

# HOUSE BILL REPORT

## SSB 5167

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### As Reported By House Committee On:

Law & Justice

**Title:** An act relating to service of process.

**Brief Description:** Allowing service of process on a marital community by serving either spouse.

**Sponsors:** Senate Committee on Law & Justice (originally sponsored by Senator Smith).

### Brief History:

#### Committee Activity:

Law & Justice: 2/9/96, 2/16/96 [DPA].

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass as amended. Signed by 15 members: Representatives Sheahan, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Dellwo, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Carrell; Chappell; Cody; Lambert; McMahan; Morris; Murray; Smith; Sterk and Veloria.

**Minority Report:** Do not pass. Signed by 1 member: Representative Robertson.

**Staff:** Edie Adams (786-7180).

**Background:** When a party commences a lawsuit against another party, the party initiating the lawsuit must serve notice of the commencement of the lawsuit on the other party. Service of process is necessary for the court to have jurisdiction over the defendant.

If the defendant is an individual, as opposed to a corporation or other entity, the plaintiff must either personally serve the defendant or leave a copy of the notice at the defendant's home with a resident of the defendant's home who is of suitable age and discretion.

If the party is married, and the action is against the marital community, service of process may be made on either spouse, and a resulting judgment for a community obligation is enforceable against the community.

If an action is against the separate property of one of the spouses in a marriage, the spouse must be either personally served or service must be made upon a person of suitable age and discretion who resides at the home of the spouse being sued.

**Summary of Amended Bill:** Current case law is codified that either spouse of a marital community may be served if the lawsuit is against the marital community. The community may be served by leaving a copy of the summons at the spouse's home with a person of suitable age and discretion who also resides at the home. If the spouses do not reside together, each spouse must be served separately in accordance with the requirements for service on an individual.

If an action is against the separate property of one of the spouses in a marriage, that spouse must be individually served.

When serving an individual or a marital community, if service cannot be made with reasonable diligence, an alternative method of service is authorized. Service may be completed by

- (1) leaving a copy of the summons at the person's usual mailing address with a person of suitable age or discretion residing at the address, or if the usual mailing address is a place of business, the summons may be left with the secretary, office manager, vice-president, president, other head of the company, or the secretary or office assistant to any of those persons, and mailing a copy by first class mail to the person to be served at his or her usual mailing address; or
- (2) leaving a copy of the summons at the person's place of employment, with the secretary, office manager, vice-president, president, or other head of the company, or with the secretary or office assistant to the secretary, office manager, vice-president, president, or other head of the company, and mailing a copy by first class mail, to the person to be served at his or her place of employment.

Service made under the alternative is complete 10 days after service is mailed.

**Amended Bill Compared to Substitute Bill:** The amended bill provides that if the spouses do not reside together, they must both be individually served and specifies that if an action is against the separate property of one of the spouses, that spouse must be individually served.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** None.

**Testimony Against:** None.

**Testified:** None.