of State; service of process; nonresident drivers; limited liability partnerships