
THIRD READING

Bill No: AB 747
Author: Kalra (D)
Amended: 9/5/25 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-1, 7/15/25

AYES: Umberg, Allen, Arreguín, Ashby, Caballero, Durazo, Laird, Stern, Wahab,
Weber Pierson, Wiener

NOES: Niello

NO VOTE RECORDED: Valladares

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/29/25

AYES: Caballero, Cabaldon, Grayson, Richardson, Wahab

NOES: Seyarto, Dahle

ASSEMBLY FLOOR: 59-13, 6/4/25 - See last page for vote

SUBJECT: Service of Process Accountability, Reform and Equity (SPARE) Act

SOURCE: California Low Income Consumer Coalition

DIGEST: This bill strengthens 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.

Senate Floor amendments of 9/5/25 delay implementation, remove changes to Code of Civil Procedure section 1162, and make a series of clarifying changes.

ANALYSIS:

Existing law:

- 1) Requires any individual who serves more than 10 legal documents for compensation in a calendar year, as well as any business entity engaged in service of process for compensation, to register as a process server with the

county clerk in the county where they reside or maintain their principal place of business. (Business and Professions (Bus. & Prof.) Code § 22350(a).)

- 2) Requires the county clerk to maintain a register of process servers, assign registration numbers, and issue identification cards, including a temporary 120-day card pending background check clearance; upon timely renewal in the same county without a three-year lapse, the original registration number is retained. (Bus. & Prof. Code § 22355(a).)
- 3) Requires that any proof of service signed by a registered process server must include the county of registration and the registration number assigned, as provided. (Bus. & Prof. Code § 22360.)
- 4) Permits substitute service of a summons and complaint, when personal delivery cannot be made with reasonable diligence, by leaving the documents at the person's residence, business, or usual mailing address with a competent adult and subsequently mailing them to the same address, with service deemed complete on the 10th day after mailing. (Code of Civil Procedure (Code Civ. Proc.) § 415.20(b).)
- 5) Provides that a court may authorize service of a summons by posting in an unlawful detainer action if an affidavit shows that personal service cannot be accomplished with reasonable diligence by any method other than publication, and that either a cause of action exists or the defendant has or claims an interest in the property. (Code Civ. Proc. § 415.45(a).)
- 6) Provides that when service of a summons is made, as required, proof of service must be made by affidavit of the server stating the time, place, and manner of service, facts showing service was properly made, the name and title or capacity of the person served, and whether the required notice appeared on the summons. (Code Civ. Proc. § 417.10(a).)
- 7) Requires that any proof of service signed by a registered process server, or by the server's employee or independent contractor, must state the county of registration and the registration number assigned it under law. (Code Civ. Proc. § 417.40.)
- 8) Permits the court to relieve a party from a judgment, dismissal, order, or other proceeding taken against them due to mistake, inadvertence, surprise, or excusable neglect, provided the motion is filed within a reasonable time not

exceeding six months, or within 90 days if notice of entry is properly served; and requires the court to vacate defaults and default judgments based on an attorney's affidavit of fault unless the court finds the attorney was not at fault. (Code Civ. Proc. § 473(b).)

- 9) Permits a party against whom a default or default judgment has been entered, and who did not receive actual notice in time to defend, to file a motion to set aside the default and seek leave to defend, so long as the motion is made within a reasonable time not exceeding the earlier of two years after entry of judgment or 180 days after service of written notice of the default or judgment. If the court finds the motion timely and the lack of notice was not caused by avoidance of service or inexcusable neglect, it may set aside the default or judgment on just terms and permit the party to defend the action. (Code Civ. Proc. § 473.5.)
- 10) Provides that in all actions other than those arising from contract or judgment for recovery of money or damages only, where the defendant has been served (other than by publication) and has failed to respond within the time allowed, the clerk must enter the default upon application by the plaintiff, and the plaintiff may then apply to the court for judgment. (Code Civ. Proc. § 585(b).)
- 11) Requires that every application to enter default include, or be accompanied by, an affidavit stating whether the action is subject to certain provisions of the Civil Code, as provided. (Code Civ. Proc. § 585.5(a).)
- 12) Provides that if a default or default judgment is entered without compliance, as provided, the defendant may move to set it aside and seek leave to defend in the proper court, provided the motion is filed within 60 days of receiving notice of enforcement efforts. (Code Civ. Proc. § 585.5(b).)
- 13) Provides that, except as specified for commercial tenants, the notices required for unlawful detainer actions may be served by personal delivery to the tenant, by substituted service at the tenant's residence or business with mailing, or by posting and mailing if those addresses or suitable persons cannot be found. (Code Civ. Proc. § 1162 (a).)

This bill:

- 1) Requires the county clerk register of process servers to be publicly available.

- 2) Provides that, for purposes of effectuating substitute service in specified civil cases, a party shows reasonable diligence by attempting personal delivery of the summons and complaint, in good faith, on at least three occasions on three different days at three different times, as provided.
- 3) Updates the requirements for proof of service of summons.
- 4) Establishes that a party to an action may bring a motion to vacate a default judgment that is void for lack of proper service at any time after entry of the judgment. Further provides that a party that was never served in accordance with the above requirements may serve and file a motion to set aside the default or default judgment and for leave to defend the action or to move for dismissal. A party moving to set aside or vacate a default or a default judgment shall proffer evidence, through a sworn affidavit or otherwise, that service was not lawfully effected. Proffering evidence that service was not lawfully effected rebuts a presumption of the facts stated in the process server's return. If a process server files their return before the operative date of this section, the absence of the photograph required by Section 417.10 shall not by itself render the proof of service unlawful or insufficient. In responding to a motion that is filed pursuant to the above and that complies with the applicable requirements, the party seeking a default or default judgment has the burden of proving by a preponderance of the evidence that service of the summons and complaint was lawful. In deciding such a motion, the court shall take evidence as to the lawfulness of the service of process and shall not deny a reasonable request by either party to conduct a hearing and permit oral testimony.
- 5) Makes technical and conforming changes.
- 6) Delays the effective date of these changes until January 1, 2027, as provided.

Background

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

This bill bolsters the applicable laws to provide more protections for these Californians. This bill requires the registry of process servers to be publicly

available. In addition, this bill sets a clear standard for what qualifies as “reasonable diligence” for several service statutes. This includes attempting personal delivery of the summons, in good faith, on at least three occasions on three different days at three different times. This bill further requires specific corroborating evidence that service was in fact effectuated in the manner required. Finally, following a recent California Supreme Court decision, this bill 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. This bill is sponsored by the California Low Income Consumer Coalition. It is supported by a number of legal services organizations. The bill is opposed by various industry associations, including the California Association of Legal Support Professionals, and the Riverside County Sheriff’s Office.

Comments

According to the author:

Proper service of summons and complaints are a fundamental requirement of due process and ensure defendants are notified of a claim against them so they can properly prepare a defense. Unfortunately, fraudulent and improper service of process has particularly plagued debt collection and unlawful detainer cases, which compose about half of the civil docket in California’s courts. This can result in default judgements that can devastate defendants who may have their wages garnished or face notices of imminent eviction over a lawsuit they were never notified of and proceeded without their participation or consent.

AB 747, the Service of Process Accountability, Reform, and Equity (SPARE) Act, will protect against fraudulent or improper process servers by standardizing the service of process. Specifically, the bill requires evidence of personal and substitute service, specifies what constitutes reasonable diligence in attempting personal service, and clarifies the timing and method of challenging defective service.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- Possible costs (local funds, General Fund) of an unknown but potentially significant amount to each county clerk’s office that must make publicly available its register of process servers. County clerks may incur workload

costs that are not covered by the existing fee structure and may seek state reimbursement. General Fund costs will depend on whether the duties imposed on county clerks by this bill constitute a reimbursable state mandate, as determined by the Commission on State Mandates.

- Unknown, potentially significant costs to the state funded trial court system (Trial Court Trust Fund, General Fund) to adjudicate motion to quash service or to set aside or vacate a default or default judgment. This bill may lead to additional filings that otherwise would not have been commenced, with attendant workload and resource costs to the court. The fiscal impact of this bill to the courts will depend on many unknowns, including the number of motions filed and the factors unique to each case. An eight-hour court day costs approximately \$10,500 in staff in workload. If court days exceed 10, costs to the trial courts could reach hundreds of thousands of dollars. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources and to increase the amount appropriated to backfill for trial court operations.

SUPPORT: (Verified 9/8/25)

California Low-Income Consumer Coalition (source)

Bet Tzedek Legal Services

California Rural Legal Assistance Foundation

Cameo Network

Centro Legal De LA Raza

Community Legal Services in East Palo Alto

Contra Costa Senior Legal Services

East Bay Community Law Center

Elder Law & Advocacy

Legal Aid of Marin

Legal Aid Society of San Bernardino

Legal Assistance for the Elderly

National Consumer Law Center, INC.

Onejustice

Open Door Legal

Public Counsel

Public Law Center

Responsible Business Lending Coalition

Riverside Legal Aid

Santa Clara Law

Watsonville Law Center

OPPOSITION: (Verified 9/8/25)

California Association of Collectors, Inc.
California Association of Legal Support Professionals
California Bankers Association
California Creditors Bar Association
Receivables Management Association International
Riverside County Sheriff's Office
You've Been Served

ARGUMENTS IN SUPPORT:

The California Low Income Consumer Coalition, and its constituent organizations, including Bet Tzedek Legal Services, write:

Californians face hundreds of thousands of debt collection lawsuits every year. In 90% of cases, consumers don't appear in court to defend themselves. The extraordinarily high rate of default is in substantial part the result of fraudulent or improper service of process – as the California Supreme Court just confirmed in *California Capital Insurance Co. v. Hoehn* (Nov. 2024). The result: every year vast numbers of Californians have their bank accounts and wages seized – even though they were never informed about the debt collection suit in the first place. Because Californians sued over debt are disproportionately people of color and low-income, the epidemic of fraudulent service of process poses a significant barrier to equal access to justice. AB 747 will help to fix the epidemic of falsified service of process.

ARGUMENTS IN OPPOSITION:

The California Association of Legal Support Professionals writes:

California law and constitutional guarantees of due process require that in order for a party to be brought within the jurisdiction of the court, the party receive formal notice that the legal process has begun. (*Mullane v. Central Hanover Bank & Trust Co.* (1950) 339 U.S. 306, 314.) Registered process servers, comprising professional attorney service companies and individuals, have been regulated since the

1970s and collectively serve tens of thousands of documents every day. AB 747, as currently written, fundamentally alters the process of serving legal documents, defines diligence in ways that do not make sense in general unlimited civil actions, and undermines a longstanding principle that documents provided to the court by registered process servers are presumed to be accurate unless shown otherwise.

ASSEMBLY FLOOR: 59-13, 6/4/25

AYES: Addis, Aguiar-Curry, Ahrens, Alvarez, Arambula, Ávila Farías, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Elhawary, Fong, Gabriel, Garcia, Gipson, Mark González, Haney, Harabedian, Hart, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Valencia, Ward, Wicks, Wilson, Zbur, Rivas

NOES: Alanis, Castillo, Davies, DeMaio, Ellis, Gallagher, Hadwick, Hoover, Macedo, Patterson, Sanchez, Tangipa, Wallis

NO VOTE RECORDED: Bains, Chen, Dixon, Flora, Jeff Gonzalez, Lackey, Ta

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
9/8/25 21:21:17

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