

By the Committees on Commerce and Tourism; and Judiciary; and  
Senator Powell

577-03438-18

2018904c2

1                   A bill to be entitled  
2       An act relating to judicial process; amending s.  
3       48.021, F.S.; revising authority of special process  
4       servers; revising a cross-reference; requiring that  
5       civil witness subpoenas be served by certain persons;  
6       amending s. 48.031, F.S.; revising requirements for  
7       substituted service on the spouse of the person to be  
8       served; revising requirements for documenting service  
9       of process; conforming terminology; amending s.  
10      48.062, F.S.; revising requirements for service on  
11      limited liability companies; amending s. 48.194, F.S.;  
12      revising provisions specifying who may serve process  
13      outside of the state; revising requirements for  
14      documenting that service has been properly made  
15      outside the state; amending s. 48.21, F.S.; revising  
16      requirements for return-of-service forms; authorizing  
17      certain persons to electronically sign return-of-  
18      service forms; amending s. 48.23, F.S.; providing that  
19      a person who acquires for a value a lien on property  
20      during the course of specified legal actions takes  
21      such lien free of claims in certain circumstances;  
22      specifying the effect of a valid, recorded notice of  
23      lis pendens in certain circumstances involving a  
24      judicial sale; providing applicability; amending s.  
25      48.27, F.S.; revising authority of certified process  
26      servers; conforming terminology; amending s.  
27      316.29545, F.S.; exempting certified process servers  
28      from certain window sunscreening restrictions;  
29      providing an effective date.

577-03438-18

2018904c2

30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 48.021, Florida Statutes, is amended to read:

48.021 Process; by whom served.—

(1) All process shall be served by the sheriff of the county where the person to be served is found, except ~~initial~~ nonenforceable civil process, criminal witness subpoenas, and criminal summonses may be served by a special process server appointed by the sheriff as provided ~~for~~ in this section or by a certified process server as provided ~~for~~ in s. 48.27 ~~ss. 48.25-48.31~~. Civil witness subpoenas shall ~~may~~ be served by any person authorized by rules of civil procedure.

Section 2. Subsections (2) and (5) and paragraph (a) of subsection (6) of section 48.031, Florida Statutes, are amended to read:

48.031 Service of process generally; service of witness subpoenas.—

(2) (a) Substituted ~~Substitute~~ service ~~may be made~~ on the spouse of the person to be served may be made at any place in a ~~the~~ county by an individual authorized under s. 48.021 or s. 48.27 to serve process in that county, if the cause of action is not an adversarial ~~adversary~~ proceeding between the spouse and the person to be served, if the spouse requests such service or the spouse is also a party to the action, and if the spouse and person to be served reside ~~are residing~~ together in the same dwelling, regardless of whether such dwelling is located in the county where substituted service is made.

577-03438-18

2018904c2

59           (b) Substituted ~~Substitute~~ service may be made on an  
60 individual doing business as a sole proprietorship at his or her  
61 place of business, during regular business hours, by serving the  
62 person in charge of the business at the time of service if two  
63 attempts to serve the owner are ~~have been~~ made at the place of  
64 business.

65           (5) A person serving process shall place, on the first page  
66 only of at least one of the processes served, the date and time  
67 of service, his or her initials or signature, and, if  
68 applicable, his or her identification number ~~and initials for~~  
69 ~~all service of process. The person serving process shall list on~~  
70 ~~the return of service form all initial pleadings delivered and~~  
71 ~~served along with the process.~~ The person requesting service or  
72 the person authorized to serve the process shall file the  
73 return-of-service form with the court.

74           (6) (a) If the only address for a person to be served which  
75 is discoverable through public records is a private mailbox, a  
76 virtual office, or an executive office or mini suite,  
77 substituted ~~substitute~~ service may be made by leaving a copy of  
78 the process with the person in charge of the private mailbox,  
79 virtual office, or executive office or mini suite, but only if  
80 the process server determines that the person to be served  
81 maintains a mailbox, a virtual office, or an executive office or  
82 mini suite at that location.

83           Section 3. Subsection (4) of section 48.062, Florida  
84 Statutes, is amended to read:

85           48.062 Service on a limited liability company.—

86           (4) If the address ~~provided~~ for the registered agent,  
87 member, or manager is a residence, a ~~or~~ private mailbox, a

577-03438-18

2018904c2

88 virtual office, or an executive office or mini suite, service on  
89 the domestic or foreign limited liability company, ~~domestic or~~  
90 ~~foreign,~~ may be made by serving the registered agent, member, or  
91 manager in accordance with s. 48.031.

92 Section 4. Subsection (1) of section 48.194, Florida  
93 Statutes, is amended to read:

94 48.194 Personal service outside state.-

95 (1) Except as otherwise provided herein, service of process  
96 on persons outside of this state shall be made in the same  
97 manner as service within this state by any person ~~officer~~  
98 authorized to serve process in the state where the person is  
99 served. No order of court is required. ~~An affidavit of the~~  
100 ~~officer shall be filed, stating the time, manner, and place of~~  
101 ~~service.~~ A The court may consider the return-of-service form  
102 described in s. 48.21 affidavit, or any other competent  
103 evidence, in determining whether service has been properly made.  
104 Service of process on persons outside the United States may be  
105 required to conform to the provisions of the Hague Convention on  
106 the Service Abroad of Judicial and Extrajudicial Documents in  
107 Civil or Commercial Matters.

108 Section 5. Subsection (1) of section 48.21, Florida  
109 Statutes, is amended to read:

110 48.21 Return of execution of process.-

111 (1) Each person who effects service of process shall note  
112 on a return-of-service form attached thereto, the date and time  
113 when it comes to hand, the date and time when it is served, the  
114 manner of service, the name of the person on whom it was served,  
115 and, if the person is served in a representative capacity, the  
116 position occupied by the person. The return-of-service form must

577-03438-18

2018904c2

117 list all pleadings served and be signed by the person who  
118 effects the service of process. However, a person who is  
119 authorized under this chapter to serve process and ~~employed by a~~  
120 ~~sheriff~~ who effects such ~~the~~ service of process may sign the  
121 return-of-service form using an electronic signature ~~certified~~  
122 ~~by the sheriff.~~

123 Section 6. Paragraphs (b) and (d) of subsection (1) of  
124 section 48.23, Florida Statutes, is amended to read:

125 48.23 Lis pendens.—

126 (1)

127 (b)1. An action that is filed for specific performance or  
128 that is not based on a duly recorded instrument has no effect,  
129 except as between the parties to the proceeding, on the title  
130 to, or on any lien upon, the real or personal property unless a  
131 notice of lis pendens has been recorded and has not expired or  
132 been withdrawn or discharged.

133 2. Any person acquiring for value an interest in, or lien  
134 upon, the real or personal property during the pendency of an  
135 action described in subparagraph 1., other than a party to the  
136 proceeding or the legal successor by operation of law, or  
137 personal representative, heir, or devisee of a deceased party to  
138 the proceeding, shall take such interest or lien exempt from all  
139 claims against the property that were filed in such action by  
140 the party who failed to record a notice of lis pendens or whose  
141 notice expired or was withdrawn or discharged, and from any  
142 judgment entered in the proceeding, notwithstanding the  
143 provisions of s. 695.01, as if such person had no actual or  
144 constructive notice of the proceeding or of the claims made  
145 therein or the documents forming the causes of action against

577-03438-18

2018904c2

146 the property in the proceeding.

147 (d) Except for the interest of persons in possession or  
148 easements of use, the recording of such notice of lis pendens,  
149 provided that during the pendency of the proceeding it has not  
150 expired pursuant to subsection (2) or been withdrawn or  
151 discharged, constitutes a bar to the enforcement against the  
152 property described in the notice of all interests and liens,  
153 including, but not limited to, federal tax liens and levies,  
154 unrecorded at the time of recording the notice unless the holder  
155 of any such unrecorded interest or lien intervenes in such  
156 proceedings within 30 days after the recording of the notice. If  
157 the holder of any such unrecorded interest or lien does not  
158 intervene in the proceedings and if such proceedings are  
159 prosecuted to a judicial sale of the property described in the  
160 notice, the property shall be forever discharged from all such  
161 unrecorded interests and liens. A valid recorded notice of lis  
162 pendens of such proceedings prosecuted to a judicial sale  
163 remains in effect through the recording of any instrument  
164 transferring title to the property pursuant to the final  
165 judgment unless it expires, is withdrawn, or it is otherwise  
166 discharged. If the notice of lis pendens expires or is withdrawn  
167 or discharged, the expiration, withdrawal, or discharge of the  
168 notice does not affect the validity of any unrecorded interest  
169 or lien.

170 Section 7. The changes made by this act to s. 48.23,  
171 Florida Statutes, are intended to clarify existing law and shall  
172 apply to actions pending on the effective date of this act.

173 Section 8. Paragraph (a) of subsection (2) of section  
174 48.27, Florida Statutes, is amended to read:

577-03438-18

2018904c2

175 48.27 Certified process servers.-

176 (2) (a) The addition of a person's name to the list  
177 authorizes him or her to serve ~~initial~~ nonenforceable civil  
178 process on a person found within the circuit where the process  
179 server is certified when a civil action is ~~has been~~ filed  
180 against such person in the circuit court or in a county court in  
181 the state. Upon filing an action in circuit or county court, a  
182 person may select from the list for the circuit where the  
183 process is to be served one or more certified process servers to  
184 serve ~~initial~~ nonenforceable civil process.

185 Section 9. Section 316.29545, Florida Statutes, is amended  
186 to read:

187 316.29545 Window suncreening exclusions; medical  
188 exemption; certain law enforcement vehicles, process server  
189 vehicles, and private investigative service vehicles exempt.-

190 (1) The department shall issue medical exemption  
191 certificates to persons who are afflicted with Lupus, any  
192 autoimmune disease, or other medical conditions which require a  
193 limited exposure to light, which certificates shall entitle the  
194 person to whom the certificate is issued to have suncreening  
195 material on the windshield, side windows, and windows behind the  
196 driver which is in violation of the requirements of ss.

197 316.2951-316.2957. The department shall consult with the Medical  
198 Advisory Board established in s. 322.125 for guidance with  
199 respect to the autoimmune diseases and other medical conditions  
200 which shall be included on the form of the medical certificate  
201 authorized by this section. At a minimum, the medical exemption  
202 certificate shall include a vehicle description with the make,  
203 model, year, vehicle identification number, medical exemption

577-03438-18

2018904c2

204 decal number issued for the vehicle, and the name of the person  
205 or persons who are the registered owners of the vehicle. A  
206 medical exemption certificate shall be nontransferable and shall  
207 become null and void upon the sale or transfer of the vehicle  
208 identified on the certificate.

209 (2) The department shall exempt all law enforcement  
210 vehicles used in undercover or canine operations from the window  
211 sunscreening requirements of ss. 316.2951-316.2957.

212 (3) The department shall exempt from the window  
213 suncreening restrictions of ss. 316.2953, 316.2954, and  
214 316.2956 vehicles that are owned or leased by process servers  
215 certified pursuant to s. 48.29 and private investigators or  
216 private investigative agencies licensed under chapter 493.

217 (4) The department may charge a fee in an amount sufficient  
218 to defray the expenses of issuing a medical exemption  
219 certificate as described in subsection (1).

220 (5) The department is authorized to promulgate rules for  
221 the implementation of this section.

222 Section 10. This act shall take effect upon becoming a law.