

## 2023 Kansas Statutes

**8-402. Procedure in procuring service pursuant to K.S.A. 8-401; form of notice of service; record of all process served kept by secretary of state.** Service of process under K.S.A. 8-401, and amendments thereto, shall be made as follows:

(a) (1) The plaintiff shall file a verified petition in the district court in the county where the cause of action arose or the plaintiff resides, showing a cause of action against the defendant of the class contemplated in K.S.A. 8-401, and amendments thereto, and shall further show in the petition, or by affidavit, to the satisfaction of the court, the following: (A) That the defendant is one of the persons contemplated in K.S.A. 8-401, and amendments thereto; (B) the residence of the defendant; (C) a description of the car or motor vehicle claimed to have been operated by the defendant or an agent of the defendant, as near as can reasonably be ascertained by the plaintiff; and (D) the time, place and nature of the accident or injury.

(2) Upon such showing being made, the court shall make an order directing a summons to be issued and directing that service of process be made on the defendant as provided in K.S.A. 8-401, and amendments thereto, by delivering a copy of the summons, petition and order in accordance with subsection (b). The court shall, upon affidavit submitted upon behalf of the defendant, grant such additional time to answer, or continuances, as shall be reasonably necessary to allow the defendant full opportunity to plead and prepare for trial.

(b) (1) The plaintiff may serve the defendant by providing the secretary of state with a copy of the summons, petition and order and the last known address, residence or place of abode for each defendant and paying the secretary of state a fee in the amount provided in K.S.A. 60-304(f), and amendments thereto. The secretary of state shall immediately mail to each defendant by return receipt delivery, addressed to the defendant at the defendant's last known address, residence or place of abode, a notice of service and a copy of the summons, petition and order provided by the plaintiff.

(2) The plaintiff may serve the defendant by causing a notice of service and a copy of the summons, petition and order to be personally served on the defendant in the foreign state by an adult person not a party to the suit or an officer duly qualified to serve legal process in the state or jurisdiction where the defendant is found, by delivering such documents to the defendant or by offering to make such delivery in the case of a defendant who refuses to accept the delivery. The server shall, on or before the return day of the process or within such further time as the court may allow, file an affidavit or a declaration pursuant to K.S.A. 53-601, and amendments thereto, or any other competent proof, stating the time, manner and place of service. The plaintiff shall notify the secretary of state in writing that the plaintiff is personally serving the defendant and shall provide the secretary of state with a copy of the notice of service, summons, petition and order provided to the defendant.

(3) Compliance with this subsection constitutes sufficient service on the defendant.

(c) The notice of service required by subsection (b) shall be signed, dated and in substantially the following form: "To (insert the name of each defendant and such defendant's last known address, residence or place of abode), you will take notice that original process in this suit against you, a copy of which is hereto attached, was duly served upon you at Topeka, Shawnee County, Kansas, on (insert date) by serving the required documents on the secretary of state of the state of Kansas."

(d) The secretary of state shall keep a record of all process served upon the office under this section, and such record shall show the day of service of every such process.

**History:** L. 1935, ch. 72, § 2; L. 1951, ch. 109, § 1; L. 1961, ch. 54, § 2; L. 1963, ch. 55, § 1; L. 1965, ch. 64, § 1; L. 1976, ch. 145, § 30; L. 2021, ch. 34, § 1; July 1.