

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

AB 747 (Kalra)
Version: May 23, 2025
Hearing Date: July 15, 2025
Fiscal: Yes
Urgency: No
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SUBJECT

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

DIGEST

This bill 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.

EXECUTIVE SUMMARY

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. The bill requires the registry of process servers to be publicly available. Process is not valid unless the registration requirements are met. In addition, the 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 with at least one of the attempts at the home of the person to be served. The bill further requires specific corroborating evidence that service was in fact effectuated in the manner required. This includes time stamps and GPS coordinates. Finally, following a recent California Supreme Court decision, the 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 California Association of Legal Support Professionals is in opposition.

PROPOSED CHANGES TO THE LAW

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. (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 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) Repeals the provision of law that provides that noncompliance with the registration requirements does not render service of summons invalid.

- 3) Provides that, for purposes of effectuating 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) Requires that proof of service of summons must include one or more photographs of the site of the effectuated service containing both a readable time stamp indicating the date and time of service, and a readable set of global positioning system (GPS) coordinates indicating the location of service. If the site of the effectuated service is a dwelling place or abode, at least one of the photographs must show the door of the house, apartment or other dwelling place where service was effectuated; 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. If the site of the effectuated service is a place of business, at least one of the photographs must show the door of the specific office or other place of business where service was effectuated.
- 5) 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. The plaintiff shall have the burden to establish by a preponderance of the evidence that service of the summons and complaint was lawful. The presumption of validity of the service of the complaint and summons is rebutted when the party alleging nonservice proffers evidence that they were not lawfully served, or that a proof of service is void. The court is required to take evidence as to the lawfulness of the service of process and allows the court to conduct a hearing and permit oral testimony if requested by either party.
- 6) Requires every application to enter default to include a proof of service of summons that contains the materials and information discussed above, as well as other materials and information required by existing law. The court shall not enter default unless this requirement is met.
- 7) Establishes that in an unlawful detainer action, if a party cannot be served personally with the notice of unlawful detainer after attempting service on at least three separate occasions on three different days at three different times, including at least one attempt at the tenant's place of residence, then notice can be served by leaving it with some person of suitable age at their home or usual place of business, or by sending a copy in the mail to the tenant at their place of business.

- 8) Clarifies that in order to serve notice of unlawful detainer by substitute service, the tenant's place of residence and business cannot have been ascertained by reasonable diligence.
- 9) Makes technical and conforming changes.

COMMENTS

1. Service and due process

“The constitutional right to be heard is a basic aspect of the duty of government to follow a fair process of decisionmaking when it acts to deprive a person of his possessions.”¹ California courts have outlined the importance of the laws governing service of process in ensuring due process:

Service of process on a defendant is an important step in obtaining access to the remedies available through the court system. The “formal service of process performs two important functions.” First, from the court’s perspective, service of process asserts jurisdiction over the person. Obtaining personal jurisdiction is important because a trial court can enter a valid judgment only if it has both jurisdiction of the person and jurisdiction of the subject matter. Second, from a defendant’s perspective, service of process provides notice of the pending action and gives the defendant an opportunity to present a defense. Thus, service of process protects a defendant’s due process right to defend against an action by providing constitutionally adequate notice of the court proceeding.

“‘Process’ signifies a writ or summons issued in the course of a judicial proceeding.” Service of a summons is governed by a five-article chapter in California’s Code of Civil Procedure. “[C]ompliance with the statutory procedures for service of process is essential to establish personal jurisdiction.”²

Service of process generally takes place through several common methods. This includes service by mail with acknowledgment of receipt, personal delivery to the defendant or their authorized representative, delivery to someone at the defendant’s usual residence or place of business, and service by publication.³

¹ *Fuentes v. Shevin* (1972) 407 U.S. 67, 80.

² *Crane v. Dolihite* (2021) 70 Cal. App. 5th 772, 784 (citations omitted).

³ *Ibid.*

2. The toll of sewer service

“Sewer service” refers to the unethical and illegal practice of a plaintiff (or their representative, like a debt collector) falsely claiming to have properly served legal documents on a defendant. This deceptive act often involves fabricating evidence of service or intentionally misdirecting documents to avoid actually notifying the defendant about a lawsuit. This often results in default judgments against individuals when they might have never been notified about the proceedings.

The last few decades have seen a significant increase in the amount of consumer debt-related actions in state courts. With that rise has come increased concerns about whether there are adequate protections for consumer debtors, who are often unrepresented and usually subject to default judgments as a result of improper or “sewer service.” A report by Pew stated the stark numbers:

- **Debt lawsuits frequently end in default judgment, indicating that many people do not respond when sued for a debt.** Over the past decade in the jurisdictions for which data are available, courts have resolved more than 70 percent of debt collection lawsuits with default judgments for the plaintiff. Unlike most court rulings, these judgments are issued, as the name indicates, by default and without consideration of the facts of the complaint – and instead are issued in cases where the defendant does not show up to court or respond to the suit. The prevalence of these judgments indicates that millions of consumers do not participate in debt claims against them.
- **Default judgments exact heavy tolls on consumers.** Courts routinely order consumers to pay accrued interest as well as court fees, which together can exceed the original amount owed. Other harmful consequences can include garnishment of wages or bank accounts, seizure of personal property, and even incarceration.⁴

These practices are even more harmful when done in the context of unlawful detainer actions, where a tenant may lose their home without adequate notice of the relevant proceedings.

3. Responding to these issues with bolstered protections

This bill responds by bolstering the applicable laws around process servers and the relevant procedures.

⁴ *How Debt Collectors Are Transforming the Business of State Courts* (May 6, 2020) Pew Charitable Trusts, <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/05/how-debt-collectors-are-transforming-the-business-of-state-courts>. Emphasis in original. All internet citations are current as of July 8, 2025.

Current law 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. County clerks maintain a register of these process servers. For the sake of greater transparency, this bill requires that registry to be publicly available. Furthermore, existing law provides that any service of summons which complies with the relevant Code of Civil Procedure provisions is not rendered invalid or ineffective because it was made by a person in violation of the preceding requirements, as specified. This bill repeals this provision to ensure meaningful compliance with the law.

Next, existing law 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. In addition, 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.

To ensure meaningful diligence in these situations, the bill provides that "reasonable diligence" for these purposes is shown by attempting personal delivery, in good faith, on at least three occasions on three different days at three different times. At least one of the attempts shall be made at the dwelling house or usual place of abode of the person to be served.

Currently proof that a summons was served on a person via specified means, including personal delivery, must be made by the affidavit of the person making the service, showing the time, place, and manner of service and facts showing that the service was made in accordance with the law. The affidavit must show the name of the person to whom a copy of the summons and of the complaint were delivered, and, if appropriate, the person's title or the capacity in which the person is served, and that the notice required appeared on the copy of the summons served. This bill additionally requires the proof of service to include one or more photographs of the site of the effectuated service; a readable time stamp indicating the date and time of service; and a readable set of GPS coordinates indicating the location of service. If the site of the effectuated service is a dwelling place or abode, at least one of the photographs must show the door of the house, apartment, or other dwelling place. If it is a place of business, at least one photograph must show the door of the specific office or other place of business. The bill specifies that a photograph of the entrance to an apartment building, office building, gated community, common area, or anything other than the entrance to the house, apartment, other dwelling place, or specific office or other place of business of the person to be served does not suffice.

The bill further provides that every application to enter default judgment, as specified, must include a proof of service of summons that contains the materials and information required above. The bill restricts a court from entering default judgment unless this requirement is met.

Next, the bill authorizes a party to an action to bring a motion to vacate a default judgment, pursuant to Section 473 of the Code of Civil Procedure, that is void for lack of proper service at any time after entry of the judgment. Currently, Section 473 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, but the motion must be filed within a reasonable time not exceeding six months, or within 90 days if notice of entry is properly served. However, recently the California Supreme Court, in *California Capital Ins. Co. v. Hoehn* (2024) 17 Cal. 5th 207, found issue with barriers to effectuating a party's due process rights where service is not properly provided:

The right of civil defendants to proper service is essential to their basic due process right to notice and to their ability to defend against liability claims that may lead to unwarranted financial hardship. If, as Hoehn asserts in his declaration, he first learned of this lawsuit when his wages were garnished almost nine years after a default judgment had been entered, this case well illustrates the fundamental injustice that results from the lack of notice. Moreover, as noted, requiring the filing of an independent equitable action in order to vacate a default judgment for lack of proper service has the potential for adding additional costs and burdens on defendants. Procedural hurdles that are unnecessary to the fair adjudication of default judgments should not stand in the way of the vindication of a defendant's due process rights.⁵

Additionally, existing law 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. This bill implements further protections. It provides that a party that was never properly served may serve and file a motion to set aside the default or default judgment and for leave to defend the action. The plaintiff has the burden to establish by a preponderance of the evidence that service of the summons and complaint was lawful. The presumption of validity of the service of the complaint and summons is rebutted when the party alleging nonservice proffers evidence that

⁵ *California Capital Ins. Co. v. Hoehn* (2024) 17 Cal. 5th 207, 226 (citations omitted).

they were not lawfully served, or that a proof of service is void. The bill provides that the court shall take evidence as to the lawfulness of the service of process and may conduct a hearing and permit oral testimony if requested by either party.

Finally, current law 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. This bill requires three separate attempts on different days at different times, including at least one attempt at the tenant's home before allowing for substitute service. The bill also requires that the tenant's place of residence and business not be ascertainable with reasonable diligence, as defined above, before the relevant notices can be simply affixed to the property.

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 judgments 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.

4. Stakeholder positions

The sponsor of the bill, the California Low Income Consumer Coalition, and its constituent organizations, including Bet Tzedek Legal Services, write in support:

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.

The California Association of Legal Support Professionals writes in opposition:

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.

SUPPORT

California Low-Income Consumer Coalition (sponsor)

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

California Association of Legal Support Professionals
You've Been Served

RELATED LEGISLATION

Pending Legislation: SB 85 (Umberg, 2025) allows for alternative service of a summons in a civil case where the plaintiff is unable to effect service despite reasonable diligence using prescribed methods, including by email or other electronic technology, except in an action against a governmental entity or an agent or employee thereof. 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. SB 85 is currently on the Senate Floor.

Prior Legislation:

SB 1040 (Ochoa Bogh, 2024) would have permitted substitute service of process upon an inmate in a state prison or county jail through specified processes, if an attempt at personal service as described was not successful. SB 1040 died in the Senate Appropriations Committee.

AB 622 (Chen, Ch. 12, Stats. 2019) required guards or other security personnel, if any, to grant access to a covered multifamily dwelling, as defined, for the sole purpose of performing service of process or serving a subpoena.

PRIOR VOTES:

Assembly Floor (Ayes 59, Noes 13)
Assembly Appropriations Committee (Ayes 11, Noes 1)
Assembly Judiciary Committee (Ayes 9, Noes 0)
