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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2018	.	
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	.	
	.	

The Committee on Judiciary (Steube) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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, criminal witness subpoenas, and
criminal summonses may be served by a special process server



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appointed by the sheriff as provided ~~for~~ in this section or by a certified process server as provided ~~for~~ in s. 48.27 ~~ss. 48.25-48.31~~. Civil witness subpoenas shall ~~may~~ be served by any person authorized by rules of civil procedure.

Section 2. Subsections (2) and (5) and paragraph (a) of subsection (6) of section 48.031, Florida Statutes, are amended to read:

48.031 Service of process generally; service of witness subpoenas.—

(2) (a) Substituted ~~Substitute~~ service ~~may be made~~ on the spouse of the person to be served may be made at any place in a the county by an individual authorized under s. 48.021 or s. 48.27 to serve process in that county, if the cause of action is not an adversarial ~~adversary~~ proceeding between the spouse and the person to be served, if the spouse requests such service or the spouse is also a party to the action, and if the spouse and person to be served reside ~~are residing~~ together in the same dwelling, regardless of whether such dwelling is located in the county where substituted service is made.

(b) Substituted ~~Substitute~~ service may be made on an individual doing business as a sole proprietorship at his or her place of business, during regular business hours, by serving the person in charge of the business at the time of service if two attempts to serve the owner are ~~have been~~ made at the place of business.

(5) A person serving process shall place, on the first page only of at least one of the processes served, the date and time of service, his or her initials, and, if applicable, his or her identification number ~~and initials for all service of process~~.



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~~The person serving process shall list on the return of service form all initial pleadings delivered and served along with the process.~~ The person requesting service or the person authorized to serve the process shall file the return-of-service form with the court.

(6) (a) If the only address for a person to be served which is discoverable through public records is a private mailbox, a virtual office, or an executive office or mini suite, substituted ~~substitute~~ service may be made by leaving a copy of the process with the person in charge of the private mailbox, virtual office, or executive office or mini suite, but only if the process server determines that the person to be served maintains a mailbox, a virtual office, or an executive office or mini suite at that location.

Section 3. Subsection (4) of section 48.062, Florida Statutes, is amended to read:

48.062 Service on a limited liability company.—

(4) If the address ~~provided~~ for the registered agent, member, or manager is a residence, a ~~or~~ private mailbox, a virtual office, or an executive office or mini suite, service on the domestic or foreign limited liability company, ~~domestic or foreign~~, may be made by serving the registered agent, member, or manager in accordance with s. 48.031.

Section 4. Subsection (1) of section 48.194, Florida Statutes, is amended to read:

48.194 Personal service outside state.—

(1) Except as otherwise provided herein, service of process on persons outside of this state shall be made in the same manner as service within this state by any person ~~officer~~



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authorized to serve process in the state where the person is served. No order of court is required. ~~An affidavit of the officer shall be filed, stating the time, manner, and place of service.~~ A The court may consider the return-of-service form described in s. 48.21 affidavit, or any other competent evidence, in determining whether service has been properly made. Service of process on persons outside the United States may be required to conform to the provisions of the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters.

Section 5. Subsection (1) of section 48.21, Florida Statutes, is amended to read:

48.21 Return of execution of process.—

(1) Each person who effects service of process shall note on a return-of-service form attached thereto, the date and time when it comes to hand, the date and time when it is served, the manner of service, the name of the person on whom it was served, and, if the person is served in a representative capacity, the position occupied by the person. The return-of-service form must list all pleadings served and be signed by the person who effects the service of process. However, a person who is authorized under this chapter to serve process and ~~employed by a sheriff who effects such the~~ service of process may sign the return-of-service form using an electronic signature ~~certified by the sheriff.~~

Section 6. Paragraphs (b) and (d) of subsection (1) of section 48.23, Florida Statutes, is amended to read:

48.23 Lis pendens.—

(1)



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99 (b)1. An action that is filed for specific performance or
100 that is not based on a duly recorded instrument has no effect,
101 except as between the parties to the proceeding, on the title
102 to, or on any lien upon, the real or personal property unless a
103 notice of lis pendens has been recorded and has not expired or
104 been withdrawn or discharged.

105 2. Any person acquiring for value an interest in, or lien
106 upon, the real or personal property during the pendency of an
107 action described in subparagraph 1., other than a party to the
108 proceeding or the legal successor by operation of law, or
109 personal representative, heir, or devisee of a deceased party to
110 the proceeding, shall take such interest or lien exempt from all
111 claims against the property that were filed in such action by
112 the party who failed to record a notice of lis pendens or whose
113 notice expired or was withdrawn or discharged, and from any
114 judgment entered in the proceeding, notwithstanding the
115 provisions of s. 695.01, as if such person had no actual or
116 constructive notice of the proceeding or of the claims made
117 therein or the documents forming the causes of action against
118 the property in the proceeding.

119 (d) Except for the interest of persons in possession or
120 easements of use, the recording of such notice of lis pendens,
121 provided that during the pendency of the proceeding it has not
122 expired pursuant to subsection (2) or been withdrawn or
123 discharged, constitutes a bar to the enforcement against the
124 property described in the notice of all interests and liens,
125 including, but not limited to, federal tax liens and levies,
126 unrecorded at the time of recording the notice unless the holder
127 of any such unrecorded interest or lien intervenes in such



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proceedings within 30 days after the recording of the notice. If the holder of any such unrecorded interest or lien does not intervene in the proceedings and if such proceedings are prosecuted to a judicial sale of the property described in the notice, the property shall be forever discharged from all such unrecorded interests and liens. A valid recorded notice of lis pendens of such proceedings prosecuted to a judicial sale remains in effect through the recording of any instrument transferring title to the property pursuant to the final judgment unless it expires, is withdrawn, or it is otherwise discharged. If the notice of lis pendens expires or is withdrawn or discharged, the expiration, withdrawal, or discharge of the notice does not affect the validity of any unrecorded interest or lien.

Section 7. The changes made by this act to s. 48.23, Florida Statutes, are intended to clarify existing law and shall apply to actions pending on the effective date of this act.

Section 8. Paragraph (a) of subsection (2) of section 48.27, Florida Statutes, is amended to read:

48.27 Certified process servers.—

(2)(a) The addition of a person's name to the list authorizes him or her to serve ~~initial~~ nonenforceable civil process on a person found within the circuit where the process server is certified when a civil action is ~~has been~~ filed against such person in the circuit court or in a county court in the state. Upon filing an action in circuit or county court, a person may select from the list for the circuit where the process is to be served one or more certified process servers to serve ~~initial~~ nonenforceable civil process.



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Section 9. This act shall take effect upon becoming a law.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to judicial process; amending s.
48.021, F.S.; revising authority of special process
servers; revising a cross-reference; requiring that
civil witness subpoenas be served by certain persons;
amending s. 48.031, F.S.; revising requirements for
substituted service on the spouse of the person to be
served; revising requirements for documenting service
of process; conforming terminology; amending s.
48.062, F.S.; revising requirements for service on
limited liability companies; amending s. 48.194, F.S.;
revising provisions specifying who may serve process
outside of the state; revising requirements for
documenting that service has been properly made
outside the state; amending s. 48.21, F.S.; revising
requirements for return-of-service forms; authorizing
certain persons to electronically sign return-of-
service forms; amending s. 48.23, F.S.; providing that
a person who acquires for a value a lien on property
during the course of specified legal actions takes
such lien free of claims in certain circumstances;
specifying the effect of a valid, recorded notice of
lis pendens in certain circumstances involving a



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186 judicial sale; providing applicability; amending s.
187 48.27, F.S.; revising authority of certified process
188 servers; conforming terminology; providing an
189 effective date.