

61-3005. Proof of service. Proof of service shall be made as follows:

(a) Personal and residence service. (1) Every officer to whom summons or other process shall be delivered for service within or without the state, shall make return thereof in writing stating the time, place and manner of service of such writ, and shall sign such officer's name to such return.

(2) If such process is directed to and delivered to a person other than by an officer for service, such person shall make affidavit as to the time, place and manner of such person's service thereof.

(b) Service by return receipt delivery. Service by return receipt delivery shall be proven in the manner provided by subsection (e) of K.S.A. 60-308 or subsection (c) of K.S.A. 61-3003, and amendments thereto.

(c) Publication service. Service by publication shall be proven by an affidavit showing the dates upon, and the newspaper in which the notice of publication was published. A copy of the notice shall be attached to the affidavit which shall be filed in the cause. When mailing of copies of the publication notice is required in accordance with subsection (e) of K.S.A. 60-307, and amendments thereto, the proof of such mailing shall be by affidavit of the person who mailed such copies and such affidavit shall be filed with the clerk of the court in which the action has been filed. Any return receipt shall be made a part of the affidavit and filed therewith.

(d) Time for return. The officer or other person receiving a summons or other process in forcible detainer cases shall make return of service promptly and, in any event, no later than three days before the date stated in the summons for the defendant to either appear or plead to the petition. In all other cases return of service shall be made promptly and, in any event, no later than five days before the date stated in the summons for the defendant to either appear or plead to the petition. If the process cannot be served as directed, it shall be returned to the court forthwith with a statement of the reason for the failure to serve the same.

(e) Amendment of return. At any time in the judge's discretion and upon such terms as the judge deems just, the judge may allow any process, return or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.

(f) Garnishment service of process. (1) First class mail. The return shall show the nature of the process, the date on which the process was mailed and the name and address on the envelope containing the process.

(2) Telefacsimile communication. The return shall show the nature of the process, the time and date on which the process was transmitted by telefacsimile, the telephone number of the transmitting machine and the telephone number of the receiving machine.

(3) Internet electronic mail. The return shall show the nature of the process, the time and date on which the process was transmitted by internet electronic mail, the internet electronic mail address of the transmitting person and the internet electronic mail address of the receiving person.

History: L. 2000, ch. 161, § 23; Jan. 1, 2001.