
UNFINISHED BUSINESS

Bill No: SB 85
Author: Umberg (D)
Amended: 6/25/25
Vote: 21

SENATE JUDICIARY COMMITTEE: 12-0, 5/6/25

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

NO VOTE RECORDED: Valladares

SENATE FLOOR: 34-0, 5/15/25 (Consent)

AYES: Allen, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Hurtado, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Pérez, Richardson, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

NO VOTE RECORDED: Alvarado-Gil, Cervantes, Grove, Padilla, Reyes, Rubio

ASSEMBLY FLOOR: 78-0, 6/30/25 (Consent) - See last page for vote

SUBJECT: Civil actions: service of summons

SOURCE: Author

DIGEST: This bill allows for alternative service of a summons in a civil case where the plaintiff is unable to effect service using prescribed methods, despite reasonable diligence, including by email or other electronic technology, except in an action against a governmental entity or an agent or employee thereof.

Assembly Amendments Require a plaintiff to be unable to effect service by any methods provided for by statute and to set forth facts detailing these attempts before using the alternative means provided for by this bill.

ANALYSIS:

Existing law:

- 1) Holds that parties whose rights are to be effected have a procedural due process right to be heard, and in order that they be heard, they must have notice of the legal proceeding against them. (*Fuentes v. Shevin* (1972), 407 U.S. 67, 80.)
- 2) Requires that notice to a party whose interests are to be effected in a legal proceeding be “reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” (*Mullane v. Central Hanover Bank & Trust, Co.* (1950), 339 U.S. 306, 314.)
- 3) Where no provision is made in law for the service of summons, the court in which the action is pending may direct that summons be served in a manner which is reasonably calculated to give actual notice to the party to be served and that proof of such service be made as prescribed by the court. (Code of Civil Procedure (Code Civ. Proc.) § 413.30.)
- 4) Requires a summons, except as otherwise provided by statute, to be served on a person:
 - a) Within this state, as provided.
 - b) Outside this state but within the United States, as provided, or as prescribed by the law of the place where the person is served.
 - c) Outside the United States, as provided, or as directed by the court in which the action is pending, or, if the court before or after service finds that the service is reasonably calculated to give actual notice, as prescribed by the law of the place where the person is served or as directed by the foreign authority in response to a letter rogatory. (Code Civ. Proc. § 413.10.)
- 5) Provides that a summons may be served by personal delivery of a copy of the summons and the complaint on the person to be served, and that personal service is deemed complete at the time of such delivery. Requires that the date of the personal service must be affixed to the face of the copy at the time of delivery. (Code Civ. Proc. § 415.10.)

- 6) Provides that, in lieu of personal delivery of a copy of the summons and complaint to a corporate or public entity, as defined, the summons may be served by leaving a copy during usual office hours at their office, or if no physical address is known, at their usual mailing address, other than a United States Postal Service post office box, with the person apparently in charge of the office, and subsequently mailing a copy of the summons and complaint by first-class mail with prepaid postage to the place where the summons and complaint were left. If the summons is left at the mailing address, it must be left with a person who is at least 18 years old, and they must be informed of the contents of the summons. Substitute service through these methods is deemed complete on the tenth day after the copy is mailed. (Code Civ. Proc. § 415.20(a).)
- 7) Provides that, if a copy of a summons and complaint cannot, with reasonable diligence, be personally delivered to an individual to be served, a summons may be served by leaving a copy of the summons and complaint at the person's dwelling, usual place of abode, usual place of business, or usual mailing address other than a United States Postal Service post office box, in the presence of a competent member of the household or person apparently in charge of the office, place of business, or usual mailing address, who is at least 18 years old. The competent member of the household or person apparently in charge must be informed of the contents, and a copy of the summons and complaint must thereafter be mailed by first-class mail, with prepaid postage, to the person to be served at the address where the summons were left. Service in this manner is deemed complete on the tenth day after mailing. (Code Civ. Proc. § 415.20(b).)
- 8) Provides that, if the only address reasonably known for the person to be served is a private mailbox obtained through a commercial mail receiving agency, service of process may be effected on the first delivery by leaving a copy of the summons and complaint with the commercial mail receiving agency, as prescribed. (Code Civ. Proc. § 415.20(c).)
- 9) Provides that, if a summons is to be served by mail, a copy of the summons and complaint must be mailed by first-class mail or airmail, with prepaid postage, with two copies of a specified notice, and with a prepaid return envelope for acknowledgement of receipt of summons. Specifies that service by this manner is deemed complete on the date of the written acknowledgement of receipt, if the acknowledgement is returned to the person sending service. (Code Civ. Proc. § 415.30.)

This bill:

- 1) Provides that if a plaintiff, despite exercising reasonable diligence, has been unable to effect service of the summons by any of the methods authorized by law, as provided, the court may direct that summons be served in a manner that is reasonably calculated to give actual notice to the party to be served, including by email or other electronic technology.
- 2) Requires a plaintiff seeking to establish reasonable diligence hereunder to set forth facts detailing all attempts to serve the defendant by each of the methods prescribed by statute, including facts demonstrating why each method was unsuccessful at every address or location where the defendant is likely to be found.
- 3) Provides that this section does not apply in an action against a governmental entity or an agent or employee of the governmental entity who has been sued in an official or individual capacity.

Background

Current law provides that where no provision is made in law for the service of summons, the court in which the action is pending may direct that summons be served in a manner which is reasonably calculated to give actual notice to the party to be served. However, concerns have arisen that there are many instances where the prescribed methods are ineffectual in certain circumstances and that more latitude should be provided where alternative methods of service are more likely to result in actual notice to the party to be served.

This bill provides that flexibility. It provides that if a plaintiff, despite exercising reasonable diligence, is unable to effect service of the summons by any method authorized by statute, the court may, upon motion, direct that summons to be served in a manner that is reasonably calculated to give actual notice to the party to be served, including by electronic mail or other electronic technology, and that proof of such service be made as prescribed by the court. A plaintiff seeking to establish reasonable diligence must set forth facts detailing all attempts to serve the defendant by each of the methods prescribed by statute, including facts demonstrating why each method was unsuccessful at every address or location where the defendant is likely to be found. This bill carves out actions against governmental entities or their agents or employees who are sued in an official or individual capacity.

This bill is author-sponsored. It is supported by the Civil Prosecutors Coalition. No timely opposition has been received.

Comments

According to the author:

SB 85 aims to allow a plaintiff alternative means of service through email or electronic means when they, with due diligence, cannot reasonably effect service.

Service is one of the critical first steps in the California judicial process. It is the procedure by which one party in a lawsuit gives notice of legal action to another party in order to exercise jurisdiction over that party and compel them to appear in court. For instance, to affect service, a plaintiff (through a servicer) will deliver a printed court order to the defendant to give them notice of a lawsuit. In order for a party to exercise jurisdiction over another, they must serve the other so as to give them actual notice. While it is in the interest of all parties to act in good faith and accept service, some parties choose to try and evade being served so as to have not been given actual notice.

Under the California Code of Civil Procedure (CCP), courts are only allowed to authorize alternative service “[w]here no provision is made in [the statute] or other law for service of summons”. The California Court of Appeal has interpreted this to only permit alternative service if there is no other procedure authorized under the CCP—even if service under the statutorily authorized procedures are impractical or are ineffective despite a plaintiff’s diligence. See *Searles v. Archangel*, 60 Cal.App.5th 43, 52-55 (2021). Notably, the California Court of Appeal recognized that California law is arguably out of step with other jurisdictions and urged the Legislature and Judicial Council to act.

This is in contrast to states like New York, Texas, and Florida who do allow courts to authorize service of process by alternate means – including by email or other electronic technology – where a plaintiff has been unable to effect service through statutorily prescribed means after due diligence and the alternative service method is reasonably calculated to provide actual notice. On the other hand, California has no “due diligence” equivalent for alternative service.

SB 85 aims to solve this problem by amending the CCP so that after a showing of due diligence, courts may allow email/electronic service as an alternative service method if the plaintiff has been unable to effect service through statutory means.

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

SUPPORT: (Verified 7/8/25)

Civil Prosecutors Coalition

OPPOSITION: (Verified 7/8/25)

None received

ARGUMENTS IN SUPPORT: The Civil Prosecutors Coalition writes:

SB 85 addresses a critical gap in California law. Under current rules, even when a party has made every reasonable effort to serve notice under the Code of Civil Procedure, courts cannot authorize an alternative method—like email—unless no statutory method exists at all. This rigidity was highlighted in the 2021 *Searles v. Archangel* case, where the court acknowledged the limitations of existing law and called on the Legislature to act.

In our own enforcement work, we’ve seen firsthand how these limitations obstruct justice. In San Francisco’s recent high-profile lawsuit against dozens of companies involved in creating and disseminating AI-generated deepfake pornography, our office struggled to serve parties who had no physical location but valid, verified email addresses. If SB 85 had been law at the time, it would have empowered us to reach these actors quickly and directly, ensuring that justice could proceed.

California should not lag behind other states like New York, Texas, and Florida, which already allow for electronic service after due diligence. SB 85 brings our procedures in line with these jurisdictions while preserving fairness and due process.

ASSEMBLY FLOOR: 78-0, 6/30/25

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

NO VOTE RECORDED: Quirk-Silva

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
7/8/25 11:52:03

**** END ****