



Judicial Council of California

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INVITATION TO COMMENT

SPR 23-27

Title

Rules and Forms: Service Form to Implement
Assembly Bill 2791

Action Requested

Review and submit comments by May 12,
2023

Proposed Rules, Forms, Standards, or Statutes

Adopt form SER-001

Proposed Effective Date

January 1, 2024

Proposed by

Civil and Small Claims Advisory Committee
Hon. Tamara L. Wood, Chair
Family and Juvenile Law Advisory
Committee
Hon. Stephanie E. Hulseley, Cochair
Hon. Amy M. Pellman, Cochair

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Executive Summary and Origin

Together, the Civil and Small Claims Advisory Committee and the Family and Juvenile Law Advisory Committee recommend adoption of a new form, *Request for Sheriff to Serve Court Papers* (form SER-001). The proposed new form complies with the statutory mandate in Assembly Bill 2791 (Stats. 2022, ch. 417) that the Judicial Council adopt a form for civil litigants to request that a sheriff's office serve their court papers.

Background

Last year the Legislature enacted Assembly Bill 2791,¹ which requires the Judicial Council, by January 1, 2024, to “create a statewide form or forms to be used by litigants in civil actions or proceedings to request service of process or notice by a marshal or sheriff, including their department or office.” (Gov. Code, § 26666.10.) The new statute defines “notice” broadly to include “all papers and orders required to be served in any proceedings before any court.” (Gov.

¹ AB 2791 is available at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB2791.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

Code, §§ 26660 & 26666.) The new law also specifies that the form must “require” the following information: “the name, address, and description of the person to be served and the signature of the litigant requesting service, or their attorney of record.” (Gov. Code, § 26666.10(c).) The council may require other information, but must also indicate which fields on the form are required and allow the signature of the requesting party or their attorney to be made electronically. (*Ibid.*)

The existing forms and procedures that litigants must follow in order to request service of court papers by the sheriff or marshal vary widely by county. Some counties have different service request forms for each type of case or service requested, while others have only one or two specific request forms or instruct litigants to provide certain information to the sheriff without using a specific form.

The Proposal

The committees recommend adoption of new form *Request for Sheriff to Serve Court Papers* (form SER-001) to comply with a recent change in law mandating the creation of such a form. The top of the proposed form offers instructions to litigants about what the form is used for, how to submit the form, websites to find more information (including local sheriff’s offices),² and information about fee waivers and the fact that litigants may need to pay for service. The form also contains a warning that it is confidential and provides a space for a sheriff file number, if needed.

In creating the substance of the form, the committees included the required fields as mandated by statute. The form also requires that the litigant requesting service provide their name and an address where they can be reached by the sheriff. The committees included several other optional fields on the form that they believe will assist in the sheriff attempting service, including an alternate address for the person to be served, safety and accessibility information about the person to be served, certain pertinent information about the case, including upcoming hearings or service deadlines, and a text box where the litigant requesting service can enter additional information.

Alternatives Considered

The committees considered creating several different forms to request different types of service. For example, one form would be used to request service of protective orders while another form would be used to request service of subpoenas, and yet another could be used to request service of writs. The committees concluded that the pertinent information needed to serve a party, namely who that party is and where to find them, is the same regardless of the case type.

² The form contains a placeholder for a *Self-Help Guide to the California Courts* webpage about requesting service from the sheriff that has yet to be finalized. The committees anticipate that the placeholder will be replaced with the URL before the form is recommended for adoption by the Judicial Council.

Moreover, the litigant is required to provide the papers that will be served and the sheriff can ascertain any information specific to the case relevant to service from the papers that are being served. The committees thus recommend a single form to implement the provisions of AB 2791.

Fiscal and Operational Impacts

Since the new forms will not be filed in court, the committees believe that any costs associated with this proposal borne by the judicial branch will be minimal. The legislation will result in costs to sheriff's offices and self-help centers to train staff on the requirement of a new form.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committees are interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

The advisory committees also seek comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Form SER-001, at pages 4–5
2. Link A: AB 2791,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB2791

SER-001

Request for Sheriff to Serve Court Papers

CONFIDENTIAL

Instructions: Fill out this form if you want the sheriff or marshal to serve your court papers. Each county in California has a [sheriff's office](#), and they serve different types of court papers, but they must try to serve restraining orders. You may have to pay for service of some court papers. For more information go to [link to court s self-help webpage]

- Find the sheriff's office for the county of the person you want served.
- Give the sheriff this form and the court papers to be served on the other party. You can give these papers to the sheriff in person or by email or fax.
- If you have a fee waiver order (form FW-003), you will not have to pay a fee. Give the sheriff a copy of form FW-003 that is signed by the judge.

To Court Clerk: Do not file this form.

Sheriff File Number (for sheriff to complete, if needed):

Information that has a **star (*)** next to it is required. All other information may be helpful but is not required.

1 Information about person you want served

a. ***Name:** _____
Telephone number: _____

b. Address where person should be served

(Sheriff typically serves during normal business hours. Check with the sheriff's office for the exact times.)

***Address:** _____ Home Business

***City:** _____ ***State:** _____ **Zip:** _____

Gate code or special instructions: _____

Best time to serve at this address (example: 8 a.m.–noon): _____

Alternate address (if the person cannot be found at the address listed above)

Address: _____ Home Business

City: _____ **State:** _____ **Zip:** _____

Gate code or special instructions: _____

Best time to serve at this address (example: 8 a.m.–noon): _____

c. Description

***Gender:** M F Nonbinary **Age or date of birth:** _____

***Height:** _____ ***Weight:** _____ **Hair color:** _____ **Eye color:** _____

***Race/Ethnicity:** _____

Special marks or features (tattoos, scars, etc.): _____

Vehicle (type, model, year, color, plate number): _____

Check here if you are including a picture of the person.

d. Safety and accessibility

The person you want served (check any that may apply):

Has a gun or other weapon Has an aggressive animal Has a history of violence or abuse

Is on probation or parole Has mental health issues Is Deaf or hard of hearing

This is not a Court Order—Do not place in court file.

Case Number: _____

- 1 d. **Safety and accessibility** *(continued)*
 - Does not speak English *(list language)*: _____
 - Other *(explain)*: _____

2 **Information about your case**

- a. What type of court papers are you asking the sheriff to serve?
(For example, restraining order, eviction, or summons.)

- b. Is there a court hearing (court date)?
 No I don't know Yes *(if yes, give date of hearing)*: _____
- c. Is there a deadline for service?
 No I don't know Yes *(if yes, give deadline)*: _____
- d. Has the court allowed alternative or substituted service?
 No I don't know Yes *(if yes, attach order or provide method of service)*:


- e. Other instructions *(any other information needed to attempt service)*:

3 **Contact information for the sheriff to reach you**

- a. ***Your name** *(party requesting service)*: _____
Your lawyer's information *(if you have one)*
Name: _____
Firm name: _____
- b. **Contact information** *(If you have a lawyer, give their information. Give an address where you can receive mail regularly, including a post office box, a Safe at Home address, or other safe address.)*
***Address to receive mail:** _____
***City:** _____ ***State:** _____ ***Zip:** _____
Telephone number: _____ Email Address: _____

4 ***Your signature** *(party asking for service or their lawyer)*

***Date:** _____

_____ ***Type or print your name**  _____ ***Sign your name (may be electronic)**

CONFIDENTIAL

This is not a Court Order—Do not place in court file.