

ASSEMBLY THIRD READING  
AB 2042 (Kalra)  
As Amended March 16, 2026  
Majority vote

## SUMMARY

Makes technical amendments and non-substantive changes to clarify specified provisions of the Service of Process Accountability, Reform, and Equity (SPARE) Act.

### Major Provisions

- 1) Clarifies that a party that was not served in accordance with the SPARE Act may seek dismissal of a case, as permitted by law.
- 2) Clarifies the bill applies to proof of service filed after January 1, 2027.
- 3) Clarifies that nothing in the SPARE Act alters a court's existing authority to adjudicate a motion made regarding mistaken pleadings, or otherwise to vacate or set aside a judgment, with respect to a proof of service filed before January 1, 2027.

## COMMENTS

Improper or fraudulent service of process undermines one of the most basic principles of due process: the right of a defendant to receive service and be heard. When service is invalid, defendants are effectively stripped of their rights, unable to defend themselves or their property in court, leading to judgments without their knowledge, participation, or consent. The California Supreme Court has recognized the systemic nature of this injustice, particularly in debt collection and unlawful detainer actions, where improper service is so widespread it has earned the name "sewer service" – so denominated because the "server throws the documents 'down the sewer' and then falsifies its affidavit of service." (*California Capital Ins. Co. v. Hoehn* (2024) 17 Cal.5th 207, 217, quoting Fed. Trade Com., *Repairing a Broken System: Protecting Consumers in Debt Collection Litigation and Arbitration* (July 2010) p. 8, fn. 22, <https://www.ftc.gov/sites/default/files/documents/reports/federal-trade-commission-bureau-consumer-protection-staff-report-repairing-broken-system-protecting/debtcollectionreport.pdf>.)

Because of the scale and impact of fraudulent service, the Legislature enacted AB 747 (Kalra) Chapter. 563, Statutes. 2025, to address this "sewer service" problem. Among other things, the bill strengthened procedural protections for defendants by increasing accountability for process servers, and enhanced post-judgment relief when parties are unlawfully served. However, since the bill's passage, stakeholders have suggested technical amendments to clarify the bill's intent and existing law. This bill has been drafted to address those concerns and ensure the true intent of the SPARE Act is achieved.

*This bill* addresses stakeholder concerns in three ways. First, there were concerns that the SPARE Act created a new basis for dismissal in civil cases where a party was improperly served. Specifically, stakeholders opined that the Act could suggest that parties could seek dismissal of a case for improper service alone, which is contrary to the author's original intent. The bill addresses this issue by clarifying that an improperly served party may serve a motion to set aside or vacate the default or default judgment and for leave to defend the action or *for dismissal as permitted by law*. In other words, improperly served parties seeking to vacate or set aside a

default judgment can move to dismiss the case on its merits, just like any other properly served party.

Second, the bill clarifies that the SPARE Act's provisions related to how an improperly served party may obtain relief after a default or default judgment apply to proofs of service filed on or after January 1, 2027.

Finally, bill clarifies that the SPARE Act did not alter existing law under the Fair Debt Buying Practices Act with respect to lawsuits that are lawfully served. Currently, the Fair Debt Buying Practices Act allows a defendant, in a debt collection suit brought by debt-buyer, to file a motion to set aside default or default judgment and for leave to defend the action if they did not receive actual notice in time to defend the lawsuit. (Civil Code Section 1788.61 (a).) This bill would clarify that a defendant who did not receive actual notice may still do so even if the service of the summons of the action was lawfully affected.

### **According to the Author**

Proper service of summons and complaints is a fundamental requirement of due process and ensures defendants are notified of a claim against them so they can properly prepare a defense. To address concerns around fraudulent service, the Legislature passed AB 747, which modernized and standardized service of process by requiring evidence of personal and substitute service, defining reasonable diligence when attempting personal service, and clarifying the timing and method of challenging defective service.

However, input from stakeholders since the bill's passage has suggested that clarifying changes are needed. As such, AB 2042 provides clearer guidance to the courts as it relates to the implementation of AB 747 (Kalra, Chapter 563, Statutes of 2025). Specifically, the bill clarifies AB 747 does not create a new basis for dismissal upon the vacating or setting aside of a default judgment, does not alter a court's existing authority with respect to cases filed before January 1, 2027, and does not alter the Fair Debt Buying Practices Act with respect to lawsuits that were lawfully served.

### **Arguments in Support**

This bill is supported by the California Low-Income Consumer Coalition. The Coalition writes:

Last year's SPARE Act addressed the pernicious and long-standing problem of fraudulent service of process, a practice that contributes to over 90% of debt collection defendants not responding to lawsuits against them. The Act created a clear standard for effecting and proving lawful service and codified California appellate case law that allows a Defendant to challenge at any time a judgment obtained without proper service (i.e., there is no time limit on when a person can ask a court to vacate a judgment obtained through unlawful service of process). The Act also codified existing case law that clarifies the procedure for defendants to follow when seeking to vacate judgments against them in cases when they were never served with the lawsuit.

AB 2042 specifies that AB 747's procedure for defendants to vacate judgments obtained without lawful services applies only to proofs of service filed after the effective date of AB 747 (January 1, 2027).

AB 2042 also includes amendments designed to facilitate implementation of the bill by the Judicial Council of California.

This bill also enjoys the support of the California Apartment Association, who similarly state that AB 2042 "makes clear in the law that a party who was not served with a summons and complaint in accordance with the law may file and serve a motion to set aside or vacate the default or default judgment and for leave to defend the action or move for dismissal as permitted by law." The Association further posits that the bill "ensure that the appropriate remedy for improper service is to set aside the default or quash service—not to dismiss the case outright."

**Arguments in Opposition**

None on file

**FISCAL COMMENTS**

None

**VOTES****ASM JUDICIARY: 12-0-0**

**YES:** Kalra, Macedo, Lee, Bryan, Connolly, Dixon, Harabedian, Pacheco, Papan, Sanchez, Stefani, Zbur

**UPDATED**

VERSION: March 16, 2026

CONSULTANT: Kristian Wright and Manuela Boucher / JUD. / (916) 319-2334 FN: 0002336