



Starting a Divorce: Understanding the Importance of Proper Service of Process

One of your first acts when you file for divorce is notifying the other party of the legal action by delivering the court documents (called “the process”) to them – that is, serving the process.

Why serve the process?

- It informs the other party about the proceedings and gives them opportunity to respond.
- It advises them of their rights and obligations.

Service of the process must adhere to specific guidelines to maintain fairness and integrity.

- It typically done in-person.
- Some jurisdictions may allow service by certified mail or publication under certain circumstances, but these usually require court approval and are employed when the respondent cannot be located or is evading service.
- Improper service may lead to dismissal of your case or cause.

Who can deliver the documents?

- The person must be 18 or older, and not a party to the case.
- This means you cannot do it yourself.
- Typically the process is served by a court official, such as a sheriff, marshal.
- To use a private process server, you must get the judge’s permission (by filing a Motion to Appoint Special Process Server).
- A licensed private investigator (“private detective”) can serve a process in Illinois without such an appointment (except in Cook County).

Who can the process be served on?

- Typically, the other party in the case, called the “respondent,” receives the documents firsthand.
- It has to be an adult to ensure a level of maturity and understanding necessary for acknowledging the legal significance of accepting service.
- Generally, a petitioner living with the respondent cannot accept service on behalf of the respondent.
- In certain situations, an adult child living in the home (who is not part of the relationship) may be able to accept service on behalf of the respondent.

Personal vs substitute service

- **Personal service** means delivering legal documents, such as a summons or a subpoena, directly to the individual named in the documents.
- **Substitute service** involves delivering the legal documents to another individual, such as a family member or cohabitant of the named individual. This is done when personal service is not possible or unsuccessful.

- If necessary, substitute service may also involve posting the documents in a conspicuous place at the individual's home or workplace.

Remember: Proper service of legal documents is a fundamental step in legal proceedings, ensuring that all involved parties are aware of the case and have the opportunity to respond appropriately.