

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 2042 (Kalra)
Version: June 10, 2026
Hearing Date: June 23, 2026
Fiscal: No
Urgency: No
ME

SUBJECT

Civil actions: setting aside default or default judgment

DIGEST

This bill clarifies provisions of the law that were codified through AB 747 (Kalra, Ch. 563, Stats. 2025).

EXECUTIVE SUMMARY

The provisions of AB 747 (Kalra, Ch. 563, Stats. 2025) go into effect on January 1, 2027. This Committee passed AB 747 last year and the bill was signed into law by the Governor. The bill strengthened procedural protections for defendants by increasing accountability for process servers, clarifying the standard for substituted service, and enhancing access to post-judgment relief when service was unlawful.

The author now brings AB 2042, at the request of stakeholders, to provide clarifying amendments to the provisions that go into effect in January 2027.

This bill is sponsored by the California Low Income Consumer Coalition and supported by the California Apartment Association. No timely opposition has been received by the Committee. Should this bill be approved by this Committee, it will then be referred to the Senate Appropriations Committee.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the Service of Process Accountability, Reform, and Equity Act (SPARE Act), which provides that the registry of process servers be publicly available; sets a clear standard for what qualifies as “reasonable diligence” for several service statutes, including attempting personal delivery of the summons,

in good faith, on at least three occasions on three different days at three different times; requires specific corroborating evidence that service was in fact effectuated in the manner required; and authorizes a party to an action to bring a motion to vacate a default judgment that is void for lack of proper service at any time after entry of the judgment. (Code Civ. Proc. §§ 415.20, 415.45, 417.10, 417.40, 473, 473.2, 473.5, 585.)

- 2) Permits a defendant in a debt enforcement action, brought by a buyer of consumer debt who has obtained a default or default judgment against the defendant, to file a motion to set aside the default or default judgment and for leave to defend the action if the defendant did not receive actual notice of the action in time to defend against it. Such a motion is required to be filed within 6 years after entry of the default or default judgment or 180 days after the first actual notice of the action, or, in the case of identity theft or mistaken identity, within a reasonable amount of time but in no case later than 180 days after the first actual notice of the action. (Civ. Code § 1788.61.)

This bill:

- 1) Clarifies in Civil Code Section 1788.61, described in 2), above, that a defendant who did not receive actual notice may file a motion to set aside and for leave to defend even if the service of summons of the action was lawfully effected.
- 2) Clarifies that nothing in Code of Civil Procedure Section 473.2 (Section 473.2) alters a court's existing authority to adjudicate a motion made pursuant to Code of Civil Procedure Section 473, or otherwise to vacate or set aside a judgement, with respect to a proof of service filed before January 1, 2027.
- 3) Specifies Section 473.2 applies to service attempted or completed on or after January 1, 2027.
- 4) Clarifies in Section 473.2 that a party who is not served with a summons and complaint in accordance with this chapter may move for dismissal as permitted by existing law.

COMMENTS

1. Stated need for the bill

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.

2. AB 747 was enacted last year and is being clarified through AB 2042

Ensuring defendants are provided actual notice of proceedings before their rights are impaired is a foundational core of due process protections. However, there was growing concern that a growing number of civil cases, especially in the consumer debt collection and unlawful detainer arenas, were being decided by default judgment after faulty or fraudulent service.

The Legislature passed AB 747 to bolster the applicable laws to provide more protections for these Californians. AB 747 required the registry of process servers to be publicly available. In addition, that bill set a clear standard for what qualifies as "reasonable diligence" for several service statutes. This included attempting personal delivery of the summons, in good faith, on at least three occasions on three different days at three different times. AB 747 further required specific corroborating evidence that service was in fact effectuated in the manner required. Finally, following a recent California Supreme Court decision, AB 747 authorized a party to an action to bring a motion to vacate a default judgment that is void for lack of proper service at any time after entry of the judgment.

This bill addresses stakeholder issues. The Assembly Judiciary Committee analysis for AB 2042 includes, for example, that:

[T]here 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.”

The analysis also explained:

[The 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).)

3. Support

The California Low-Income Consumer Coalition, sponsors of this bill, writes the following:

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.

The California Apartment Association is in support of the bill and states that the bill “will ensure that the appropriate remedy for improper service is to set aside the default or quash service – not to dismiss the case outright. Allowing dismissal invites delay tactics, wastes valuable court time, and increases costs to the judicial system.”

SUPPORT

California Low Income Consumer Coalition (sponsor)
California Apartment Association

OPPOSITION

None known

RELATED LEGISLATION

Pending legislation: None known.

Prior legislation: AB 747 (Kalra, Ch. 563, Stats. 2025) *see* Comment 2.

PRIOR VOTES:

Assembly Floor (Ayes 76, Noes 0)
Assembly Judiciary Committee (Ayes 12, Noes 0)
