

PROCESS SERVER AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Andrew Stoddard

Senate Sponsor: _____

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.