

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 881*

Short Title: Private Process Servers-Evictions. (Public)

Sponsors: Representatives Hardister, Szoka, Richardson, and Cunningham (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary, if favorable, Rules, Calendar, and Operations of the House

April 22, 2019

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR AN ELECTION BY THE PLAINTIFF TO UTILIZE A PRIVATE PROCESS SERVER IN COUNTIES WITH POPULATIONS OF TWO HUNDRED FIFTY THOUSAND OR GREATER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 42-28 reads as rewritten:

"§ 42-28. **Summons issued by clerk.**

(a) When the lessor or his assignee files a complaint pursuant to G.S. 42-26 or 42-27, and asks to be put in possession of the leased premises, the clerk of superior court shall issue a summons requiring the defendant to appear at a certain time and place not to exceed seven days from the issuance of the summons, excluding weekends and legal holidays, to answer the complaint. The plaintiff may claim rent in arrears, and damages for the occupation of the premises since the cessation of the estate of the lessee, not to exceed the jurisdictional amount established by G.S. 7A-210(1), but if he omits to make such claim, he shall not be prejudiced thereby in any other action for their recovery.

(b) In counties with 250,000 or more residents as of the most recent decennial federal census, after the summons is issued, at the election of the plaintiff, the clerk shall either (i) return the summons to the plaintiff or (ii) forward the summons to the sheriff for service. If the magistrate severs the claim for monetary damages pursuant to G.S. 7A-223(b1), the plaintiff may extend the action in accordance with G.S. 1A-1, Rule 4(d)."

SECTION 2. G.S. 42-29 reads as rewritten:

"§ 42-29. **Service of summons.**

(a) The officer receiving the summons shall mail a copy of the summons and complaint to the defendant no later than the end of the next business day or as soon as practicable at the defendant's last known address in a stamped addressed envelope provided by the plaintiff to the action. The officer may, within five days of the issuance of the summons, attempt to telephone the defendant requesting that the defendant either personally visit the officer to accept service, or schedule an appointment for the defendant to receive delivery of service from the officer. If the officer does not attempt to telephone the defendant or the attempt is unsuccessful or does not result in service to the defendant, the officer shall make at least one visit to the place of abode of the defendant within five days of the issuance of the summons, but at least two days prior to the day the defendant is required to appear to answer the complaint, excluding legal holidays, at a time reasonably calculated to find the defendant at the place of abode to attempt personal delivery of service. He then shall deliver a copy of the summons together with a copy of the complaint to



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1 the defendant, or leave copies thereof at the defendant's dwelling house or usual place of abode
2 with some person of suitable age and discretion then residing therein. If such service cannot be
3 made the officer shall affix copies to some conspicuous part of the premises claimed and make
4 due return showing compliance with this section.

5 (b) As used in this Article, and only with respect to service for summary ejectment
6 proceedings in counties with 250,000 or more residents as of the most recent decennial federal
7 census, the term "process server" shall mean any person over the age of 21 years who is not a
8 party to the action, who is not related by blood or marriage to a party to the action or to a person
9 upon whom service is to be made, and who is hired by the plaintiff or the plaintiff's agent or
10 attorney for the purpose of serving the summons and complaint for summary ejectment, and the
11 term "officer" shall mean the sheriff of the county where the subject premises is situated.

12 (c) As used in this Article, and only with respect to service for summary ejectment
13 proceedings in counties with 250,000 or more residents as of the most recent decennial federal
14 census, a process server may effectuate proper service upon a defendant solely for purposes of
15 summary ejectment by mailing a copy of the issued summons and signed complaint to the
16 defendant no later than the end of the next business day after receipt of said summons and
17 complaint or as soon as practicable at the defendant's last known address in a stamped addressed
18 envelope provided by the plaintiff to the action. The process server shall then deliver a copy of
19 the summons together with a copy of the complaint to the defendant by affixing copies of the
20 summons and complaint to some conspicuous part of the premises claimed and make due return
21 showing compliance with this section in the form of an affidavit of service. Said affidavit of
22 service shall set forth the time, place, and manner by which the requirements set forth herein
23 were completed."

24 **SECTION 3.** This act becomes effective October 1, 2019, and applies to actions for
25 summary ejectment filed on or after that date.