

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0989.01 Jerry Barry x4341

HOUSE BILL 16-1258

HOUSE SPONSORSHIP

Melton, Salazar

SENATE SPONSORSHIP

Lundberg,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE POSTING BY COURT CLERKS OF PROCESS WHEN A
102 RESPONDENT IS SERVED BY PUBLICATION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Under current law, if a respondent in a domestic relations action cannot be personally served and is served by publication, the clerk of the court is required to post a copy of the process on a bulletin board in his or her office for 35 days after the date of publication. The bill gives the clerk the option of posting the service online on the court's website rather than on a bulletin board.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 14-10-107, **amend**
3 (4) (a) as follows:

4 **14-10-107. Commencement - pleadings - abolition of existing**
5 **defenses - automatic, temporary injunction - enforcement.**

6 (4) (a) Upon the commencement of a proceeding by one of the parties,
7 or by a legal guardian or conservator of one of the parties, the other party
8 shall be personally served in the manner provided by the Colorado rules
9 of civil procedure, and he or she may file a response in accordance with
10 such rules; except that, upon motion verified by the oath of the party
11 commencing the proceeding or of someone in his or her behalf for an
12 order of publication stating the facts authorizing such service, and
13 showing the efforts, if any, that have been made to obtain personal service
14 within this state, and giving the address or last-known address of each
15 person to be served or stating that his or her address and last-known
16 address are unknown, the court shall hear the motion ex parte and, if
17 satisfied that due diligence has been used to obtain personal service
18 within this state or that efforts to obtain the same would have been to no
19 avail, shall order one publication of a consolidated notice in a newspaper
20 published or having general circulation in the county in which the
21 proceeding is filed, notwithstanding the provisions of article 70 of title
22 24, C.R.S. A consolidated notice shall be published at least once during
23 a calendar month and shall list the proceedings filed subsequent to those
24 named in the previously published consolidated notice, stating as to each
25 proceeding the names of the parties, the action number, the nature of the
26 action, that a copy of the petition and summons may be obtained from the

1 clerk of the court during regular business hours, and that default judgment
2 may be entered against that party upon whom service is made by such
3 notice if he or she fails to appear or file a response within thirty-five days
4 after the date of publication. Costs of publication of a consolidated notice
5 may be assessed pro rata to each of the proceedings named in the notice;
6 except that, if a party is indigent or otherwise unable to pay such
7 publication costs, the costs shall be paid by the court from funds
8 appropriated for the purpose. Service shall be complete upon such
9 publication, and a response or appearance by the party served by
10 publication under this subsection (4) shall be made within thirty-five days
11 thereafter, or default judgment may be entered. No later than the day of
12 publication, the clerk of the court shall also post for thirty-five
13 consecutive days a copy of the process on a bulletin board in his or her
14 office OR ON THE WEBSITE OF THE DISTRICT COURT IN WHICH THE CASE
15 WAS FILED and shall mail a copy of the process to the other party at his or
16 her last-known address, and shall place in the file of the proceeding his
17 or her certificate of posting and mailing. Proof of publication of the
18 consolidated notice shall be by placing in the file a copy of the affidavit
19 of publication, certified by the clerk of the court to be a true and correct
20 copy of the original affidavit on file in the clerk's office.

21 **SECTION 2. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, and safety.