

## CONCURRENCE IN SENATE AMENDMENTS

AB 747 (Kalra)

As Amended September 5, 2025

Majority vote

**SUMMARY**

Strengthens procedural protections for defendants by increasing accountability for process servers, clarifying the standard for substituted service, requiring photographic documentation of service, and enhancing access to post-judgment relief when service was unlawful.

**Major Provisions**

- 1) Declares that a fundamental requirement of due process is proper service of the summons and complaint so that defendants in lawsuits have notice of the claims against them and makes related legislative findings.
- 2) Clarifies that the county clerk must maintain a publicly available register of process servers, along with their county-assigned numbers.
- 3) Provides that, for purposes of *effecting* substitute service, 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 and that at least one of the attempts must be made at the dwelling house or usual place of abode of the person to be served.
- 4) *Establishes that in an action to collect consumer debt, at least one of the service attempts must be made at the dwelling place or usual place of abode of the person to be served, provided that the dwelling place or usual place of abode is known or could be determined with reasonable effort.*
- 5) Requires that proof of service of summons, *except service by mail*, must include one or more photographs of *each effected or attempted service of the summons and complaint* containing a readable stamp that establishes and automatically records the date, time, and global positioning system (GPS) coordinates indicating the location of *effected or attempted* service. *The photograph must be taken as closely, as practicable, to the time of effecting or attempting service.*
- 6) *Provides that if no GPS, cellular, or equivalent signal is available at the time and place of an effected or attempted service, the process server must provide a detailed statement on or with the proof of service explaining the reason for the lack of a readable GPS or equivalent stamp on the photograph.*
- 7) Provides that if the site of the *effected or attempted* service is a dwelling place or abode, at least one of the photographs required in 5) must show the door of the house, apartment or other dwelling place where service was *effected*; and clarifies that the photograph of the door cannot be an entrance to a common area or anything other than the specific abode or place of the person to be served.

- 8) Provides that if the site of the *effected or attempted* service is a place of business, at least one of the photographs required in 5) must show the door of the specific office or other place of business where service was *effected*.
- 9) *Clarifies that for purposes of complying with 7) or 8), if the door is not reasonably accessible and the process server takes a photograph of the entrance instead, the process server must explain with specificity on the proof of service why the door was not accessible, but that a photograph is not required if it would have compromised their safety, as detailed in a statement.*
- 10) *Clarifies a process server's return filed before the effective date of this bill, the absence of the photograph does by itself render the proof of service unlawful or insufficient.*
- 11) 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.
- 12) Further provides that a party that was never served in accordance with the above requirements may serve and file a motion to set aside *or vacate* the default or default judgment and for leave to defend the action *or to move for dismissal*.
- 13) *Establishes that a party moving to set aside or vacate a default must proffer evidence that service was not lawfully effected, which rebuts a presumption of the facts stated in the process server's return.*
- 14) *Provides that, in responding to a motion to set aside or vacate a default for unlawful service, the party seeking the default has the burden of proving by a preponderance of the evidence that service of the summons and complaint was lawful.*
- 15) Makes technical and conforming changes.
- 16) *Delays implementation until January 1, 2027.*

**Senate Amendments**

*Clarify requirements for service of process, clarify the process for vacating a default based on unlawful service of process, and delays implementation of the bill.*

**COMMENTS**

This bill addresses a longstanding and pervasive problem in California's civil justice system: improper or fraudulent service of process, often referred to as "sewer service." This practice undermines a defendant's constitutional right to notice and an opportunity to be heard, resulting in default judgments entered without the defendant's knowledge or participation. The consequences—wage garnishments, bank levies, and evictions—are especially harsh in high-volume areas like debt collection and unlawful detainer cases, where vulnerable Californians are disproportionately affected. This bill combats that threat through major reforms:

- 1) *Public Registry of Process Servers.* Clarifies that county clerks must maintain a publicly available register of process servers, along with their county-assigned numbers.
- 2) *Requires GPS-Stamped Photographic Evidence of Service.* To modernize evidentiary standards and deter falsified service declarations, the bill requires all servers to attach

photographic proof to their proofs of service, *except service by mail*. This includes: *one or more photographs of each effected or attempted service with a readable stamp automatically recording the date, time, and GPS coordinates. At least one photograph must show the specific door of the dwelling or business served; if the door is not reasonably accessible, the server must explain why in the proof of service*. These standards align legal service practices with common delivery verification methods used by commercial couriers (think: Amazon or DoorDash).

- 3) *Codifies Minimum "Reasonable Diligence" Requirements*. Before a plaintiff may rely on substituted service (e.g., leaving papers with a household member or co-worker), existing law requires "reasonable diligence" in attempting personal service. This bill codifies that standard: at least three attempts on different days, at different times, including at least one attempt at the defendant's residence. This creates a predictable evidentiary benchmark and prevents premature or bad-faith substituted service.
- 4) *Strengthens Procedures for Challenging Default Judgments*. This bill aligns statutory law with the California Supreme Court's ruling in *California Capital Ins. Co. v. Hoehn* (2024), which held that there is no time limit to challenge a void judgment based on lack of service. The bill codifies that defendants may file a motion to vacate a default judgment "at any time" if it was entered without lawful service. *Once the defendant presents evidence of non-service, the presumption of validity in the process server's return is rebutted, and the burden shifts to the plaintiff to prove lawful service by a preponderance of the evidence. Courts must hold evidentiary hearings upon reasonable request by either party.*

### **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.

### **Arguments in Support**

The bill's sponsor, the California Low-Income Consumer Coalition, explains the need for this measure:

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...AB 747 will prevent tens of thousands of California families from having their wages and bank accounts levied as a result of lawsuits they have never heard of. This measure is long overdue.

### **Arguments in Opposition**

The California Association of *Collectors* opposes this measure:

*AB 747 seeks to define how a process server must diligently attempt to personally serve the named individual before substitute and posting service is allowed. The bill defines "reasonable diligence" as an attempt at least three times, on three different days, at three different times, and one of those*

*attempts must be at a residence. We have been told this is based upon local rules in San Francisco, but this language is too narrow and fails to account for the unique circumstances involved in many service attempts. Additionally, in our experience, judges and various courts' local rules differ in their interpretation of how a server obtains "diligence." These differences are meant to address the varying circumstances encountered by process servers. As currently written, the definition of "reasonable diligence" in the bill is too narrow and leaves no discretion to the judges or court commissioners presiding over the cases.*

*The Riverside County Sheriff's Office also opposes this bill:*

#### *Overbroad Scope*

- 1) Bill is not limited to Registered Process Servers.*
- 2) Sheriffs' Offices and even private individuals would be forced to comply.*

#### *Unrealistic Service Requirements*

- 3) Requires three separate service attempts on different days/times.*
- 4) Mandates at least one attempt at a "home address," even when the petitioner has not provided one.*
- 5) Sheriffs' Offices serve only at the address provided. We cannot verify or determine whether it is a "home address."*

#### *Costly & Inefficient*

- 6) Requires GPS-stamped photos attached to every proof of service.*
- 7) Would demand new cameras, printers, storage, and staff time.*
- 8) Proofs of service already carry a sworn deputy's signature under penalty of perjury.*
- 9) Deputies' body-worn cameras already provide geo-tagging and accountability.*
- 10) Publicly funded agencies cannot recoup these costs; added expenses impact public funds.*

*Diverts Deputies from Public Safety*

11) *Deputies may be subpoenaed more frequently to defend proofs of service.*

12) *Pulls sworn personnel away from patrol and core law enforcement duties.*

**FISCAL COMMENTS**

According to the Senate Appropriations Committee:

- 1) 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.
- 2) 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.

**VOTES:****ASM JUDICIARY: 9-0-3**

**YES:** Kalra, Wicks, Bryan, Connolly, Harabedian, Pacheco, Papan, Stefani, Zbur

**ABS, ABST OR NV:** Dixon, Sanchez, Tangipa

**ASM APPROPRIATIONS: 11-1-3**

**YES:** Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Hart, Pacheco, Pellerin, Solache

**NO:** Tangipa

**ABS, ABST OR NV:** Sanchez, Dixon, Ta

**ASSEMBLY FLOOR: 59-13-7**

**YES:** 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

**NO:** Alanis, Castillo, Davies, DeMaio, Ellis, Gallagher, Hadwick, Hoover, Macedo, Patterson, Sanchez, Tangipa, Wallis

**ABS, ABST OR NV:** Bains, Chen, Dixon, Flora, Jeff Gonzalez, Lackey, Ta

## **UPDATED**

VERSION: September 5, 2025

CONSULTANT: Shiran Zohar / JUD. / (916) 319-2334

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