
Judiciary Committee

SSB 6513

Title: An act relating to service of summons for persons who cannot be found in this state.

Brief Description: Authorizing service of summons for persons not found in this state.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Kline, Kastama, Long and Johnson).

<p style="text-align: center;">Brief Summary of Substitute Bill</p> <ul style="list-style-type: none">· Authorizes service of summons or process upon the Secretary of State for resident motorists who cannot be found in this state after a due and diligent search.

Hearing Date: 2/26/02

Staff: Ryan Jensen (786-5793); Edie Adams (786-7180).

Background:

In motor vehicle cases, defendants must be given notice through lawful service of summons or process. Current law provides that the Secretary of State may receive substitute service of summons or process for a resident who is involved in any accident, collision, or liability on a public highway and within three years of the accident "departs from this state." For substitute service upon the Secretary of State to be valid, the plaintiff must also send notice of such service and a copy of the summons or process to the defendant's last known address by registered mail with return receipt requested.

In a recent decision, the Washington Supreme Court considered the sufficiency of service of process under the absent motorist statute. The court declined to construe the phrase "departs from this state" as the equivalent of the words "cannot be found in the state." Instead, the court interpreted the phrase to mean a plaintiff can only serve substitute summons or process upon the Secretary of State if: (1) the defendant has, in fact, departed the state; or (2) the plaintiff has a good faith belief that the defendant has departed and has, with due diligence, attempted to find and serve the defendant.

The due diligence standard requires a plaintiff to make honest and reasonable efforts to locate the defendant. Not all conceivable means must be employed, but at the least any accident

report made must be examined and its information investigated with reasonable effort. In addition, if the plaintiff has information pertaining to the defendant's whereabouts other than that contained in the accident report, he or she must make reasonable efforts to investigate based on that information as well.

Summary of Bill:

A state resident involved in any accident, collision, or liability while operating a motor vehicle on a state public highway can be served by substitute service of summons or process on the Secretary of State, if the resident cannot be found in Washington at any time within the three years following the event and after a due and diligent search.

Appropriation: None.

Fiscal Note: Not Requested.

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