

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: TBD 2023

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (out of cycle)

Title of proposal: Rules and Forms: Service Form to Implement Assembly Bill 2791

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
 Adopt forms SER-001 and SER-001A

Committee or other entity submitting the proposal:

The Civil and Small Claims Advisory Committee and the Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Frances Ho; (415) 865-7662; frances.ho@jud.ca.gov
 James Barolo; (415) 865-8928; james.barolo@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): November 1, 2022

Project description from annual agenda:

Family and Juvenile Law Advisory Committee agenda:

Item 1c: AB 2791 (Bloom) Sheriffs: service of process and notices (Ch. 417, Stats. of 2022) requires a marshal or sheriff to accept an electronically signed notice or other process issued by a superior court in a civil action, including service of orders and other court documents for the purpose of notice. Requires Judicial Council, on or before January 1, 2024 to create a statewide form or forms to be used by litigants in civil actions or proceedings to request service of process or notice by a marshal or sheriff, including their department or office.

Civil and Small Claims Advisory Committee agenda:

Work with Protective Order Working Group (under lead of Family and Juvenile Law Advisory Committee) to develop form recommendations as appropriate. AB 2791 requires the Judicial Council to create forms for use by civil litigants to request service of process and other court papers by a marshal or sheriff. The legislation mandates certain items be included on the forms.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Based on comments received, the committees propose adopting a second form, SER-001A. As form SER-001A was not included in the initial proposal, the proposal must be released for public comment. The proposal must be released out of cycle because the forms, under AB 2791, must be available for use by January 1, 2024.

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)
 - This proposal may require changes or additions to self-help web content.



Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SP23-06

Title

Rules and Forms: Service Forms to
Implement Assembly Bill 2791

Action Requested

Review and submit comments by
September 5, 2023

Proposed Rules, Forms, Standards, or Statutes

Adopt forms SER-001 and SER-001A

Proposed Effective Date

January 1, 2024

Proposed by

Civil and Small Claims Advisory Committee
Hon. Tamara L. Wood, Chair
Family and Juvenile Law Advisory
Committee
Hon. Stephanie E. Hulseley, Cochair
Hon. Amy M. Pellman, Cochair

Contact

James Barolo, 415-865-8928
james.barolo@jud.ca.gov
Frances Ho, 415-865-7662
frances.ho@jud.ca.gov

Executive Summary and Origin

The Civil and Small Claims Advisory Committee and the Family and Juvenile Law Advisory Committee recommend adoption of two new forms, *Request for Sheriff to Serve Court Papers* (form SER-001) and an attachment to that form, *Special Instructions to Serve Court Papers* (form SER-001A). The proposed forms comply with the statutory mandate in Assembly Bill 2791 that the Judicial Council adopt a form or forms for civil litigants to request that a sheriff's office service their court papers.

Background

Last year, the Legislature enacted Assembly Bill 2791 (Stats. 2022, ch. 417),¹ which requires the Judicial Council, by January 1, 2024, to “create a statewide form or forms to be used by litigants in civil actions or proceedings to request service of process or notice by a marshal or sheriff, including their department or office.” (Gov. Code, § 26666.10.) The new statute defines

¹ Assembly Bill 2791 is available at
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB2791.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

“notice” broadly to include “all papers and orders required to be served in any proceedings before any court.” (Gov. Code, §§ 26660 & 26666.) The new law also specifies that the form must “require” the following information: “the name, address, and description of the person to be served and the signature of the litigant requesting service, or their attorney of record.” (Gov. Code, § 26666.10(c).) The council may require other information, but must also indicate which fields on the form are required and allow the signature of the requesting party or that party’s attorney to be made electronically. (*Id.*)

Prior Circulation

A proposal for new form *Request for Sheriff to Serve Court Papers* (form SER-001) was previously circulated for comment from March 30 to May 12, 2023. Form SER-001 is being recirculated with an additional form (SER-001A) in response to comments that form SER-001 would not work for requesting service in certain case types, namely writs and enforcements of judgment. Additionally, the committees recommend a second circulation of the proposal to request specific comment on certain items within form SER-001 in response to suggestions made during the original comment period.

The Proposal

The committees recommend adoption of *Request for Sheriff to Serve Court Papers* (form SER-001) and an attachment to that form, *Special Instructions to Serve Court Papers—Attachment* (form SER-001A), to comply with a recent change in law mandating the creation of such a form or forms, and mandating that all persons requesting service by a sheriff or marshal use such forms. (Gov. Code § 20666.10.)

All litigants requesting service of court papers would be required to fill out form SER-001 and turn it in to the applicable sheriff’s office. Those litigants requesting service of a writ or enforcement of judgment would also be required to fill out form SER-001A. The instructions on top of both forms explain the purpose of each form and direct filers to online resources to find more information (including local sheriff’s offices).²

Form SER-001

In addition to requiring the name, address, and description of the person to be served on form SER-001, as required by statute, other pieces of information are proposed to be required on the form in response to comments received the first time this proposal was circulated. Additional proposed required fields include the court case number; court case name; name and address of party requesting service; identification of known safety or accessibility issues; and a description of the type of documents to be served, including a list of the documents to be served.

² The form contains a placeholder for a link to a Self-Help Guide to the California Courts webpage about requesting service from the sheriff that has yet to be finalized. The committees anticipate that the placeholder will be replaced with the live URL before the form is recommended for adoption by the Judicial Council.

The form includes optional fields that the committees believe will assist the sheriff in attempting service, including an alternate address for the person to be served; certain pertinent information about the case; and a text box in which the litigant requesting service can enter additional information. (The form indicates which items are not required but optional, as mandated by the statute.) Form SER-001 also includes an item in which the filer is instructed to check a box and complete and attach form SER-001A if certain circumstances apply.

The committees are seeking specific comment on whether the requesting party should be required to provide a list of documents to be served, as proposed on item 5b on form SER-001.

- Committee members who support requiring this information believe that the information would be helpful to ensure that the proper documents are served. For example, if a litigant lists five forms in item 5b but only four are included in the request, the sheriff or marshal could note this discrepancy and reach out to the litigant for the missing form. Service performed without confirming the list of documents needed to be served may require the requestor to re-serve the papers, leading to court delays and potential safety issues in restraining order cases.
- Arguments against requiring the requestor to provide a list of documents to be served include the additional burden on self-represented litigants, lack of clarity on whether attachments should be listed as separate forms or considered part of the main document it is attached to, and concerns that a request for service would be rejected if the sheriff's department believes that the proper forms were not listed in 5b. For example, a member notes that some issues have been reported of sheriffs rejecting a request for service of a domestic violence restraining order involving children when *Request for Child Custody and Visitation* (form DV-105) is not provided in the packet, even though the petitioner did not make a request for custody or visitation.

The committees also seek specific comment on whether it would be helpful for form SER-001 to include instructions to sheriffs and marshals reiterating the prohibition on reviewing the substance of the papers provided by the litigant for service, with limited exception, under Government Code section 26666.2, as was suggested by a commenter during the proposal's prior circulation. The committees strive not to simply repeat codified law on forms but would like feedback if such information is beneficial to litigants or sheriffs in this situation.

Form SER-001A

The Code of Civil Procedure requires litigants requesting service of process by the sheriff to provide specific information to the sheriff in certain types of cases. (See, e.g., Code Civ. Proc., §§ 488.030, 687.010 & 700.080.) In developing this attachment form, the committees included specific items requesting such information from litigants, as well as a catchall whereby litigants can include other specific instructions, as required, depending on the circumstances of the case. Because some information may be required in certain cases but not others, the committees have not mandated that any of the items on the attachment form be filled out. Instead, an instruction at the top of the form says to “[g]ive all information that is relevant to your situation.”

Signatures are not required on this form because it will be attached to SER-001 and the filers (or their attorneys) will have to sign form SER-001.

The committees request specific comment on what types of cases will need to use attachment form SER-001A and whether the items provided include sufficient information to complete service in such cases.

Alternatives Considered

The committees did not consider the alternative of no action, because a form is mandated by statute.

They considered advancing this proposal without creating an attachment form to accompany previously circulated form SER-001. However, the committees concluded that requesting additional information for service of papers in certain cases, as required in various sections of the Code of Civil Procedure, is likely to benefit the sheriffs attempting service and the litigants requesting such service.

Fiscal and Operational Impacts

Because the new forms will not be filed in court, the committees believe that any costs associated with this proposal borne by the judicial branch will be minimal, but will include training for court and self-help center staff. This proposal will result in costs to sheriff's offices to implement the new form or forms, and although recirculation will decrease the amount of time for implementation, the committees believe that the additional attachment is needed to implement AB 2791.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committees are interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Should litigants filling out form SER-001 be required to list the court papers they are requesting service for (see item 5b)?
- Form SER-001 includes an item for the person requesting service to provide the court case number at item 4 but does not include the court case number at the top of the form. Do commenters believe it is beneficial to have the court case number in the header of the form?
- Would instructions summarizing the provisions of Government Code section 26666.2 be helpful on form SER-001?
- Would form SER-001A be used for any general or specific case types other than writs or enforcement of money judgments?

The advisory committees also seek comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Forms SER-001 and SER-001A at pages 6–12
2. Link A: Assem. Bill 2791,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB2791

SER-001

Request for Sheriff to Serve Court Papers

Instructions: Each county in California has a sheriff (and sometimes a marshal's office) that serves different types of court papers, including restraining orders. In most cases, it will be the sheriff that can serve your papers.

- Complete this form for each set of papers you need served. You must complete a separate form for each person you need served.
- Find out where the person you need served is located. Give your papers to the sheriff or marshal's office in that county.
- You may have to pay for service of some court papers. For more information, go to <https://selfhelp.courts.ca.gov/sheriff-serves>.

CONFIDENTIAL

To Court Clerk: Do not file this form.

Sheriff File Number (for sheriff to complete, if needed):

All information is required unless it is listed as optional or does not apply to your case.

1 To the Sheriff or Marshal of (name of county): _____

2 Contact Information for the Sheriff or Marshal to Reach You

a. Your name (party requesting service): _____
 Your lawyer's information (if you have one)
 Name: _____
 Firm name: _____

b. Contact information (Give an address where you can receive mail regularly, including a post office box, a Safe at Home address, or another safe address. If you have a lawyer, give the lawyer's information.)
 Address to receive mail: _____
 City: _____ State: _____ Zip: _____
 Telephone number (optional): _____ Email Address (optional): _____

3 Information About Person You Want Served

a. Name of person: _____
 If you're serving an organization, give name and type: _____

 Nicknames, aliases (optional): _____
 Telephone number (optional): _____

b. Address where person should be served
 (Sheriff typically serves during normal business hours. Check with the sheriff's office for the exact times.)
 Address: _____ Home Business
 City: _____ State: _____ Zip: _____
 Gate code or special instructions: _____
 Best time to serve at this address (example: 8 a.m.–noon): _____
 Check here if the person is in jail or prison (name of facility): _____

This is not a court form. Do not file with the court.

Sheriff File Number: _____

3 c. Alternate address (optional)
(If the person cannot be found at the address listed above, some sheriffs will try a second address. If you have a second address for the person you want served, complete the section below.)

Address: _____ Home Business
City: _____ State: _____ Zip: _____
Gate code or special instructions: _____
Best time to serve at this address (example: 8 a.m.–noon): _____

d. Can you describe the person?

(1) No, I do not have any information about the person’s description.

(2) Yes (complete the section below):

Gender: Male Female Nonbinary

Height: _____ Weight: _____ Hair color: _____ Eye color: _____

Date of birth or age (give estimate, if unknown): _____

Race/Ethnicity: _____

Special marks or features (tattoos, scars, etc.): _____

Vehicle (type, model, year, color, plate number): _____

Check here if you are including a picture of the person.

e. Do you know of any safety or accessibility issues?

No

Yes (complete the section below):

The person in 3a (check all that apply):

Has a gun or other weapon.

Is on probation or parole.

Has a history of violence or abuse.

Has an aggressive animal.

Has special training (examples: military, first responder).

Has mental health issues.

Is Deaf or hard of hearing.

Does not speak English (list language): _____

Add any other information about safety or accessibility that you know about:

CONFIDENTIAL

This is not a court form. Do not file with the court.

Sheriff File Number: _____

4 Information About Your Case

- a. Court case number: _____
- b. Case name: _____

5 Information About Your Request for Service

- a. What type of court papers are you asking the sheriff to serve *(for example, restraining order, eviction, or summons)*?

- b. List all forms or court papers you want served on the person in **3**a.
(Note: You can list each form by its form number (example: FL-100). The court may have ordered you to serve certain papers. Look at the court's order and list all forms required. If you do not know which papers you need to serve, ask a lawyer or contact your local self-help center for free information.)

- c. Is there a court hearing (court date)?
 I don't know
 No
 Yes *(if yes, give date of hearing)*: _____

- d. Is there a deadline for service?
 I don't know
 No
 Yes *(if yes, give deadline)*: _____

- e. Has the court allowed alternative service *(for restraining orders only)*?
 I don't know
 No
 Yes *(if yes, include a copy of order)*

CONFIDENTIAL

This is not a court form. Do not file with the court.

Sheriff File Number: _____

- 5 f. Is substituted service allowed under the law (Code of Civil Procedure section 415.20)?
 - I don't know
 - No
 - Yes

- g. Is there any other information you want or need to give to serve your court papers?
 - No
 - Yes (if yes, give information below):

6 Enforcement of Writ or Judgment

Does your request include enforcing a writ or judgment?

- No
- Yes (If yes, you **must** complete and attach form SER-001A, Special Instructions to Serve Court Papers)

Your Signature (party (or plaintiff) asking for service, or their lawyer)

Date: _____

_____ Type or print your name



_____ Sign your name (may be electronic)

Your Next Steps

- Give this form and a copy of all the court papers listed in item 5b to the sheriff or marshal.
- Find out if you need to pay a fee for service by asking the court's self-help center, a lawyer, or the sheriff's office. Note that you do *not* have to pay a fee if you have a fee waiver in your case (form FW-003 signed by a judge), or for certain types of cases like domestic violence, elder abuse, or gun violence restraining orders.
- If you do not have to pay a fee to the sheriff, you can send the papers electronically. If you have to pay a fee, contact the sheriff to find out your options for turning in your request. Note that you can always turn in your request in person.
- You should get papers back from the sheriff. If the sheriff was able to serve your forms, you should receive a form (called a proof of service) that you will need to file with the court. If the sheriff was unable to serve your court papers, you should receive a form (sometimes called declaration of due diligence) that tells you that service was unsuccessful and will give details about when the sheriff tried to serve the person.

CONFIDENTIAL

This is not a court form. Do not file with the court.

SER-001A

Special Instructions to Serve Court Papers—Attachment

CONFIDENTIAL

Sheriff File Number (for sheriff to complete, if needed):

Case Number:

Instructions

Generally, you will not need to complete this form if you are asking the sheriff to serve a complaint (unless with a writ of attachment) or a restraining order. If you are using a registered process server for service and are only asking the sheriff to serve as levying officer, contact your local sheriff's office.

- Complete this form if you want the sheriff or marshal to serve as levying officer to enforce a writ or money judgment and attach it to **form SER-001**.
- You must include any writ or any judgment with this request.

Give all information that is relevant to your situation. For more information about what may be required in your case, go to <https://selfhelp.courts.ca.gov/sheriff-serves>.

1 Information About You (Person Requesting Service)

a. Your name: _____

b. Are you a judgment creditor?

Yes

No (complete the section below):

(1) What is your role in the case?: _____

(2) Is there a judgment creditor in your case?

No

Yes (list the names of all judgment creditors):

2 Information About Person You Want Served

Is the person you want served a judgment debtor (person who owes you money in this case)?

Yes.

No. Explain who the person is (example: someone who lives on or has title to the property at issue):

CONFIDENTIAL

This is not a court form. Do not file with the court.

3 Information About the Writ and Judgment

a. Date writ was issued: _____

b. The writ included with this request is (*check one*)

- an original writ.
- a copy of the original writ issued by the court as an electronic record and has not been given to the levying officer (sheriff or marshal).
- a copy of the original writ that has already been given to the levying officer (sheriff or marshal).

c. Was a judgment issued by the court?

- No
- Yes (*complete section below*):

(1) Date judgment was issued: _____

(2) If it is a money judgment, give amount: _____

(3) List all judgment debtors (*people who owe money*) if there are any in this case:

If the judgment debtor is not a person, also include the type of organization (*example: corporation*).

(4) Include a copy of the judgment with this form.

d. Are you asking the sheriff to execute a wage garnishment order?

- No
- Yes

If yes, include *Earning Withholding Order* (form WG-002) and any other necessary forms with this form.

4 Information About the Property to Levy

a. Are you asking the sheriff to levy on property that is a dwelling (*a place someone can live in*)?

- No
- Yes (*complete the section below*):

The dwelling is (*check one*):

- Real property (*examples: house, condo, other building attached to land*)
- Personal property (*examples: house boat, RV*)

CONFIDENTIAL

This is not a court form. Do not file with the court.



- 4 b. Does any other person or organization besides those listed in 3 own the property?
- No
- Yes (*list the names of owners and explain their interest in the property, including any leasehold interest*):

(Note: You may also need to have the people listed above served with your court papers. Check the Code of Civil Procedure for service requirements or talk with a lawyer. Your local court self-help center provides help for free and may be able to help you. To find your local self-help center, go to www.selfhelp.courts.ca.gov/find.)

- c. Property description
- (Give as much detail as possible. Give the street address where the property is located. You may include a map, if necessary, to locate the property. You may also include the assessor's parcel number, if you have it.)*

Check here if you are including a map or other document to describe property.

5 **Other Instructions**

Include all other instructions to the levying officer below. These may include the following:

- Instructions to serve the summons and complaint for a writ of attachment, if not previously served (see Code of Civil Procedure section 488.020(c))
- Instructions that the levying officer must place a keeper in charge of the property (see Code of Civil Procedure sections 700.070 and 700.080)

CONFIDENTIAL

This is not a court form. Do not file with the court.