

Regular Session, 2014

SENATE BILL NO. 222

BY SENATOR MURRAY

CIVIL PROCEDURE. Provides relative to service of process. (gov sig)

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AN ACT

To amend and reenact R.S. 13:5107(D) and Code of Civil Procedure Articles 592(A)(1), 1067, and 1201(C), and to enact Code of Civil Procedure Articles 592(A)(4) and (5) and 3955(D) and (E), relative to service of process; to provide relative to certain legal delays; to provide certain terms, conditions, procedures and effects; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 13:5107(D) is hereby amended and reenacted to read as follows:

§5107. Service of citation and process

\* \* \*

D.(1) In all suits in which the state, a state agency, or political subdivision, or any officer or employee thereof is named as a party, service of citation shall be requested within ninety days of the commencement of the action or the filing of a supplemental or amended petition which initially names the state, a state agency, or political subdivision or any officer or employee thereof as a party. **However, should a named defendant be an entity who has not filed or maintained notice with the secretary of state as required by law designating an agent for service of process,**

1 service of citation upon such entity shall be requested within one hundred fifty  
 2 days of commencement of the action or filing of a supplemental or amended  
 3 petition naming any additional defendant. This requirement may be expressly  
 4 waived by the defendant in such action by any written waiver.

5 \* \* \*

6 (3) A request for service pursuant to this Section interrupts the period  
 7 in which service must be requested and does not commence to run until the  
 8 sheriff or the officer charged with the duty of making the service makes his  
 9 return to the issuing court, stating the efforts made by him to secure service and  
 10 the reasons why he was unable to do so.

11 (4) If service of process was made by registered or certified mail, a  
 12 request for service pursuant to this Section commences to run after the filing in  
 13 the record of the registered or certified mail showing that it was enclosed in an  
 14 envelope properly addressed to the defendant, with sufficient postage affixed,  
 15 and the date it was deposited in the United States mail, to which shall be  
 16 attached the return receipt of the defendant or that service cannot be made on  
 17 the named party at the address provided.

18 ~~(3)~~ (5) When the state, a state agency, or a political subdivision, or any  
 19 officer or employee thereof, is dismissed as a party pursuant to this Section, the  
 20 filing of the action, even as against other defendants, shall not interrupt or suspend  
 21 the running of prescription as to the state, state agency, or political subdivision, or  
 22 any officer or employee thereof; however, the effect of interruption of prescription  
 23 as to other persons shall continue.

24 Section 2. Code of Civil Procedure Articles 592(A)(1), 1067, and 1201(C) are  
 25 hereby amended and reenacted and Code of Civil Procedure Articles 592(A)(4) and (5) and  
 26 3955(D) and (E) are hereby enacted to read as follows:

27 Art. 592. Certification procedure; notice; judgment; orders

28 A.(1) Within ninety days after service on all adverse parties of the initial  
 29 pleading demanding relief on behalf of or against a class, or within one hundred



1 or the officer charged with the duty of making the service makes his return to  
2 the issuing court, stating the efforts made by him to secure service and the  
3 reasons why he was unable to do so.

4 C. If service of process was made by registered or certified mail, a  
5 request for service pursuant to this Section commences to run after the filing in  
6 the record of the registered or certified mail showing that it was enclosed in an  
7 envelope properly addressed to the defendant, with sufficient postage affixed,  
8 and the date it was deposited in the United States mail, to which shall be  
9 attached the return receipt of the defendant or that service cannot be made on  
10 the named party at the address provided.

11 \* \* \*

12 Art. 1201. Citation; waiver; delay for service

13 \* \* \*

14 C.(1) Service of the citation shall be requested on all named defendants  
15 within ninety days of commencement of the action. When a supplemental or  
16 amended petition is filed naming any additional defendant, service of citation shall  
17 be requested within ninety days of its filing. For a defendant who has not filed or  
18 maintained notice with the secretary of state as required by law designating an  
19 agent for service of process, service of citation shall be requested within one  
20 hundred fifty days of commencement of the action or filing of a supplemental  
21 or amended petition naming any additional defendant. The defendant may  
22 expressly waive the requirements of this Paragraph by any written waiver. The  
23 requirement provided by this Paragraph shall be expressly waived by a defendant  
24 unless the defendant files, in accordance with the provisions of Article 928, a  
25 declinatory exception of insufficiency of service of process specifically alleging the  
26 failure to timely request service of citation.

27 (2) A request for service pursuant to this Section interrupts the period  
28 in which service must be requested and does not commence to run until the  
29 sheriff or the officer charged with the duty of making the service makes his

1 return to the issuing court, stating the efforts made by him to secure service and  
2 the reasons why he was unable to do so.

3 (3) If service of process was made by registered or certified mail, a  
4 request for service pursuant to this Section commences to run after the filing in  
5 the record of the registered or certified mail showing that it was enclosed in an  
6 envelope properly addressed to the defendant, with sufficient postage affixed,  
7 and the date it was deposited in the United States mail, to which shall be  
8 attached the return receipt of the defendant or that service cannot be made on  
9 the named party at the address provided.

10 \* \* \*

11 Art. 3955. Service of petition

12 \* \* \*

13 D. A request for service pursuant to this Section interrupts the period in  
14 which service must be requested and does not commence to run until the sheriff  
15 or the officer charged with the duty of making the service makes his return to  
16 the issuing court, stating the efforts made by him to secure service and the  
17 reasons why he was unable to do so.

18 E. If service of process was made by registered or certified mail, a  
19 request for service pursuant to this Section commences to run after the filing in  
20 the record of the registered or certified mail showing that it was enclosed in an  
21 envelope properly addressed to the defendant, with sufficient postage affixed,  
22 and the date it was deposited in the United States mail, to which shall be  
23 attached the return receipt of the defendant or that service cannot be made on  
24 the named party at the address provided.

25 Section 3. This Act shall become effective upon signature by the governor or, if not  
26 signed by the governor, upon expiration of the time for bills to become law without signature  
27 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
28 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
29 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Angela L. De Jean.

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## DIGEST

Murray (SB 222)

Present law (C.C.P. Arts. 592, 1067, 1201, 3955 and R.S. 13:5107) provides for the taking of certain action within 90 days after service of process.

Proposed law increases the time period to within 150 days for a defendant who has not filed or maintained notice with the secretary of state as required by law designating an agent for service of process.

Proposed law provides that a request for service interrupts the period in which service must be requested and does not commence to run until the sheriff or the officer charged with the duty of making the service makes his return to the issuing court, stating the efforts made by him to secure service and the reasons why he was unable to do so.

Proposed law also provides that if service of process was made by registered or certified mail, a request for service commences to run after the filing in the record of the registered or certified mail showing that it was enclosed in an envelope properly addressed to the defendant, with sufficient postage affixed, and the date it was deposited in the U. S. mail, to which shall be attached the return receipt of the defendant or that service cannot be made on the named party at the address provided.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 13:5107(D) and C.C.P. Arts. 592(A)(1), 1067, and 1201(C); adds C.C.P. Arts. 592(A)(4) and (5) and 3955(D) and (E))