

SENATE BILL REPORT

SB 6154

As Reported by Senate Committee On:
Law & Justice, January 30, 2024

Title: An act relating to updating process service requirements for corporations in Washington state.

Brief Description: Updating process service requirements for corporations in Washington state.
[**Revised for 1st Substitute:** Updating process service requirements in Washington state for business entities and motorists.]

Sponsors: Senators Torres and Mullet; by request of Secretary of State.

Brief History:

Committee Activity: Law & Justice: 1/25/24, 1/30/24 [DPS].

Brief Summary of First Substitute Bill

- Updates service of process procedures for business entities to conform with the Uniform Business Organizations Code.
- Clarifies service of process procedures for motorists.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6154 be substituted therefor, and the substitute bill do pass.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Padden, Ranking Member; Kuderer, McCune, Pedersen, Salomon, Torres, Valdez, Wagoner and Wilson, L..

Staff: Ryan Giannini (786-7285)

Background: Corporations and Charities Division. The Corporations and Charities Division of the Office of the Secretary of State (OSOS) is responsible for administering a

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variety of programs, including the licensing and registration of business entities, nonprofit corporations and associations, charitable organizations, and commercial fundraisers. As part of these functions, the OSOS is responsible for accepting and managing a wide variety of documents, providing services to entities and individuals, and preparing and distributing reports and other information.

Uniform Business Organization Code. In 2015 Washington adopted the Uniform Business Organization Code (Code) to provide more uniformity in the laws applicable to various entities. Article IV of the Code requires entities to designate and maintain a registered agent, provides rules for changing a registered agent or changing the name or address of a registered agent, establishes duties of registered agents and standards for service of process, and provides procedures for resignation of a registered agent.

Service of Process. To properly initiate a lawsuit, a plaintiff must notify the defendant of the commencement of the suit by serving a summons on the defendant. This is called service of process. Generally, a defendant must be personally served with the summons. Individuals may be personally served either by delivering a copy of the summons to the defendant personally or by leaving a copy at the defendant's home with a person of suitable age and discretion.

Nonresident Motorist Service of Process. Substitute service of process is allowed under certain circumstances if a plaintiff is unable to personally serve the defendant. In motor vehicle actions, the Secretary of State may receive substitute service of process for a nonresident motorist involved in an accident or for a state resident if the resident cannot be found in Washington, after a due and diligent search, at any time within three years following the event. 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 to the defendant's last known address by registered mail with return receipt requested.

Summary of Bill (First Substitute): Service of process for corporations is aligned to match standards for service of process under the Code.

Service of process procedures for nonresident motorists are clarified. A plaintiff must leave a copy for record and copies of each address to be served with OSOS. A plaintiff may file an affidavit with OSOS confirming that the plaintiff, with due diligence, attempted to serve personal process on the defendant. The plaintiff's affidavit must also contain the addresses that the plaintiff attempted to have process served, and, if the defendant's address is not known, a statement to that effect. OSOS shall send service of process by mail to a defendant within eight business days if the defendant's address is known to OSOS.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

- Requires a plaintiff to leave a copy for record and each address to be served with

OSOS and to include a statement in a plaintiff's affidavit if the defendant's address is not known.

- Makes clarifying changes for readability and internal references.
- Amends the title.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The first part of the bill would align existing civil procedure statutes with the Uniform Business Organization Code. There have been instances where there has been confusion about which service of process law should be followed. The older service of process law has provisions that are a bit archaic because it was enacted well before the digital era, such as requiring service by publication. The second part of the bill would make the service of process statute for nonresident motorists more readable, since the current statute is one very long, dense paragraph. The language in this statute frequently results in OSOS rejecting a requested service of process in order for corrections to be made. The bill would also make a few updates to the nonresident motorist statute, such as aligning the language to account for plaintiffs that are representing themselves.

Persons Testifying: PRO: Scott Douglas, Office of the Secretary of State.

Persons Signed In To Testify But Not Testifying: No one.