Session Law 88-135

Florida Senate & House of Representatives

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### COMMITTEE RECORDS

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<th>Committee</th>
<th>Record Series: Folder title, etc.</th>
<th>Location Cite</th>
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*continued on reverse*

### Senate/House Journals

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### Committee/Floor Tapes

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<td>Judic-Civ (Ref. 206.84)</td>
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### Other Documentation

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AGENDA
Judiciary-Civil Committee
Senator Richard H. Langley, Chairman
Senator John Grant, Vice-chairman

DATE: Tuesday, April 19, 1988
TIME: 2:00 P.M. - 5:00 P.M.
PLACE: Room B, Senate Office Building

MEMBERS: Senator Ander Crenshaw
Senator Fred R. Dudley
Senator Pat Frank
Senator Kenneth C. Jenne
Senator Peter M. Weinstein

<table>
<thead>
<tr>
<th>BILL NO. AND INTRODUCER</th>
<th>BILL DESCRIPTION AND SENATE COMMITTEE ACTIONS</th>
<th>COMMITTEE ACTION</th>
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<tr>
<td>SB 0009 Ros-Lehtinen et al (Identical H 0747, Compare S 0029)</td>
<td>Surrogates/Contract Prohibition; provides definition of term &quot;mother&quot; for purposes of Florida Adoption Act; prohibits contracts for transfer of parental rights for any child, whether conceived or not, for consideration; provides penalties. Amends 63.032, .212.</td>
<td>HRS 04/06/88 FAVORABLE JCI 04/19/88</td>
</tr>
<tr>
<td>SB 0029 Frank (Compare H 0747, S 0009)</td>
<td>Surrogate Parenthood Act; creates said act; prohibits contracting, procuring, inducing, or agreeing to surrogate parenthood arrangement, except as specified; requires written contract &amp; specifies contract provisions, including provisions for establishing parental rights &amp; responsibility for child support; restricts certain intestate inheritance; declares certain contracts void; prohibits certain implantations of human egg; provides criminal penalties, etc.</td>
<td>JCI 04/19/88 JCR</td>
</tr>
<tr>
<td>SB 0039 Plummer</td>
<td>Estate Assets Investment/Guardian; provides that guardian may invest estate assets in securities guaranteed by full faith &amp; credit of Federal Government. Amends 744.444.</td>
<td>JCI 04/19/88</td>
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<tr>
<td>SB 0112 Grant et al (Identical H 0204, Similar S 0151)</td>
<td>Voter Registration Records/Evidence; provides that certain electronically generated reproductions of voter registration records are admissible as evidence. Creates 92.295.</td>
<td>JCI 04/19/88</td>
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<tr>
<td>SB 0151 Judiciary-Civil (Similar H'0204, S 0112)</td>
<td>Voter Registration Records/Evidence; provides that electronically reproduced copies of voter registration records are admissible as evidence in court &amp; have same force &amp; effect as original records. Creates 92.295.</td>
<td>JCI 04/19/88</td>
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<tr>
<td>12</td>
<td>SB 0431</td>
<td>Study Commission on Guardianship Law; creates said commission; provides for appointment of members; provides duties &amp; responsibilities; requires submission of reports; provides for staffing, per diem for members &amp; for expiration of commission.</td>
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<td>13</td>
<td>SB 0484</td>
<td>Special Process Servers; provides alternative procedure for service of initial, nonenforceable, civil process; provides that sheriff may appoint special process servers; provides that chief judge in each circuit may establish list of special process servers from which person may select one or more special process servers to serve civil process; provides requirements for special process server applicant; requires execution of bond, etc. Amends 48.021.</td>
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<td>Speaker</td>
<td>Regarding</td>
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<td>Sen. Grant</td>
<td>Roll Call</td>
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<td>Moves to designation to a day</td>
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<td>N. Cochrane</td>
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<td>SB 170 - FAV</td>
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<td>K. Wieland</td>
<td>Attorney's Fees/Contro +</td>
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<td>Moves the Bill - FAV</td>
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<td>SP 404 - Costs + Fees</td>
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<td>Amendment #4 - FAV</td>
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<td>Sen. Johnson</td>
<td>Title Amendment</td>
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<td>SB 392 Unnecessary</td>
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<td>Amendment = 1 - Withdrawn</td>
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<td>Sen. Johnson</td>
<td>SB 392 Unnecessary</td>
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**Judiciary-Civil Committee Meeting**

_April 19, 1988  Room B-508_

<table>
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<th>SPEAKER</th>
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<tr>
<td>Longley</td>
<td>SB 424 - Local Law Section - Pass</td>
<td>3-A</td>
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<tr>
<td>Lynham</td>
<td>SB 421 - Accounting Act - Pass</td>
<td>3-A</td>
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<td>Lynham</td>
<td>Title Amendment - Pass</td>
<td>3-A</td>
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<td>Lynham</td>
<td>Speech to make a move - Pass</td>
<td>3-A</td>
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<tr>
<td>Lynham</td>
<td>Vote bill</td>
<td>4-A</td>
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<td>Lynham</td>
<td>Estate Assets Investment - FAV</td>
<td>4-A</td>
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<tr>
<td>Lynham</td>
<td>SB 421 - Accounting Act - FAV</td>
<td>4-A</td>
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<tr>
<td>Lynham</td>
<td>SB 29 - Passes FAV</td>
<td>4-A</td>
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**REGARDING**

- SB 421 - Accounting Act
- SB 424 - Local Law Section
- Title Amendment
- Estate Assets Investment
- SB 29 - Passes

**TAPE/SIDE**

- 3-A
- 4-A

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Vote to TP SB 29.
A bill to be entitled
An act relating to service of process; amending
s. 48.021, F.S.; providing an alternative
procedure for service of initial,
nonenforceable, civil process; providing that
the sheriff may appoint special process
servers; providing the chief judge in each
circuit may establish a list of special process
servers from which a person may select one or
more special process servers to serve civil
process; providing requirements for a special
process server applicant; providing an
application process and fee; requiring
execution of a bond; providing where special
process servers may serve process; authorizing
the charging of reasonable fees by special
process servers; providing procedures for
removal of special process servers; providing a
penalty; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 48.021, Florida Statutes, is
amended to read:

(1) All process shall be served by the sheriff of the
county where the person to be served is found, except initial,
nonenforceable, civil process may be served by a special
process server as provided for in this section. Witness

CODING: Words struck are deletions; words underlined are additions.
subpoenas may be served by any person authorized by rules of procedure.

(2)(a) The sheriff of each county may appoint as many special process servers as he in good faith deems necessary.

(b) The chief judge of each judicial circuit may establish an approved list of special process servers. The chief judge periodically may add names of special process servers to the list. The addition of a special process server's name to the list authorizes him to serve initial, nonenforceable, civil process in civil actions in the circuit court and county courts in the circuit. A person may select from the list one or more special process servers to serve such process. The circuit court administrator shall maintain the list of special process servers.

(c) Each special process server shall be issued an identification card bearing a photograph of the holder and the seal of the appointing authority.

(3) An applicant for appointment as a special process server or for admission to the list of special process servers shall:

(a) Be at least 18 years of age;

(b) Suffer from no mental or legal disability;

(c) Be a permanent resident of the state; and

(d) Submit to a background investigation including the criminal record of the applicant. An applicant who has been convicted of a crime within the last 5 years may not serve as a special process server.

(4)(a) The sheriff shall prescribe and make available a form for application for appointment by the sheriff as a special process server. An applicant for appointment by a sheriff as a special process server shall submit his

CODING: Words stricken are deletions; words underlined are additions.
application to the sheriff who shall verify all information
provided on the application.

(b) The circuit court administrator shall prescribe a
form for application for admission to the list of special
process servers. The clerk of court in each county in the
circuit shall make available the application form. An
applicant for admission to the list of special process servers
shall submit his application to the circuit court
administrator for the circuit in which he is seeking to serve
as a special process server. The circuit court administrator
shall verify all information provided on the application.

(c) The application form of each authority shall
include a question inquiring of the applicant whether he has
been convicted of a crime within the past 5 years.

(d) Submission of the application form shall be
accompanied by a fee of $15.

(5) A special process server shall, prior to
exercising the duties of office execute a bond in the amount
of $3,000 with a surety company authorized to do business in
Florida, conditioned upon the faithful discharge of the duties
of his office. He shall take an oath that he will honestly,
diligently, and faithfully exercise the duties of his office.

(6) A special process server appointed by the sheriff
shall be authorized to serve process only in the county in
which the sheriff who appointed him resides. A special
process server admitted to the list of special process servers
shall be authorized to serve process only in the circuit for
which the list is maintained. A special process server shall
be disinterested in any process he serves.

CODING: Words struck out are deletions; words underlined are additions.
(7) A special process server may charge a reasonable fee for his services. The appointing authority may not set a minimum fee the special process server shall charge.

(8)(a) A special process server appointed by the sheriff shall serve at the pleasure of the sheriff. The sheriff shall have the discretion to revoke the appointment of the special process server at any time without cause.

(b) A special process server admitted to the list of special process servers may be removed from the list on the grounds of malfeasance, misfeasance, neglect of duty, or incompetence as follows:

1. A person aggrieved may file a petition with the chief judge of the circuit alleging with particularity one or more of the grounds for removal.

2. Upon receipt of the petition, the chief judge, or other judge designated by the chief judge, shall review the petition and, if good cause is found, shall issue to the special process server an order to show cause why he should not be removed from the list of special process servers. The order to show cause shall be in writing and shall be served on the special process server in accordance with s. 48.031. The order shall set forth with particularity the allegations of the petition and shall specify the time and place for a hearing on the petition. The time set for a hearing shall allow reasonable time for preparation of an answer.

3. The special process server shall answer the order by way of admission, explanation, or defense. The answer shall be in writing unless otherwise specified by the judge.

4. At the hearing, the special process server is entitled to be represented by counsel and to have compulsory process for the attendance of witnesses and production of
documents, and he may testify in his own defense. Upon
hearing, the judge may issue an order removing the special
process server from the list of special process servers.

(9) A special process server who willfully and
knowingly executes a false return of service shall be guilty
of a felony of the third degree, punishable as provided for in
s. 775.082, s. 775.083, or s. 775.084, and shall be
permanently barred from serving process in Florida.

Section 2. This act shall take effect October 1, 1988.
SENATE SUMMARY

Provides an alternative procedure for the service of initial, nonenforceable, civil process. Allows the sheriff of each county to appoint special process servers. Allows the chief judge of each circuit to establish an approved list of special process servers from which a person may select one or more special process servers. Provides requirements for a special process server applicant. Establishes an application process and fee. Requires a special process server to execute a surety bond before exercising the duties of office. Restricts the area in which a special process server may serve process. Authorizes fees for such service. Provides procedures for removing special process servers. Provides for criminal penalties for executing a false return of service.

CODING: Words struck out are deletions; words underlined are additions.
A bill to be entitled
An act relating to service of process; amending
s. 48.021, F.S.; providing an alternative
procedure for service of initial,
nonenforceable civil process; providing that
the sheriff may appoint special process
servers; providing the chief judge in each
circuit may establish a list of special process
servers from which an individual circuit judge
may select special process servers on a
continuing basis; providing requirements for a
special process server applicant; providing an
application process and fee for special process
server; requiring execution of a bond;
providing where special process servers may
serve process; authorizing the charging of
reasonable fees by special process servers;
providing procedures for removal of special
process servers; providing a penalty; providing
an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 48.021, Florida Statutes, is
amended to read:

(Substantial rewording of section. See
s. 48.021, F.S., for present text.)

48.021 Process; by whom served.--

(1) All process shall be served by the sheriff of the
county, where the person to be served is found, except initial,
nonenforceable civil process may be served by a special

CODING: Words stricken are deletions; words underlined are additions.
process server as provided for in this section. Witness subpoenas may be served by any person authorized by rules of procedure.

(2)(a) The sheriff of each county may appoint as many special process servers as he in good faith deems necessary.

(b) The chief judge of each judicial circuit may establish an approved list of special process servers who shall be eligible for continuing appointment by an individual judge in the circuit. The circuit court administrator shall maintain the list of special process servers. An individual judge in the circuit, at his discretion, may select one or more persons from the list of special process servers and, by order of continuing appointment, signify his consent to the execution of initial, nonenforceable civil process by the named individual in any civil action assigned to the judge.

(c) Each special process server shall be issued an identification card bearing a photograph of the holder and the seal of the appointing authority.

(3) An applicant for appointment as a special process server or for admission to the list of special process servers shall:

(a) Be at least 18 years of age;

(b) Suffer from no mental or legal disability;

(c) Be a permanent resident of the state; and

(d) Submit to a background investigation including the criminal record of the applicant. An applicant who has been convicted of a crime within the last 5 years may not serve as a special process server.

(4) Application.

(a) The sheriff shall prescribe and make available a form for application for appointment by the sheriff as a
special process server. An applicant for appointment by a sheriff as a special process shall submit his application to the sheriff who shall verify all information provided on the application.

(b) The circuit court administrator shall prescribe a form for application for admission to the list of special process servers. The clerk of court in each county in the circuit shall make available the application form. An applicant for admission to the list of special process servers shall submit his application to the circuit court administrator for the circuit in which he is seeking to serve as a special process server. The circuit court administrator shall verify all information provided on the application.

(c) The application form of each authority shall include a question inquiring of the applicant whether he has been convicted of a crime within the past 5 years.

(d) Submission of the application form shall be accompanied by a fee of $15.

(5) A special process server shall, prior to exercising the duties of office execute a bond in the amount of $3,000 with a surety company authorized to do business in Florida, conditioned upon the faithful discharge of the duties of his office. He shall take an oath that he will honestly, diligently, and faithfully exercise the duties of his office.

(6) A special process server appointed by the sheriff shall be authorized to serve process only in the county in which the sheriff who appointed him resides. A special process server admitted to the list of special process servers shall be authorized to serve process only in the circuit for which the list is maintained. A special process server shall be disinterested in any process he serves.

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(7) A special process server may charge a reasonable fee for his services. The appointing authority may not set a minimum fee the special process server shall charge.

(8) Revocation of appointment or removal from list. 

(a) A special process server appointed by the sheriff shall serve at the pleasure of the sheriff. The sheriff shall have the discretion to revoke the appointment of the special process server at any time without cause.

(b) A special process server admitted to the list of special process servers may be removed from the list on the grounds of malfeasance, misfeasance, neglect of duty, or incompetence as follows:

1. A person aggrieved may file a petition with the chief judge of the circuit alleging with particularity one or more of the grounds for removal.

2. Upon receipt of the petition, the chief judge, or other judge designated by the chief judge, shall review the petition and, if good cause is found, shall issue to the special process server an order to show cause why he should not be removed from the list of special process servers. The order to show cause shall be in writing and shall be served on the special process server in accordance with s. 48.031. The order shall set forth with particularity the allegations of the petition and shall specify the time and place for a hearing on the petition. The time set for a hearing shall allow reasonable time for preparation of an answer.

3. The special process server shall answer the order by way of admission, explanation or defense. The answer shall be in writing unless otherwise specified by the judge.

4. At the hearing the special process server is entitled to be represented by counsel and to have compulsory
process for the attendance of witnesses and production of
documents, and he may testify in his own defense. Upon
hearing, the judge may issue an order removing the special
process server from the list of special process servers.
   (9) A special process server who willfully and
knowingly executes a false return of service shall be guilty
of a felony of the third degree, punishable as provided for in
s. 775.082, s. 775.083, or s. 775.084, F.S., and shall be
permanently barred from serving process in Florida.

   Section 2. This act shall take effect October 1, 1988.
A bill to be entitled
An act relating to service of process; amending
s. 48.021, F.S.; providing an alternative
procedure for service of initial,
nonenforceable, civil process; providing that
the sheriff may appoint special process
servers; providing the chief judge in each
circuit may establish a list of special process
servers from which a person may select one or
more special process servers to serve civil
process; providing requirements for a special
process server applicant; providing an
application process and fee; requiring
execution of a bond, providing where special
process servers may serve process; authorizing
the charging of reasonable fees by special
process servers; providing procedures for
removal of special process servers; providing a
penalty; providing an effective date.

Be It Enacted by the Legislature of the State of Florida.

Section 1. Section 48.021, Florida Statutes, is
amended to read:

(1) All process shall be served by the sheriff of the
county where the person to be served is found, except initial,
nonenforceable, civil process may be served by a special
process server as provided for in this section. Witness
subpoenas may be served by any person authorized by rules of
procedure.

(2)(a) The sheriff of each county may appoint as many
special process servers as he in good faith deems necessary.
(b) The chief judge of each judicial circuit may
establish an approved list of special process servers. The
chief judge periodically may add names of special process
servers to the list. The addition of a special process
server's name to the list authorizes him to serve initial,
nonenforceable, civil process in civil actions in the circuit
court and county courts in the circuit. A person may select
from the list one or more special process servers to serve
such process. The circuit court administrator shall maintain
the list of special process servers.

(c) Each special process server shall be issued an
identification card bearing a photograph of the holder and the
seal of the appointing authority.

(3) An applicant for appointment as a special process
server or for admission to the list of special process servers
shall:

(a) Be at least 18 years of age;
(b) Suffer from no mental or legal disability;
(c) Be a permanent resident of the state; and
(d) Submit to a background investigation including the
criminal record of the applicant. An applicant who has been
convicted of a crime within the last 5 years may not serve as
a special process server.

(4)(a) The sheriff shall prescribe and make available
a form for application for appointment by the sheriff as a
special process server. An applicant for appointment by a
sheriff as a special process server shall submit his

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application to the sheriff who shall verify all information provided on the application.

(b) The circuit court administrator shall prescribe a form for application for admission to the list of special process servers. The clerk of court in each county in the circuit shall make available the application form. An applicant for admission to the list of special process servers shall submit his application to the circuit court administrator for the circuit in which he is seeking to serve as a special process server. The circuit court administrator shall verify all information provided on the application.

(c) The application form of each authority shall include a question inquiring of the applicant whether he has been convicted of a crime within the past 5 years.

(d) Submission of the application form shall be accompanied by a fee of $15.

(5) A special process server shall, prior to exercising the duties of office execute a bond in the amount of $3,000 with a surety company authorized to do business in Florida, conditioned upon the faithful discharge of the duties of his office. He shall take an oath that he will honestly, diligently, and faithfully exercise the duties of his office.

(6) A special process server appointed by the sheriff shall be authorized to serve process only in the county in which the sheriff who appointed him resides. A special process server admitted to the list of special process servers shall be authorized to serve process only in the circuit for which the list is maintained. A special process server shall be disinterested in any process he serves.
(7) A special process server may charge a reasonable fee for his services. The appointing authority may not set a minimum fee the special process server shall charge.

(8)(a) A special process server appointed by the sheriff shall serve at the pleasure of the sheriff. The sheriff shall have the discretion to revoke the appointment of the special process server at any time without cause.

(b) A special process server admitted to the list of special process servers may be removed from the list on the grounds of malfeasance, misfeasance, neglect of duty, or incompetence as follows:

1. A person aggrieved may file a petition with the chief judge of the circuit alleging with particularity one or more of the grounds for removal.

2. Upon receipt of the petition, the chief judge, or other judge designated by the chief judge, shall review the petition and, if good cause is found, shall issue to the special process server an order to show cause why he should not be removed from the list of special process servers. The order to show cause shall be in writing and shall be served on the special process server in accordance with s. 48.031. The order shall set forth with particularity the allegations of the petition and shall specify the time and place for a hearing on the petition. The time set for a hearing shall allow reasonable time for preparation of an answer.

3. The special process server shall answer the order by way of admission, explanation, or defense. The answer shall be in writing unless otherwise specified by the judge.

4. At the hearing, the special process server is entitled to be represented by counsel and to have compulsory process for the attendance of witnesses and production of
documents, and he may testify in his own defense. Upon hearing, the judge may issue an order removing the special process server from the list of special process servers.

(9) A special process server who willfully and knowingly executes a false return of service shall be guilty of a felony of the third degree, punishable as provided for in s. 775.082, s. 775.083, or s. 775.084, and shall be permanently barred from serving process in Florida.

Section 2. This act shall take effect October 1, 1988.

SENATE SUMMARY

Provides an alternative procedure for the service of initial, nonenforceable, civil process. Allows the sheriff of each county to appoint special process servers. Allows the chief judge of each circuit to establish an approved list of special process servers from which a person may select one or more special process servers. Provides requirements for a special process server applicant. Establishes an application process and fee. Requires a special process server to execute a surety bond before exercising the duties of office. Restricts the area in which a special process server may serve process. Authorizes fees for such service. Provides procedures for removing special process servers. Provides for criminal penalties for executing a false return of service.

CODING: Words struck are deletions; words underlined are additions.
A bill to be entitled

An act relating to service of process; amending
s. 48.021, F.S.; providing an alternative
procedure for serving nonenforceable civil
process; creating s. 48.25, F.S.; providing a
short title; creating s. 48.27, F.S.;
authorizing the chief judge in each judicial
circuit to establish a list of certified
process servers; providing for selection of a
person from the list to serve process; creating
s. 48.29, F.S.; providing for an application
process and fee for certification as a process
server; providing requirements for a certified
process server applicant; providing additional
rules and requirements may be ordered by the
chief judge of the circuit; providing for entry
of a person's name on the list of certified
process servers; providing a penalty for
resisting a certified process server in the
execution of process; providing that certain
identifying information appear on the face of
the process served; providing the judicial
circuit in which a certified process server may
serve process; providing a procedure for
certification in other circuits; providing for
service of foreign process; authorizing the
charging of fees by a certified process server;
creating s. 48.31, F.S.; providing a procedure
for removal and reinstatement of a certified
process server's name from a list of certified
process servers; providing a penalty; providing

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an exemption from application requirements for
certification for specified process servers;
providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 48.021, Florida
Statutes, is amended to read:

48.021 Process; by whom served.--

(1) All process shall be served by the sheriff of the
county where the person to be served is found, except initial
nonenforceable civil process may be served or by a special
process server as provided for in this section or by a
certified process server as provided for in s. 48.25. but
Witness subpoenas may also be served by any person authorized
by rules of procedure.

Section 2. Section 48.25, Florida Statutes, is created
to read:

48.25 Short title.--Sections 48.25-48.31, may be cited
as the "Florida Uniform Certified Process Server Act of 1988."

Section 3. Section 48.27, Florida Statutes, is created
to read:

48.27 Certified process servers.--

(1) The chief judge of each judicial circuit may
establish an approved list of certified process servers. The
chief judge may periodically add to such list the names of
those persons who have met the requirements for certification
provided for in s. 48.29.

(2) The addition of a person's name to the list
authorizes him to serve initial nonenforceable civil process
on a person found within the circuit when a civil action has

CODING: Words stricken are deletions; words underlined are additions.
been filed against such person in the circuit or county courts in the circuit. Upon filing an action in circuit or county court, a person may select from the list one or more certified process servers to serve initial nonenforceable civil process.

(3) Nothing herein shall be interpreted to exclude a sheriff or deputy from serving process or to exclude a person from appointment by individual motion and order to serve process in any civil action in accordance with Rule 1.070(b) of the Florida Rules of Civil Procedure.

Section 4. Section 48.29, Florida Statutes, is created to read:

48.29 Certification of process servers.--

(1) The circuit court administrator and the clerk of the court in each county in the circuit shall maintain the list of process servers approved by the chief judge of the circuit. Such list may, from time to time, be amended or modified to add or delete a person's name in accordance with the provisions of this section.

(2) A person seeking the addition of his name to the approved list shall submit an application to the circuit court administrator on a form prescribed by him. The circuit court administrator may charge a reasonable fee for processing the application.

(3) A person applying to become a certified process server shall:

(a) Be at least 18 years of age;
(b) Have no mental or legal disability;
(c) Be a permanent resident of the state;
(d) Submit to a background investigation including the criminal record of the applicant;

CODING: Words strucken are deletions; words underlined are additions.
(e) Obtain a certificate of good conduct, specifying that there is no pending criminal case against the applicant and that there is no record of any felony conviction, or conviction of a crime involving moral turpitude or dishonesty, with respect to the applicant within the past 5 years;

(f) Execute a bond in the amount of $5,000 with a surety company authorized to do business in this state for the benefit of any person wrongfully injured by any malfeasance, misfeasance, neglect of duty, or incompetence of the applicant in connection with his duties as a process server; and

(g) If prescribed by the chief judge of the circuit, submit to a written examination. The content of the examination and the passing grade thereon and the frequency and location at which such examination shall be offered shall be prescribed by the chief judge of the circuit, but the examination, if any, shall be offered at least once annually.

(4) The chief judge of the circuit may, from time to time by administrative order, prescribe additional rules and requirements regarding the eligibility of a person to become a certified process server or to have his name maintained on the list of certified process servers.

(5)(a) An applicant who completes the requirements set forth in this section and whose name the chief judge by order enters on the list of certified process servers shall be designated as a certified process server.

(b) The court shall issue to an applicant whose name has been entered on the list an identification card bearing the applicant's identification number, name, signature, and photograph and the seal of the circuit court.

(c) A certified process server must be a disinterested party in any proceeding in which he serves process.

CODING: Words struck out are deletions; words underligned are additions.
(d) A certified process server who is serving initial nonenforceable civil process is a legally authorized person in the execution of legal process for purposes of ss. 843.01 and 843.02, and the criminal penalties therein shall apply to a person who resists a certified process server in the execution of such process.

(6)(a) A certified process server shall place by stamp on the face of any process served by him, his name, signature, and identification number, and words indicating that he is a certified process server in the circuit wherein he is serving the process.

(b) Return of service shall be made by a certified process server on a form which has been reviewed and approved by the court.

(7)(a) A process server whose name is on the list of certified process servers in one circuit may serve process on a person found in another circuit if the process server's name has been entered on the list of certified process servers in the circuit where the person is found.

(b) A certified process server may apply to the chief judge in a circuit other than the circuit in which he was originally certified to serve process to have his name entered on the list in that circuit.

(c) A certified process server may serve foreign process in any circuit in which his name has been entered on the list of certified process servers for that circuit.

(8) A certified process server may charge a fee for his services. The court may not set a minimum fee the certified process server may charge.

Section 5. Section 48.31, Florida Statutes, is created to read:

CODING: Words stricken are deletions; words underlined are additions.
48.31 Removal of certified process servers.—A certified process server may be removed from the list of certified process servers for any malfeasance, misfeasance, neglect of duty, or incompetence as follows:

(1) A person aggrieved by a wrongful act or omission by a certified process server may file a petition with the chief judge of the circuit court complaining of the alleged wrong.

(2) Upon receipt of such petition, the chief judge, or such other judge as the chief judge shall designate, shall review the petition and, if good cause is found, shall issue to the process server an order to show cause why he should not be removed from the approved list of certified process servers. The order to show cause must be in writing and must be served on the process server in accordance with s. 48.031. The order shall set forth with particularity the allegations of the petition to be heard and shall specify the time and place of the hearing. The time set for a hearing shall allow a reasonable time for preparation of an answer.

(3) The process server, personally or by counsel, shall answer such order by way of admission, explanation, or defense. Such answer shall be in writing unless otherwise specified by the judge.

(4) At the hearing, the special process server is entitled to be represented by counsel, have compulsory process for the attendance of witnesses and production of documents, and testify in his own defense.

(5) Upon hearing, the judge may issue an order removing the process server's name from the list of certified process servers. The court may, in its discretion, reinstate the process server's name to the list.

CODING: Words struck out are deletions; words underlined are additions.
(6) A certified process server who willfully and knowingly executes a false return of service is guilty of a felony of the third degree, punishable as provided for in s. 775.082, s. 775.083, or s. 775.084, and shall be permanently barred from serving process in this state.

Section 6. A certified process server who, on the effective date of this act, is certified and in good standing under the provisions of an administrative order of the court or a local court rule shall be certified and in good standing under the provisions of this act without the necessity of filing a new application to become a certified process server, obtaining a new certificate of good conduct, posting a new bond, or taking a new written examination.

Section 7. This act shall take effect October 1, 1988.
The committee substitute:

1. Creates the "Florida Uniform Certified Process Server Act of 1988," which provides:

   a. The chief judge of a circuit can establish an approved list of certified process servers. Application is made to the circuit court administrator who may charge a reasonable fee for processing the application.

   b. Entry of a person's name on the list authorizes him to serve initial nonenforceable civil process on a person found in that circuit.

   c. An applicant must show he has no record of a felony conviction, or conviction of a crime involving moral turpitude or dishonesty, within the last 5 years; execute a $5,000 bond; and if prescribed by the chief judge, take and pass a written examination.

   d. A person resisting a certified process server in the execution of his duties is subject to criminal penalties.

   e. A certified process server can serve process on a person only if the process server is on the list in the circuit where the person is found. A process server on the list in one circuit can apply to the chief judge in another circuit to be placed on the list in that circuit.

   f. A procedure for removal of a process server's name from the list of those approved to serve process.

   g. A process server who willfully and knowingly executes a false return of service is permanently barred from serving process in Florida, and he is subject to criminal penalties.
A bill to be entitled

An act relating to service of process; creating
the "Florida Uniform Certified Process Server
Act of 1988"; creating s. 48.25, F.S.;
providing a short title; creating s. 48.27,
F.S.; providing for blanket judicial
appointment of certified process servers;
creating s. 48.29, F.S.; providing eligibility
standards and certification procedures;
creating s. 48.31, F.S.; providing for removal
for cause; providing an effective date.

WHEREAS, a pilot project was created concerning
certification of private process servers, and

WHEREAS, sufficient time has elapsed and sufficient
data has been received to verify that implementation of the
certified process server procedures will be of great benefit
to all civil cases requiring service of process, in both the
circuit and county courts, and

WHEREAS, current procedure and custom require the
appointment by the court of a process server in each and every
case by individual motion and order, and

WHEREAS, such individual appointments have been proven
by the experience of the judges and clerical staff of the
circuit and county courts to require the repetitious
examination, signing, docketing, and filing of appointment
orders that, in the bulk of the cases, involve the same
individual process servers, and

WHEREAS, the current procedure requires needless
expenditure of time on the part of the litigants and their

CODING: Words stricken are deletions; words underlined are additions.
WHEREAS, the current procedure has become outmoded and inefficient because of the great proliferation of private process servers daily seeking appointment to serve process and because of the lack of a uniform system for examining the credentials of such applicants and for reviewing their work of serving process, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 48.25, Florida Statutes, is created to read:

48.25 Short title.--This act, consisting of ss. 48.25-48.31, may be cited as the "Florida Uniform Certified Process Server Act of 1988."

Section 2. Section 48.27, Florida Statutes, is created to read:

48.27 Certified process servers, blanket judicial appointment.--

(1) Each circuit and county court is authorized to establish an approved list of certified process servers. Such list shall be subject to amendment and modification without further administrative order.

(2) Certified process servers shall be eligible for blanket appointment by court order at the discretion of each judge to serve initial process in any and all civil actions filed in the court and assigned to that judge.

(3) Upon selection by court order naming such certified process server, he or she may serve initial process in civil actions in such judge's assigned cases without the
necessity for a motion and order of appointment in each such individual action.

(4) Nothing herein shall be interpreted to exclude any sheriff or deputy from serving process or to exclude any competent person from appointment by individual motion and order to serve process in any civil action in which he has no interest, in accordance with the provisions of Rule 1.070(b) of the Florida Rules of Civil Procedure.

Section 3. Section 48.29, Florida Statutes, is created to read:

48.29 Certification of process servers.--

(1) The clerks of the circuit and county courts shall maintain a list of certified process servers who have met the requirements and have completed the application process prescribed herein. Said list from time to time may be amended or modified to add or delete individuals in accordance with the provisions of this section.

(2) Individuals seeking certification and admission to the approved list shall submit an application to the clerks of the circuit and county courts on a prescribed form, and shall fulfill the following requirements:

(a) The applicant shall be at least 18 years of age, shall have passed a background screening check, and shall suffer from no mental or legal disability.

(b) The applicant shall obtain a certificate of good conduct from the clerks of the circuit and county courts, specifying that there are no pending criminal cases against the applicant and that there is no record of any felony conviction with respect to the applicant within the past 5 years.
(c) The applicant shall post a bond with the clerks of the circuit and county courts in the amount of $5,000 for the benefit of any person wrongfully injured by any malfeasance, misfeasance, neglect of duty, or incompetence of the applicant in connection with his duties as a process server. The bond shall be subject to the approval of the clerks of the circuit and county courts. The bond shall be in cash or shall contain the signature of a surety approved by the clerk.

(d) The judge may from time to time by administrative order prescribe additional rules, regulations, and requirements regarding eligibility of individuals to become or to be maintained on the list of certified process servers.

(e) The names of persons who have submitted a completed application and who have met the requirements set out in paragraphs (a)-(d) shall be submitted by the clerks of the circuit and county courts to the personnel office of the county, which shall administer a written examination to each such person, testing his knowledge of the state laws and rules of procedure regarding service of process. A passing grade shall be a minimum of 70 percent. The content of the examination and the frequency and location at which such examinations shall be offered to applicants shall be prescribed by guidelines to be issued by the Chief Judge of the Circuit Court; provided that the examination shall be offered at least once annually.

(f) Applicants who successfully complete the prescribed written examination shall be designated "certified process servers," shall be eligible for selection by court order and blanket appointment to serve process in civil actions in the circuit court and the county court without the necessity for appointment by individual motion and order in

CODING: Words stricken are deletions; words underlined are additions.
application to become a certified process server, obtaining a
new certificate of good conduct, posting a new $5,000 bond, or
taking a new written examination. No person shall regularly
engage in the service of process or subpoenas without being
certified.

Section 4. Section 48.31, Florida Statutes, is created
to read:

48.31 Removal of certified process servers.—Certified
process servers may be removed from the list of certified
process servers for any malfeasance, misfeasance, neglect of
duty, or incompetence as follows:

(1) Any person aggrieved by a wrongful act or omission
by a certified process server may file a petition with the
Chief Judge of the Circuit Court alleging the wrong complained
of.

(2) Upon receipt of such petition, the Chief Judge, or
such other judge as the Chief Judge shall designate, shall
review the petition and, if good cause is found, shall issue
to the process server an order to show cause why he should not
be removed from the approved list of certified process
servers. The order to show cause shall be in writing and
served on the process server in accordance with s. 48.021, and
shall set forth with particularity the allegations of the
petition to be heard. It shall specify the time and place of
the hearing, with a reasonable time allowed for preparation of
the defense after service of the order on the process server.

(3) The process server, personally or by counsel,
shall answer such order by way of admission, explanation, or
defense. Such answer shall be in writing unless otherwise
specified by the judge.

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each such action, and shall be issued an identification card
bearing a photograph of the holder and the seal of the circuit
and county courts. Such certified process servers shall be
deemed officers of the court for purposes of the obstructing
justice provisions of ss. 843.01 and 843.02.

(3) Individual judges, at their discretion, may select
one or more persons from the list of certified process servers
and, by order of blanket appointment, signify consent to the
execution of initial process by the named individual in any
and all civil actions filed as such judge's cases, without the
necessity of further appointment in any individual action.
Such order may be made upon a standard form.

(4) The return of service shall be made by the
certified process server on an approved form or facsimile.

(5) No certified process server shall act in any
action in which the certified process server has any interest
as provided in Rule 1.070(b) of the Florida Rules of Civil
Procedure.

(6) Any process server certified in any circuit of
this state may become eligible to be certified in any other
circuit by filling out an application and registering with the
clerk of the circuit court, without having to post additional
bond. Any person certified may serve process originating in
the circuit where he is registered in any other jurisdiction
without further registration, and may serve foreign process
within the circuit where he is registered.

(7) Any process server who, on the effective date of
this act, is certified and in good standing under the
provisions of a current circuit or county court administrative
order is deemed to be certified and in good standing under the
provisions of this act without the necessity of filing a new
CODING: Words struck are deletions; words underlined are additions.
(4) Upon hearing, the presiding judge may issue an order revoking or suspending the process server's certification and removing him from the list of certified process servers, or imposing a fine or entering a finding of innocence. At such hearing the process server is entitled to be represented by counsel, to have the option to be confronted by any witnesses against him, to have compulsory process for the attendance of witnesses and production of documents, and to testify or not testify in his own defense.

Section 5. This act shall take effect upon becoming a law.

HOUSE SUMMARY

Creates the "Florida Uniform Certified Process Server Act of 1988." Provides for blanket judicial appointment of certified process servers. Establishes requirements and procedures for certification of process servers, and provides procedure for removal for cause.

See bill for details.
A bill to be entitled
An act relating to service of process; amending
s. 48.021, F.S.; providing an alternative
procedure for serving nonenforceable civil
process; creating ss. 48.25-48.31, F.S., to be
known as the Florida Certified Process Server
Act; authorizing the chief judge in each
judicial circuit to establish a list of
certified process servers; providing authority
of such persons to serve process; providing for
an application process and fee for
certification as a process server; providing
requirements for a certified process server
applicant; providing that additional rules and
requirements may be ordered by the chief judge
of the circuit; providing for entry of a
person's name on the list of certified process
servers; providing that certain identifying
information appear on the face of the process
served; providing the judicial circuit in which
a certified process server may serve process;
providing for service of foreign process;
authorizing the charging of fees by a certified
process server; providing a procedure for
removal and reinstatement of a certified
process server's name from a list of certified
process servers; providing a felony offense for
executing a false return of service; providing
a penalty; providing an exemption from
application requirements for certification for

CODING: Words stricken are deletions; words underlined are additions.
specified process servers; providing an
effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 48.021, Florida
Statutes, is amended to read:

48.021 Process; by whom served.--

(1) All process shall be served by the sheriff of the
county where the person to be served is found, except that

initial nonenforceable civil process may be served or by a
special process server as provided for in this section, or by
a certified process server as provided in ss. 48.25-48.31,
but Witness subpoenas may also be served by any person
authorized by rules of procedure.

Section 2. Section 48.25, Florida Statutes, is created
to read:

48.25 Short title.--Sections 48.25-48.31, may be cited
as the "Florida Certified Process Server Act."

Section 3. Section 48.27, Florida Statutes, is created
to read:

48.27 Certified process servers.--

(1) The chief judge of each judicial circuit may
establish an approved list of natural persons designated as
certified process servers. The chief judge may periodically
add to such list the names of those natural persons who have
met the requirements for certification provided in s. 48.29.
Each person shall be subject to annual recertification.

(2) The addition of a person's name to the list
authorizes him, subject to annual reappointment of his name to
the list by the chief judge of the circuit, to serve initial
nonenforceable civil process on a person found within the
circuit when a civil action has been filed against such person
in the circuit or county courts in the circuit. Upon filing
an action in circuit or county court, a person may select from
the list one or more certified process servers to serve
initial nonenforceable civil process.

(3) Nothing herein shall be interpreted to exclude a
sheriff or deputy or other person appointed by the sheriff
pursuant to s. 48.021 from serving process or to exclude a
person from appointment by individual motion and order to
serve process in any civil action in which he has no interest,
in accordance with the provisions of Rule 1.070(b) of the
Florida Rules of Civil Procedure.

Section 4. Section 48.29, Florida Statutes, is created
to read:

48.29 Certification of process servers.--

(1) The circuit court administrator and the clerk of
the court in each county shall maintain the list of process
servers approved by the chief judge of the circuit. Such list
may, from time to time, be amended or modified to add or
delete a person's name in accordance with the provisions of
this section or s. 48.31.

(2) A person seeking the addition of his name to the
approved list in any circuit shall submit an application to
the chief judge of the circuit or his designee on a form
prescribed by the court. A reasonable fee for processing the
application may be required.

(3) A person applying to become a certified process
server shall:

(a) Be at least 18 years of age.
(b) Have no mental or legal disability.

CODING: Words stricken are deletions; words underlined are additions.
(c) Be a permanent resident of the state.
(d) Submit to a background investigation which shall include the right to obtain and review the criminal record of the applicant.
(e) Obtain and provide with the application a certificate of good conduct, specifying that there is no pending criminal case against the applicant and that there is no record of any felony conviction, nor of a conviction of a misdemeanor involving moral turpitude or dishonesty, with respect to the applicant within the past 5 years.
(f) If prescribed by the chief judge of the circuit, submit to an examination testing his knowledge of the laws and rules regarding the service of process. The content of the examination and the passing grade thereon and the frequency and location at which such examination shall be offered shall be prescribed by the chief judge of the circuit. The examination, if any, shall be offered at least once annually.
(g) Execute a bond in the amount of $5,000 with a surety company authorized to do business in this state for the benefit of any person wrongfully injured by any malfeasance, misfeasance, neglect of duty, or incompetence of the applicant in connection with his duties as a process server. Such bond shall be renewable annually.
(h) Take an oath of office that he will honestly, diligently, and faithfully exercise the duties of a certified process server.
(4) The chief judge of the circuit may, from time to time by administrative order, prescribe additional rules and requirements regarding the eligibility of a person to become a certified process server or to have his name maintained on the list of certified process servers.

CODING: Words stricken are deletions; words underlined are additions.
(5)(a) An applicant who completes the requirements set forth in this section and whose name the chief judge by order enters on the list of certified process servers shall be designated as a certified process server.

(b) Each certified process server shall be issued an identification card bearing his identification number, printed name, signature, and photograph, the seal of the circuit court, and an expiration date. Such identification cards shall be renewable annually upon proof of good standing and current bond.

(6)(a) A certified process server shall place on the face of any process served by him his printed name, signature, and identification number, and words stating that he is a certified process server in the circuit where he is serving the process. In addition, he shall endorse on the original process, and on all copies served, the date and hour of service.

(b) Return of service shall be made by a certified process server on a form which has been reviewed and approved by the court.

(7)(a) A certified process server may qualify as a certified process server and have his name entered on the list in more than one circuit.

(b) A process server whose name is on the list of certified process servers in more than one circuit may serve process on a person found in any of such circuits.

(c) A certified process server may serve foreign process in any circuit in which his name has been entered on the list of certified process servers for that circuit.

(8) A certified process server may charge a fee for his services.

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Section 5. Section 68.31, Florida Statutes, is created to read:

68.31 Removal of certified process servers; false return of service.--

(1) A certified process server may be removed from the list of certified process servers for any misfeasance, nonfeasance, neglect of duty, or incompetence as provided by rule of court.

(2) Any certified process server shall be disinterested in any process he serves, and if he willfully and knowingly executes a false return of service, he shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and shall be permanently barred from serving process in Florida.

Section 6. A certified process server who, on the effective date of this act, is certified and in good standing under the provisions of an administrative order of the court or a local court rule may be certified and be issued an identification card under the provisions of this act without the necessity of filing a new application to become a certified process server, obtaining a new certificate of good conduct, posting a new bond, or taking a new examination.

Section 7. This act shall take effect October 1, 1981.
A bill to be entitled
An act relating to service of process; amending
s. 48.021, F.S.; providing an exception to
service of process by the sheriff; creating s.
48.0215, F.S.; providing for service by mail in
civil actions; providing for taxing costs;
providing exceptions; providing an effective
date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 48.021, Florida Statutes, is amended to read:

48.021 Process; by whom served.--

(1) All process, except process in a civil action,
shall be served by the sheriff of the county where the person
to be served is found or by a special process server as
provided for in this section, but witness subpoenas may also
be served by any person authorized by rules of procedure.

Section 2. Section 48.0215, Florida Statutes, is
created to read:

48.0215 Service of process in civil actions.--

(1)(a) Upon receipt of the initial pleading in a civil
action, the clerk of the court shall issue and deliver a copy
of the process and initial pleading to the plaintiff's
attorney or to the plaintiff if he is not represented by an
attorney, who shall mail, by registered mail, such process and
copy of the initial pleading to the person to be served with
two copies of a notice and acknowledgment in substantially the
form set forth in subsection (2) and with a postage prepaid
return envelope addressed to the sender. If an acknowledgment
of service is not received by the sender within 20 days after
the date he mailed the process, the process shall be served by
a special process server pursuant to s. 48.021.

(b) The person who mails the service of process shall
make proof of service pursuant to the Florida Rules of Civil
Procedure.

(c) If service of process is attempted pursuant to
paragraph (a) but is not effected, the court may award the
costs of service pursuant to s. 48.021 against the defendant
if it finds the defendant willfully failed to accept such
service.

(d) Notwithstanding the provisions of this section,
service on behalf of a party authorized by a court to proceed
in forma pauperis, service on behalf of this state or any
other governmental entity, or service pursuant to a court
order specifically directing the sheriff to effect service,
shall be made only by the sheriff, if requested by the party
seeking service or by such party’s attorney.

(2) The notice and acknowledgment of receipt shall be
in substantially the following form:

IN THE ...(name of court)... COURT FOR
...(name of county)... COUNTY, FLORIDA
CASE NUMBER ...

...(Plaintiff/Petitioner)... Notice and Acknowledgment

vs.

of Receipt of Summons

...(Defendant/Respondent)... and Complaint

NOTICE

To: ...(name and address of the person to be served)...

CODING: Words strucken are deletions; words underlined are additions.
The enclosed process is being served pursuant to section 48.0215, Florida Statutes.

You must complete the acknowledgment part of this form and return one copy of the completed form to the sender within 20 days.

You must sign and date the acknowledgment. If you are served on behalf of a corporation, unincorporated association, including a partnership, or other entity, you must indicate under your signature your relationship to that entity. If you are served on behalf of another person and you are authorized to receive process, you must indicate under your signature your authority.

If you do not complete and return the form to the sender within 20 days, you or the party on whose behalf you are being served may be required to pay any expenses incurred in serving a summons and complaint in any other manner permitted by law.

If you do complete and return this form, you or the party on whose behalf you are being served must answer the complaint within 20 days. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint will have been mailed on ...(insert date)....

...(Signature)...

...(Date of Signature)...

CODING: Words strucken are deletions; words underlined are additions.
ACKNOWLEDGMENT OF RECEIPT OF
SUMMONS AND COMPLAINT

I declare, under penalty of perjury, that I received a copy of
the summons and of the complaint in the above-captioned matter
at ...(insert address)....

...(Signature)...

...(Relationship to Entity/Authority
to Receive Service of Process)...

...(Date of Signature)...

Section 3. This act shall take effect October 1, 1988.

SENATE SUMMARY

Provides for service of process by mail in civil actions.

CODING: Words strucken are deletions; words underlined are additions.
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST
1. Lang
2. 
3. 
4. 

STAFF DIRECTOR
Lester

REFERENCE
1. JCI
2. 
3. 
4. 

ACTION

SUBJECT:
Service of Process

BILL NO. AND SPONSOR:
PCB 19 by
Judiciary-Civil Committee

1. SUMMARY:

A. Present Situation:

Section 48.021, F.S., provides that the sheriff shall serve all process, but he may appoint special process servers to assist him. The section directs the sheriff to develop an application form for appointment as a special process server, and requires the form to include the signature of two character witnesses.

A special process server must be 18 years of age and a permanent resident of the state, and he must post a $1000 bond before exercising his duties. The sheriff, in his discretion, may revoke the appointment of a special process server. The section provides criminal penalties for willfully and knowingly executing a false return of service.

The Rules of Civil Procedure also provide for service of process. The rules provide that service of process may be made by an officer authorized by law to serve process, or for any individual case, the court may appoint a person to serve process, Fla.R.Civ.P. 1.070(b).

B. Effect of Proposed Changes:

The bill substantially rewrites § 48.021, F.S., to provide for the establishment of an approved list of special process servers by the chief judge in each judicial circuit. A judge in the circuit may then select a special process server from the list and, by order of continuing appointment, the judge consents to service of initial, nonenforceable civil process by the person in all civil cases before the judge. The circuit court administrator maintains the list of special process servers. The bill incorporates the provisions in the current statute providing for appointment of special process servers by the sheriff.

All applicants, whether seeking appointment by the sheriff or admission to the court's list, must be 18 years of age, have no mental or legal disability, be a permanent resident of the state and submit to a background investigation including a criminal history investigation. An applicant convicted of a crime within the last 5 years cannot serve as a special process server.

The sheriff and the circuit court administrator are required to develop application forms. Forms for appointment by the sheriff shall be available from the sheriff. The circuit court administrator's application form for admission to the courts list would be available from the clerk of court in each county in the circuit. The sheriff's application form will be submitted to the sheriff. The circuit court administrator's form will be submitted to the circuit court administrator. An application to either authority will carry a $15 fee.
A special process server appointed by the sheriff is authorized to serve process only in the county in which the sheriff who appointed him resides. A special process server on the court's list can serve process only in the circuit for which the list is maintained.

A special process server can charge a reasonable fee for his services. The sheriff or the court may not set a minimum fee a special process server must charge.

A special process server must execute a $3,000 bond prior to exercising his duties. Special process servers appointed by the sheriff formerly were subject to a $1,000 bond requirement.

The sheriff can revoke the appointment of a special process server at his discretion and without cause.

Removal from the court's list is initiated by a petition from the aggrieved person to the court. If good cause is found, the court will issue a show cause order to the special process server who must answer it. A hearing is then held and the court can remove the special process server.

Willful and knowing execution of a false return is made a third degree felony and permanently bars the person from serving process in Florida.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Those seeking admission to the court's approved list will be charged a $15 fee. The current $15 fee for application for appointment by the sheriff is retained in the bill.

B. Government:

Undetermined costs will be incurred by the circuit court administrator in verifying applications for admission to the approved list of special process servers. The application fee will defray some, if not all, of those costs.

III. COMMENTS:

In 1985 the Senate passed a bill providing that any person who performs the services of a special process server could apply for a Class "R" license from the Department of State under the statutes regulating investigative and patrol services, ch. 493, F.S. An applicant for a Class "R" license would be required to submit written authorization from the chief judge of the circuit from which the process is issued. The bill provided that the provisions of ch. 493, F.S., would not apply to special process servers appointed by the sheriff. The bill died on the House calendar.

In 1986 the Legislature repealed a section in ch. 493, F.S., which provided that any Class "C" licensee was deemed to be a special process server under the provisions of s. 49.021, F.S., in any individual proceeding when appointed by a circuit or county judge without the necessity of appointment by the sheriff, s. 493.326, F.S.

IV. AMENDMENTS:

None.
I. SUMMARY:

A. Present Situation:

Section 48.021, F.S., provides that the sheriff shall serve all process, but he may appoint special process servers to assist him. The section directs the sheriff to develop an application form for appointment as a special process server, and requires the form to include the signature of two character witnesses.

A special process server must be 18 years of age and a permanent resident of the state, and he must post a $1000 bond before exercising his duties. The sheriff, in his discretion, may revoke the appointment of a special process server. The section provides criminal penalties for willfully and knowingly executing a false return of service.

The Rules of Civil Procedure also provide for service of process. The rules provide that service of process may be made by an officer authorized by law to serve process, or for any individual case, the court may appoint a person to serve process, Fla.R.Civ.P. 1.070(b).

B. Effect of Proposed Changes:

The bill substantially rewrites s. 48.021, F.S., to provide for the establishment of an approved list of special process servers by the chief judge in each judicial circuit. A judge in the circuit may then select a special process server from the list and, by order of continuing appointment, the judge consents to service of initial, nonenforceable civil process by the person in all civil cases before the judge. The circuit court administrator maintains the list of special process servers. The bill incorporates the provisions in the current statute providing for appointment of special process servers by the sheriff.

All applicants, whether seeking appointment by the sheriff or admission to the court’s list, must be 18 years of age, have no mental or legal disability, be a permanent resident of the state and submit to a background investigation including a criminal history investigation. An applicant convicted of a crime within the last 5 years cannot serve as a special process server.

The sheriff and the circuit court administrator are required to develop application forms. Forms for appointment by the sheriff shall be available from the sheriff. The circuit court administrator’s application form for admission to the court’s list would be available from the clerk of court in each county in the circuit. The sheriff’s application form will be submitted to the sheriff. The circuit court administrator’s form will be submitted to the circuit court administrator. An application to either authority will carry a $15 fee.
A special process server appointed by the sheriff is authorized to serve process only in the county in which the sheriff who appointed him resides. A special process server on the court's list can serve process only in the circuit for which the list is maintained.

A special process server can charge a reasonable fee for his services. The sheriff or the court may not set a minimum fee a special process server must charge.

A special process server must execute a $3,000 bond prior to exercising his duties. Special process servers appointed by the sheriff formerly were subject to a $1000 bond requirement.

The sheriff can revoke the appointment of a special process server at his discretion and without cause.

Removal from the court's list is initiated by a petition from the aggrieved person to the court. If good cause is found, the court will issue a show cause order to the special process server who must answer it. A hearing is then held and the court can remove the special process server.

Willful and knowing execution of a false return is made a third degree felony and permanently bars the person from serving process in Florida.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Those seeking admission to the court's approved list will be charged a $15 fee. The current $15 fee for application for appointment by the sheriff is retained in the bill.

B. Government:

Undetermined costs will be incurred by the circuit court administrator in verifying applications for admission to the approved list of special process servers. The application fee will defray some, if not all, of those costs.

III. COMMENTS:

In 1985 the Senate passed a bill providing that any person who performs the services of a special process server could apply for a Class "R" license from the Department of State under the statutes regulating investigative and patrol services, ch. 493, F.S. An applicant for a Class "R" license would be required to submit written authorization from the chief judge of the circuit from which the process is issued. The bill provided that the provisions of ch. 493, F.S., would not apply to special process servers appointed by the sheriff. The bill died on the House calendar.

In 1986 the Legislature repealed a section in ch. 493, F.S., which provided that any Class "C" licensee was deemed to be a special process server under the provisions of s. 48.021, F.S., in any individual proceeding when appointed by a circuit or county judge without the necessity of appointment by the sheriff, s. 493.326, F.S.

IV. AMENDMENTS:

None.
I. SUMMARY:

A. Present Situation:

Section 48.021, F.S., provides that the sheriff shall serve all process, but he may appoint special process servers to assist him. The section directs the sheriff to develop an application form for appointment as a special process server, and requires the form to include the signature of two character witnesses.

A special process server must be 18 years of age and a permanent resident of the state, and he must post a $1000 bond before he can serve process. The sheriff, in his discretion, may revoke the appointment of a special process server. The section provides criminal penalties for willfully and knowingly executing a false return of service.

The Rules of Civil Procedure also provide for service of process. The rules provide that service of process may be made by an officer authorized by law to serve process, or for any individual case, the court may appoint a person to serve process, Fla.R.Civ.P. l,070(b).

B. Effect of Proposed Changes:

The bill substantially rewrites s. 48.021, F.S., to provide for the establishment of an approved list of special process servers by the chief judge in each judicial circuit. A person may then select a special process server from the list to serve initial, nonenforceable civil process. The circuit court administrator maintains the list of special process servers.

The bill incorporates the provisions in the current statute providing for appointment of special process servers by the sheriff.

All applicants, whether seeking appointment by the sheriff or admission to the court's list, must be 18 years of age, have no mental or legal disability, be a permanent resident of the state and submit to a background investigation including a criminal history investigation. An applicant convicted of a crime within the last 5 years cannot serve as a special process server.

The sheriff and the circuit court administrator are required to develop application forms. Forms for appointment by the sheriff shall be available from the sheriff. The circuit court administrator's application form would be available from the clerk of court in each county in the circuit. The sheriff's application form will be submitted to the sheriff. The circuit court administrator's form will be submitted to the circuit court administrator. An application to either authority will carry a $15 fee.
A special process server appointed by the sheriff is authorized to serve process only in the county in which the sheriff who appointed him resides. A special process server on the court's list can serve process only in the circuit for which the list is maintained.

A special process server can charge a reasonable fee for his services. The sheriff or the court may not set a minimum fee a special process server must charge.

A special process server must execute a $3,000 bond prior to exercising his duties. Special process servers appointed by the sheriff formerly were subject to a $1000 bond requirement.

The sheriff can revoke the appointment of a special process server at his discretion and without cause.

Removal from the court's list is initiated by a petition from the aggrieved person to the court. If good cause is found, the court will issue a show cause order to the special process server who must answer it. A hearing is then held and the court can remove the special process server.

Willful and knowing execution of a false return is made a third degree felony and permanently bars the person from serving process in Florida.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Those seeking admission to the court's approved list will be charged a $15 fee. The current $15 fee for application for appointment by the sheriff is retained in the bill.

B. Government:

Undetermined costs will be incurred by the circuit court administrator in verifying applications for admission to the approved list of special process servers. The application fee will defray some, if not all, of those costs.

III. COMMENTS:

In 1985 the Senate passed a bill providing that any person who performs the services of a special process server could apply for a Class "R" license from the Department of State under the statutes regulating investigative and patrol services, ch. 493, F.S. An applicant for a Class "R" license would be required to submit written authorization from the chief judge of the circuit from which the process is issued. The bill provided that the provisions of ch. 493, F.S., would not apply to special process servers appointed by the sheriff. The bill died on the House calendar.

In 1986 the Legislature repealed a section in ch. 493, F.S., which provided that any Class "C" licensee was deemed to be a special process server under the provisions of s. 48.021, F.S., in any individual proceeding when appointed by a circuit or county judge without the necessity of appointment by the sheriff, s. 493.326, F.S.

IV. AMENDMENTS:

None.
I. SUMMARY:

A. Present Situation:

Section 48.021, F.S., provides that the sheriff shall serve all process, but he may appoint special process servers to assist him. The section directs the sheriff to develop an application form for appointment as a special process server, and requires the form to include the signature of two character witnesses.

A special process server must be 18 years of age and a permanent resident of the state, and he must post a $1000 bond before he can serve process. The sheriff, in his discretion, may revoke the appointment of a special process server. The section provides criminal penalties for willfully and knowingly executing a false return of service.

The Rules of Civil Procedure also provide for service of process. The rules provide that service of process may be made by an officer authorized by law to serve process, or for any individual case, the court may appoint a person to serve process, Fla.R.Civ.P. 1.070(b).

B. Effect of Proposed Changes:

Committee Substitute for SB 484 creates the Florida Uniform Certified Process Act of 1988 s. 48.25-48.31, F.S. The bill amends s. 48.021, F.S., to provide that initial nonenforceable civil process can be served by a special process server appointed by the sheriff or by a certified process server as provided for in the Uniform Act. The bill does not affect service by a sheriff's special process server or service by a process server appointed pursuant to Florida Rule of Civil Procedure 1.070(b).

The bill provides that the chief judge of a circuit can establish an approved list of certified process servers. Entry of a person's name on the list authorizes him to serve initial nonenforceable civil process on a person found in the circuit.

A person seeking to have his name placed on the list must complete an application and return it to the circuit court administrator. A reasonable fee may be charged for processing the application.

An applicant is required, among other things, to:

1. submit to a background investigation;
2. obtain a certificate of good conduct showing he has no record of a felony conviction, or conviction of a crime involving moral turpitude or dishonesty, in the last 5 years;
3. execute a $5,000 bond for the benefit of a person injured by his malfeasance, misfeasance, neglect of duty, or incompetence; and

4. take and pass a written examination, if the chief judge of the circuit so prescribes.

Once the requirements are completed, the chief judge may place the person's name on the list of certified process servers. A person resisting a certified process server who is serving process is subject to the criminal penalty for such resistance as provided in s. 843.01 and 843.02, F.S.

A certified process server can serve process on a person who is found in a particular circuit only if the process server's name is on the list in the circuit where the person is found. A certified process server can apply to the chief judge in a circuit other than the circuit in which he was originally certified to have his name placed on the list in that circuit.

The bill provides a procedure for removal of a process server's name from the approved list. A person can file a petition with the court complaining of an alleged wrong by a certified process server. On review of the petition, the court, if good cause is found, can issue a show cause order to the certified process server. Upon hearing, the court can remove the process server's name from the list. The process server is entitled to have counsel at the hearing, to call witnesses, and to testify in his own defense. The court may reinstate a process server's name on the list.

A process server who willfully and knowingly executes a false return of service is permanently barred from serving process in Florida, and he is subject to a criminal penalty.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Those seeking admission to the court's approved list will be charged a fee.

B. Government:

Undetermined costs will be incurred by the circuit court administrator in processing applications for admission to the approved list. The application fee can defray some, if not all, of those costs.

III. COMMENTS:

In 1985 the Senate passed a bill providing that any person who performs the services of a special process server could apply for a Class "R" license from the Department of State under the statutes regulating investigative and patrol services, ch. 493, F.S. An applicant for a Class "R" license would be required to submit written authorization from the chief judge of the circuit from which the process is issued. The bill provided that the provisions of ch. 493, F.S., would not apply to special process servers appointed by the sheriff. The bill died on the House calendar.

In 1986 the Legislature repealed a section in ch. 493, F.S., which provided that any Class "C" licensee was deemed to be a special process server under the provisions of s. 48.021, F.S., in any individual proceeding when appointed by a circuit or county judge without the necessity of appointment by the sheriff, s. 493.326, F.S.

IV. AMENDMENTS:

None.
STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 484

The committee substitute:

1. Creates the "Florida Uniform Certified Process Server Act of 1988," which provides:

   a. The chief judge of a circuit can establish an approved list of certified process servers. Application is made to the circuit court administrator who may charge a reasonable fee for processing the application.

   b. Entry of a person's name on the list authorizes him to serve initial nonenforceable civil process on a person found in that circuit.

   c. An applicant must show he has no record of a felony conviction, or conviction of a crime involving moral turpitude or dishonesty, within the last 5 years; execute a $5,000 bond; and if prescribed by the chief judge, take and pass a written examination.

   d. A person resisting a certified process server in the execution of his duties is subject to criminal penalties.

   e. A certified process server can serve process on a person only if the process server is on the list in the circuit where the person is found. A process server on the list in one circuit can apply to the chief judge in another circuit to be placed on the list in that circuit.

   f. A procedure for removal of a process server's name from the list of those approved to serve process.

   g. A process server who willfully and knowingly executes a false return of service is permanently barred from serving process in Florida, and he is subject to criminal penalties.

Committee on Judiciary-Civil

(FILE THREE COPIES WITH THE SECRETARY OF THE SENATE)
I. SUMMARY:

A. PRESENT SITUATION:

Section 48.011, Florida Statutes, provides that the sheriff shall serve all process, but he may appoint special process servers to assist him. The section directs the sheriff to develop an application form for appointment as a special process server, and requires the form to include the signature of two character witnesses.

A special process server must be 18 years of age or older and a permanent resident of the state, and he must post a $1,000 bond before he may serve process. The sheriff, in his discretion, may revoke the appointment of a special process server. The section provides criminal penalties for willfully and knowingly executing a false return of service.

Service of process is also governed by the Florida Rules of Civil Procedure. Under the court rules, service may be made by an officer authorized by law to serve process or by a person specially appointed by the court in a particular case. A literal interpretation would appear to require the separate appointment in each case of a private process server where there are an insufficient number of process serves authorized under general law (deputy sheriffs and special process servers appointed by the sheriff).

E. EFFECT OF PROPOSED CHANGES:

This legislation would create the Florida Certified Process Server Act, ss. 48.25-48.31, Florida Statutes, providing authority for the service of initial nonenforceable civil process by persons certified as process servers under the act. The present authority of sheriffs to those appointed by sheriffs, and those appointed by the court to serve process is not affected.
The bill empowers the chief judge of the circuit to establish a list of certified process servers. These persons on the list would be authorized to serve nonenforceable civil process within the circuit. A person may be on the list in more than one circuit. Additionally, such a person would be authorized to serve foreign process within each of the circuits in which he is listed as a certified process server.

An application process is provided for those seeking to qualify as certified servers. The application must include a certificate of good conduct, and relevant information. A background check, including a criminal records check, is provided, as is the requirement of posting a $5,000 bond. The chief judge of the circuit may require an examination concerning the laws and rules governing service of process and may provide additional qualifications for certification.

Removal of a person from the list of certified process servers will be in accordance with rules to be adopted by the court. General grounds for removal will be misfeasance, malfeasance, incompetence, and neglect of duty. A process server who knowingly and willfully makes a false return of service is automatically barred from further service of process in the state, and is subject to the penalties for a third degree felony.

C. SECTION-BY-SECTION ANALYSIS

Section 1 amends section 43.021, Florida Statutes, to provide that nonenforceable civil process may be served by a person designated as a certified process server under the remaining sections of the bill.

Section 2 creates section 43.25, Florida Statutes, and provides a short title for sections 1 through 5 of the bill.

Section 3 creates section 43.27, Florida Statutes, to provide for certified process servers. The chief judge of each circuit is directed to maintain a list of those persons certified to issue nonenforceable civil process within his circuit. Inclusion within the list authorizes a person to serve such civil process within the circuit. The present right to serve civil process of a sheriff or his deputy, or of a person appointed in an individual case by the court is retained.

Section 4 creates section 43.29, Florida Statutes, which provides the procedure for certification, and maintenance of the list of certified servers. A person wishing to be certified must submit an application, and where required, a fee for the processing of the application. To apply, a person must be an adult who is a permanent resident of Florida, and who is neither mentally or legally disabled. The applicant must submit to a background investigation which may include a criminal history check, must provide a certificate of good conduct and must post a bond in the amount of $5,000. An examination may be required by the chief judge. Additional qualifications may also be imposed by the chief judge for certification within his circuit. The list
of certified process servers is to be maintained by the court administrator and the clerk of the court.

A person, when certified, will be placed on the list in that circuit, and will be issued an identification card. When executing service, he will be required to include on the face of the process served his name and identification number, and the date and hour of service. Return of service will be made on forms approved by the court.

A process server may be certified in more than one circuit. When so certified, he may serve process anywhere within any of the circuits in which he is certified. He will also be authorized to serve foreign service in those circuits.

Fees may be charged by certified process servers, the charges may be more, less, or the same as those provided by statute for service by the sheriff.

Section 5 of the bill creates section 48.31, Florida Statutes, to provide for the removal of the authority of a certified process server. The court by rule may provide for the procedure for removal on the grounds of misfeasance, malfeasance, incompetence, or neglect of duty. A process server who knowingly and willfully files a false return of service is guilty of a third degree felony and will be permanently barred from serving process in Florida.

Section 6 provides authority for the court to certify a person who was authorized on the effective date of the act to serve process pursuant to a local court rule or administrative order, without requiring a further test, another bond, or another application.

Section 7 provides an effective date of October 1, 1982.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS.

1. Non-recurring or First Year Start-Up Effects.
   None

2. Recurring or Annualized Continuation Effects
   None

3. Long Run Effects Other Than Normal Growth:
   None

4. Appropriations Consequences:
   None
B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE

1. Non-recurring or First Year Start-Up Effects:
   None

2. Recurring or Annualized Continuation Effects:
   Indeterminate. This legislation may result in a loss of revenues to the sheriffs by providing for increased competition in service of civil process.

3. Long Run Effects Other Than Normal Growth:
   None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR

1. Direct Private Sector Costs:
   This legislation, to the extent it encourages a decrease in the availability of obtaining timely service of process by the sheriffs, could lead to increased costs for service of process, since private service of process fees are often higher than those charged by the sheriff.

2. Direct Private Sector Benefits:
   This bill should provide for the expeditious service of process and should enable persons providing private service of process increased potential for growth.

3. Effects on Competition, Private Enterprise, and Employment Markets:
   This legislation should encourage competition in civil process service, but may lead to a decreased need for the employment of public process servers.

D. FISCAL COMMENTS:
   None

III. LONG RANGE CONSEQUENCES:
   None

IV. COMMENTS:
   This legislation is similar to CS/SE 484, as adopted by the Judiciary-Civil Committee in the Senate; however, unlike the Senate bill, this legislation authorizes the court to provide for the procedures governing the removal by the court of a process server from the list of certified process servers as those provisions would not appear to be substantive. Additionally, in contrast to the
Senate bill, this legislation does not provide a criminal penalty for resisting a private civil process server.

V. AMENDMENTS:

VI. SIGNATURES:

COMMITTEE ON JUDICIARY:
Prepared by: Thomas R. Tedcastle
Staff Director: Richard Hixson

FINANCE & TAXATION:
Prepared by:
Staff Director:

APPROPRIATIONS:
Prepared by:
Staff Director: