

House Bill 526

By: Representatives Hugley of the 133<sup>rd</sup> and Smyre of the 132<sup>nd</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 11 of Title 9 of the Official Code of Georgia Annotated,  
2 relating to commencement of action and service, so as to provide that only a marshal, deputy  
3 marshal, or a person certified by marshal to serve process may serve process in a court under  
4 the responsibility of a marshal; to provide for qualifications; to repeal conflicting laws; and  
5 for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 2 of Chapter 11 of Title 9 of the Official Code of Georgia Annotated, relating to  
9 commencement of action and service, is amended by revising Code Section 9-11-4.1, relating  
10 to certified process servers, procedure for becoming a certified process server, defining the  
11 crime of impersonating a process server, punishment, and sunset, as follows:

12 "9-11-4.1.

13 (a) **Certified process servers.** A person at least 18 years of age who files with a sheriff  
14 of any county of this state an application stating that the movant complies with this Code  
15 section and any procedures and requirements set forth in any rules or regulations  
16 promulgated by the Judicial Council of Georgia regarding this Code section shall, absent  
17 good cause shown, be certified as a process server. Such certification shall be effective for  
18 a period of three years or until such approval is withdrawn by a superior court judge upon  
19 good cause shown, whichever shall first occur. Except as otherwise provided in subsection  
20 (b) of this Code section, such ~~Such~~ certified process server shall be entitled to serve in such  
21 capacity for any court of the state, anywhere within the state, provided that the sheriff of  
22 the county for which process is to be served allows such servers to serve process in such  
23 county.

24 **(b) Courts served by a marshal.**

25 (1) Notwithstanding any other provision of this Code section, only a marshal or deputy  
26 marshal or a person certified as a process server by a marshal under this subsection shall

27 serve process from any state court, county court, municipal court, or magistrate court  
 28 under the responsibility of a marshal. No process server certified by any other method  
 29 shall serve any documents which the law specifies be served by a marshal.

30 (2) The marshal of any court is authorized to certify process servers to serve process  
 31 from the court or courts under such marshal's responsibility. Any such person must meet  
 32 the requirements of paragraph (1) of subsection (c) of this Code section and shall be  
 33 certified by the Georgia Peace Officer Standards and Training Council as having  
 34 successfully completed the course of training required by Chapter 8 of Title 35, the  
 35 'Georgia Peace Officer Standards and Training Act,' and shall serve solely at the pleasure  
 36 of the marshal.

37 **(b)(c) Certification procedures.**

38 (1) Any person seeking certification under this Code section shall upon applying for  
 39 certification present evidence that he or she:

40 (A) Has undergone a criminal ~~record~~ records check based on fingerprints and has never  
 41 been convicted of a felony or of impersonating a peace officer or other public officer  
 42 or employee under Code Section 16-10-23;

43 (B) Completed a 12 hour course of instruction relating to service of process which  
 44 ~~course~~ has been approved by the Administrative Office of the Courts in consultation  
 45 with the Georgia Sheriffs' Association;

46 (C) Passed a test approved by the Administrative Office of the Courts which will  
 47 measure the applicant's knowledge of state law regarding serving of process and other  
 48 papers on various entities and persons;

49 (D) Obtained a commercial surety bond or policy of commercial insurance conditioned  
 50 to protect members of the public and persons employing the certified process server  
 51 against any damage arising from any actionable misconduct, error, or omission on the  
 52 part of the applicant while serving as a certified process server; and

53 (E) Is a citizen of the United States.

54 (2) A sheriff of any county of this state shall review the application, test score, criminal  
 55 ~~record~~ records check, and such other information or documentation as required by that  
 56 sheriff and determine whether the applicant shall be approved for certification and  
 57 authorized to act as a process server in this state.

58 (3) Upon approval the applicant shall complete a written oath as follows: 'I do solemnly  
 59 swear (or affirm) that I will conduct myself as a process server truly and honestly, justly  
 60 and uprightly, and according to law; and that I will support the Constitution of the State  
 61 of Georgia and the Constitution of the United States. I further swear (or affirm) that I  
 62 will not serve any papers or process in any action where I have a financial or personal

63 interest in the outcome of the matter or where any person to whom I am related by blood  
64 or marriage has such an interest.'

65 ~~(c)~~**(d) Renewal and revocation of certification.** A certified process server shall be  
66 required to renew his or her certification every three years. Any certified process server  
67 failing to renew his or her certification shall no longer be approved to serve as a certified  
68 process server. At the time of renewal, the certified process server shall provide evidence  
69 that he or she has completed three annual five-hour courses of continuing education which  
70 courses have been approved by the Administrative Office of the Courts and has undergone  
71 an updated criminal ~~record~~ records check. The certification of a process server may be  
72 revoked or suspended by a superior court judge for cause at any time. If a complaint has  
73 been filed by a sheriff alleging serious misconduct by the process server, such judge may  
74 suspend the certification for up to five business days while the matter is considered by the  
75 judge.

76 ~~(d)~~**(e) Fees.** The sheriff shall collect a fee of \$80.00 for processing the application  
77 required by this Code section.

78 ~~(e)~~**(f) Registry.** The sheriff shall forward \$30.00 of each fee received to the Georgia  
79 Sheriffs' Association. The Georgia Sheriffs' Association shall maintain a registry of  
80 certified process servers.

81 ~~(f)~~**(g) Service by off-duty deputy sheriff.** An off-duty deputy sheriff may serve process  
82 with the approval of the sheriff by whom he or she is employed and shall be exempt from  
83 certification under this Code section.

84 ~~(g)~~**(h) Impersonation of public officer or employee.** It shall be unlawful for a certified  
85 process server to falsely hold himself or herself out as a peace officer or public officer or  
86 employee and any violation shall be punished as provided in Code Section 16-10-23.

87 ~~(h)~~**(i) Notice to sheriff.**

88 (1) Prior to the first time that a certified process server serves process in any county, he  
89 or she shall file with the sheriff of the county a written notice, in such form as shall be  
90 prescribed by the Georgia Sheriffs' Association, of his or her intent to serve process in  
91 that county. Such notice shall only be accepted by a sheriff who allows certified process  
92 servers to serve process in his or her county. Such notice shall be effective for a period  
93 of one year; and a new notice shall be filed before the certified process server again  
94 serves process in that county after expiration of the one-year period.

95 (2) The provisions of this subsection shall not apply to a certified process server who was  
96 appointed by the court to serve process or who was appointed as a permanent process  
97 server by a court.

98 ~~(i)~~**(j) Credentials.** A sheriff of any county of this state shall at the time of certification  
99 provide credentials in the form of an identification card to each certified process server.

100 The identification card shall be designed to clearly distinguish it from any form of  
101 credentials issued to certified peace officers and will not be in the shape or form of a law  
102 enforcement badge. A certified process server shall display his or her credentials at all  
103 times while engaged in the service of process.

104 ~~(j)~~(k) **False representation.** It shall be unlawful for any person who is not a certified  
105 process server to hold himself or herself out as being a certified process server. Any person  
106 who violates this subsection shall upon conviction be guilty of a misdemeanor.

107 ~~(k)~~(l) **Sunset and legislative review.** This Code section shall be repealed effective July  
108 1, 2015, unless continued in effect by the General Assembly prior to that date. At its 2013  
109 regular session the General Assembly shall review this Code section to determine whether  
110 it should be continued in effect."

111

**SECTION 2.**

112 All laws and parts of laws in conflict with this Act are repealed.