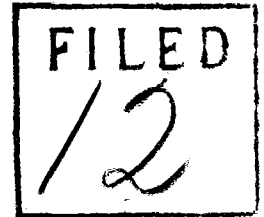


SECRETARY OF STATE: Proposed plan approved of handling service of process on nonresident operators of automobiles, growing out of civil actions in this state.

July 8, 1941

49-9

Honorable Dwight H. Brown
Secretary of State
State Capitol Building
Jefferson City, Missouri



Dear Sir:

We are in receipt of your letter of July 3, 1941, wherein you state as follows:

"Please find attached copy of Senate Bill 67, which was approved by the Governor on June 26th, and bears an emergency clause. There seems to be an error in punctuation on page 3, Sec. 5, line 10. It is thus in the original bill, signed by the Governor.

"Inasmuch as the law is in effect, I want to prepare a routine of handling such service of process. I plan to have a book printed with copy such as attached hereto. At the time I am served, I will fill out the three copies, two on detachable white paper and the third our permanent bound-in record. I will detach and mail the top copy. Later, if the case actually goes to trial, I will use the second white copy, executing the affidavit. The yellow copy, containing notice and affidavit, will be the permanent record and sole record.

"May I request your informal advice as to above plan? If you approve, I shall order the printed book."

The proposed plan, which you enclosed in your letter, reads as follows:

"(EMBLEM)

OFFICE OF SECRETARY OF STATE
JEFFERSON CITY

To	Name of defendant	Last known residence or place of abode
	Name of defendant	Last known residence or place of abode
	Name of defendant	Last known residence or place of abode
	Name of defendant	Last known residence or place of abode

"You will take notice that original process in suit against you, a copy of which is hereto attached was duly served upon you at Jefferson City, Cole County, Missouri, by serving same on the Secretary of State of the State of Missouri, or his Chief Clerk.

"Dated at Jefferson City, Missouri, this ____ day of _____, 194__.

(SEAL OF
SECRETARY
OF STATE)

Plaintiff

By Attorney for Plaintiff

Mailed by restricted registered United States mail "Deliver to Addressee Only". Process was served on Secretary of State or Chief Clerk on ____ at ____
date hour

" A F F I D A V I T

"State of Missouri)
County of Cole) ss

"The undersigned, Dwight H. Brown, Secretary of State of the State of Missouri, or his Chief Clerk, J. R. Holman, hereby makes oath and certifies that the original of above notice to defendant was mailed at the United States Postoffice in Jefferson City, Missouri, by restricted registered mail which carried on the face thereof in a conspicuous place where it will not be obliterated the endorsement, 'Deliver to Addressee Only', and which also required a return receipt or a statement by the Postal authorities that the addressee refused to receive and receipt for such mail, and that said notice was thus mailed on _____, 194_. Attached hereto is the return receipt therefor, or the notice of refusal of addressee to receive and receipt for such mail, or the statement from postal authorities that addressee could not be found.

"Subscribed and sworn to before me at my office in Jefferson City, Cole County, Missouri, this ____ day of _____, 194_.

Notary Public.

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The relevant portions of Senate Bill 67 are herein set out:

"Section 5. Service of process under this act shall be made by serving a copy thereof, together with a copy of the petition, upon the Secretary of State of the State of Missouri at his office in Cole County, Missouri, or in the absence of the Secretary of State, upon his Chief Clerk at his office in Cole County, Missouri, together with a fee of \$1.00 and such service shall be sufficient service upon said non-resident, provided that within fifteen days after said service upon the Secretary of State, or upon his Chief Clerk, as herein provided. The Secretary of State shall immediately mail to the defendant, and to each of the defendants, if there be more than one by restricted, registered mail, addressed to the defendant at his last known address, residence, or place of abode, a notification of said service of process upon the Secretary of State, or his Chief Clerk as herein provided; provided, however, that the court, or judge thereof in vacation, may, upon good cause shown, by order extend such time for notification.

"Section 6. The notification provided for in Section 5 hereof shall be substantially in the following form, to-wit:

"To (here insert the name of each defendant and his residence, the last known place of abode as definitely as known,) You will take notice that original process in suit against you, a copy of which is hereto attached was duly served

upon you at Jefferson City, Cole County, Missouri, by serving same on the Secretary of State of the State of Missouri, or his Chief Clerk. Dated at, Missouri, this day of, 19...

..... (Plaintiff)

..... (By Attorney for Plaintiff)

"Section 7. The term 'Restricted, Registered Mail' means mail which carries on the face thereof in a conspicuous place, where it will not be obliterated, the endorsement, 'Deliver to Addressee Only', and which also requires a return receipt or a statement by the Postal authorities that the addressee refused to receive and receipt for such mail.

"Section 9. Proof of the mailing or personal delivery of said notification to such non-resident by an adult person not an officer serving same shall be made by affidavit of the party doing said acts. All affidavits of service shall be endorsed upon or attached to the original papers to which they relate and including the returned registry receipt shall be forthwith filed with the Court in which such action is filed and pending.

"Section 13. It shall be the duty of the Secretary of State to keep a record

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of all process served upon him, or his Chief Clerk, under the provisions of this act, which record will show the day and hour of service of every such process."

We have examined your proposed plan, as hereinabove set out, for handling service of process on nonresident owners, users and operators of motor vehicles and trailers having civil actions brought against them in this state, and are of the opinion that said proposed plan is in conformance with Senate Bill 67 of the Sixty-first General Assembly.

Respectfully submitted,

MAX WASSERMAN
Assistant Attorney General

APPROVED:

VANE C. THURLO
(Acting) Attorney General

MW:VC