

HOUSE BILL 1293

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By: **Delegates Vaughn, Davis, Griffith, Holmes, Proctor, Swain, and Valentino-Smith**

Introduced and read first time: February 7, 2014

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Business Occupations and Professions – Private Process Servers –**
3 **Registration**

4 FOR the purpose of requiring an individual to be registered with the Department of
5 Labor, Licensing, and Regulation before the individual provides private process
6 service in the State; establishing certain application requirements to be
7 registered as a private process server; requiring the Secretary of Labor,
8 Licensing, and Regulation to issue certain registration cards under certain
9 circumstances to be used for certain purposes; providing for the periodic
10 renewal of registrations; authorizing the Secretary to deny, suspend, or revoke a
11 registration or to reprimand or fine a registrant under certain circumstances;
12 establishing certain complaint and hearing procedures; authorizing an
13 individual to apply for reinstatement of a revoked registration in a certain
14 manner; establishing certain exceptions to certain registration requirements;
15 establishing certain powers and imposing certain duties on the Secretary;
16 requiring the Secretary, in consultation with the Maryland Judiciary, to adopt
17 by regulation certain standards of professional conduct for private process
18 servers; prohibiting certain acts; imposing certain penalties for certain
19 violations; defining certain terms; requiring the Department to report to the
20 General Assembly on or before a certain date; and generally relating to the
21 registration of private process servers.

22 BY adding to

23 Article – Business Occupations and Professions
24 Section 13.5–101 through 13.5–501 to be under the new title “Title 13.5. Private
25 Process Servers”
26 Annotated Code of Maryland
27 (2010 Replacement Volume and 2013 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Business Occupations and Professions**

4 **TITLE 13.5. PRIVATE PROCESS SERVERS.**

5 **SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.**

6 **13.5–101.**

7 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

9 (B) “PRIVATE PROCESS SERVER” MEANS AN INDIVIDUAL WHO
10 PERSONALLY PROVIDES PRIVATE PROCESS SERVICE IN THE STATE.

11 (C) “PROVIDE PRIVATE PROCESS SERVICE” MEANS TO PROVIDE, FOR
12 COMPENSATION, SERVICE OF PROCESS ON A PERSON THAT GIVES LEGAL
13 NOTICE TO THE PERSON OF A COURT’S EXERCISE OF THE COURT’S
14 JURISDICTION OVER THAT PERSON AND TO PROVIDE THE PERSON WITH ANY
15 DOCUMENTS ASSOCIATED WITH THE NOTICE.

16 (D) “REGISTRANT” MEANS AN INDIVIDUAL REGISTERED UNDER THIS
17 TITLE TO ACT AS A PRIVATE PROCESS SERVER.

18 **13.5–102.**

19 **THIS TITLE DOES NOT APPLY TO:**

20 (1) A LAW ENFORCEMENT OFFICER WHILE THE LAW
21 ENFORCEMENT OFFICER IS PERFORMING AN ACTIVITY THAT RELATES TO THE
22 REGULAR DUTIES OF THE LAW ENFORCEMENT OFFICER; OR

23 (2) A LAWYER WHO IS ADMITTED TO THE BAR OF THE STATE AND
24 IS A MEMBER IN GOOD STANDING OF THE MARYLAND STATE BAR ASSOCIATION,
25 WHILE THE LAWYER IS PERFORMING AN ACTIVITY THAT RELATES TO THE
26 LAWYER’S REGULAR PRACTICE OF LAW IN THE STATE.

27 **SUBTITLE 2. DUTIES OF THE SECRETARY.**

28 **13.5–201.**

1 **(A) THE SECRETARY IS RESPONSIBLE FOR THE REGISTRATION AND**
2 **REGULATION OF PRIVATE PROCESS SERVERS IN THE STATE.**

3 **(B) THE SECRETARY MAY ESTABLISH REGULATIONS TO CARRY OUT**
4 **THIS TITLE.**

5 **13.5-202.**

6 **(A) IN CONSULTATION WITH THE MARYLAND JUDICIARY, THE**
7 **SECRETARY SHALL ESTABLISH BY REGULATION:**

8 **(1) PROFESSIONAL STANDARDS OF CONDUCT FOR PRIVATE**
9 **PROCESS SERVERS; AND**

10 **(2) THE APPROPRIATE LENGTH OF SUSPENSION FOR A VIOLATION**
11 **OF THE STANDARDS OF CONDUCT DEVELOPED UNDER ITEM (1) OF THIS**
12 **SUBSECTION.**

13 **(B) THE STANDARDS OF CONDUCT SHALL INCLUDE REQUIREMENTS**
14 **THAT:**

15 **(1) REQUIRE PRIVATE PROCESS SERVERS TO:**

16 **(I) ACT WITH COMPLETE INTEGRITY IN ALL MATTERS**
17 **CONCERNING SERVICE OF PROCESS;**

18 **(II) BE COMPLETELY TRUTHFUL IN ALL PROFESSIONAL**
19 **REPORTS, STATEMENTS, AND TESTIMONY AND NOT MAKE MISLEADING,**
20 **DECEPTIVE, OR UNTRUE STATEMENTS IN THE COURSE OF SERVING PROCESS;**
21 **AND**

22 **(III) MAKE EVERY REASONABLE EFFORT TO PROVIDE**
23 **PROFESSIONAL SERVICES IN A COMPLETE AND EFFICIENT MANNER THAT DOES**
24 **NOT DELAY A COURT ACTION; AND**

25 **(2) PROHIBIT PRIVATE PROCESS SERVERS FROM:**

26 **(I) ENGAGING IN THE PRACTICE OF LAW, GIVING LEGAL**
27 **ADVICE, OR OTHERWISE ACTING IN A MANNER THAT A REASONABLE PERSON**
28 **WOULD INTERPRET AS ENGAGING IN THE PRACTICE OF LAW;**

29 **(II) KNOWINGLY ASSOCIATING WITH OR PERMITTING THE**
30 **USE OF THE PROCESS SERVER'S NAME OR FIRM NAME BY A PERSON OR FIRM**

1 THAT THE PROCESS SERVER KNOWS OR HAS REASON TO BELIEVE IS ENGAGING
2 IN A BUSINESS OR PROFESSIONAL PRACTICE IN A FRAUDULENT OR DISHONEST
3 MANNER; OR

4 (III) KNOWINGLY SERVING PROCESS IN VIOLATION OF
5 APPLICABLE STATE LAWS, RULES OF COURT, OR DEPARTMENT DIRECTIVES
6 CONCERNING SERVICE OF PROCESS.

7 SUBTITLE 3. REGISTRATION OF PRIVATE PROCESS SERVERS.

8 13.5-301.

9 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN INDIVIDUAL
10 SHALL BE REGISTERED WITH THE DEPARTMENT AS A PRIVATE PROCESS
11 SERVER BEFORE THE INDIVIDUAL PROVIDES PRIVATE PROCESS SERVICE IN THE
12 STATE.

13 (B) A BUSINESS OR FIRM THAT EMPLOYS INDIVIDUALS WHO PROVIDE
14 PRIVATE PROCESS SERVICE IS NOT REQUIRED TO REGISTER UNDER
15 SUBSECTION (A) OF THIS SECTION.

16 13.5-302.

17 (A) AN APPLICANT FOR A REGISTRATION SHALL:

18 (1) BE AT LEAST 18 YEARS OLD;

19 (2) BE A CITIZEN OF THE UNITED STATES;

20 (3) SUBMIT TO THE SECRETARY AN APPLICATION ON THE FORM
21 THAT THE SECRETARY PROVIDES;

22 (4) SUBMIT THE DOCUMENTS REQUIRED UNDER THIS SECTION;

23 AND

24 (5) PAY TO THE SECRETARY THE FEES REQUIRED UNDER
25 SUBSECTION (B) OF THIS SECTION.

26 (B) (1) AN APPLICANT FOR A REGISTRATION SHALL PAY TO THE
27 SECRETARY:

28 (I) AN APPLICATION FEE SET BY THE SECRETARY; AND

1 **(II) THE FEES DESCRIBED IN SUBSECTION (C)(2) OF THIS**
2 **SECTION.**

3 **(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
4 **PARAGRAPH, AS PART OF THE APPLICATION FOR REGISTRATION, THE**
5 **APPLICANT SHALL SUBMIT TO THE SECRETARY THE FINGERPRINTS REQUIRED**
6 **UNDER SUBSECTION (C)(2)(I) OF THIS SECTION.**

7 **(II) AN APPLICANT WHO IS CERTIFIED AS A PRIVATE**
8 **DETECTIVE UNDER TITLE 13 OF THIS ARTICLE AND WHO PROVIDES THE**
9 **APPLICANT'S CURRENT PRIVATE DETECTIVE CERTIFICATION NUMBER WITH AN**
10 **APPLICATION UNDER THIS SECTION IS NOT SUBJECT TO A CRIMINAL HISTORY**
11 **RECORDS CHECK UNDER SUBSECTION (C) OF THIS SECTION AND IS NOT**
12 **REQUIRED TO SUBMIT THE FINGERPRINTS REQUIRED UNDER SUBSECTION**
13 **(C)(2)(I) OF THIS SECTION.**

14 **(C) (1) THE DEPARTMENT SHALL APPLY TO THE CENTRAL**
15 **REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK**
16 **FOR EACH APPLICANT, EXCEPT AN APPLICANT WHO IS EXEMPT FROM THE**
17 **CRIMINAL HISTORY RECORDS CHECK REQUIREMENT UNDER SUBSECTION**
18 **(B)(2)(II) OF THIS SECTION.**

19 **(2) AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY**
20 **RECORDS CHECK, THE DEPARTMENT SHALL SUBMIT TO THE CENTRAL**
21 **REPOSITORY:**

22 **(I) TWO COMPLETE SETS OF THE APPLICANT'S LEGIBLE**
23 **FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE**
24 **CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF**
25 **INVESTIGATION;**

26 **(II) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE**
27 **CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO MARYLAND CRIMINAL**
28 **HISTORY RECORDS; AND**

29 **(III) THE MANDATORY PROCESSING FEE REQUIRED BY THE**
30 **FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY**
31 **RECORDS CHECK.**

32 **(3) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-234 OF THE**
33 **CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD**
34 **TO THE APPLICANT AND THE DEPARTMENT A PRINTED STATEMENT OF THE**
35 **APPLICANT'S CRIMINAL HISTORY RECORD INFORMATION.**

1 **(4) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK**
2 **UNDER THIS SECTION MAY CONTEST THE CONTENTS OF THE PRINTED**
3 **STATEMENT ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223**
4 **OF THE CRIMINAL PROCEDURE ARTICLE.**

5 **(D) THE APPLICATION FORM PROVIDED BY THE SECRETARY SHALL**
6 **REQUIRE:**

7 **(1) THE NAME, AGE, ADDRESS, AND TELEPHONE NUMBER OF THE**
8 **APPLICANT;**

9 **(2) A STATEMENT BY THE APPLICANT THAT THE APPLICANT:**

10 **(I) HAS NOT BEEN CONVICTED WITHIN THE LAST 10 YEARS**
11 **OF A FELONY; AND**

12 **(II) HAS NEVER BEEN CONVICTED OF FRAUD;**

13 **(3) A STATEMENT BY THE APPLICANT THAT THE APPLICANT WILL**
14 **PERFORM THE DUTIES OF A PRIVATE PROCESS SERVER IN ACCORDANCE WITH**
15 **STATE LAW AND THE MARYLAND RULES; AND**

16 **(4) ANY OTHER INFORMATION THE SECRETARY REQUIRES TO**
17 **ASSIST IN THE EVALUATION OF THE APPLICANT.**

18 **(E) THE APPLICATION FORM SHALL BE SIGNED, UNDER OATH, BY THE**
19 **INDIVIDUAL.**

20 **13.5-303.**

21 **(A) THE SECRETARY SHALL ISSUE TO EACH APPLICANT AT THE TIME**
22 **THE APPLICATION IS SUBMITTED A TEMPORARY REGISTRATION CARD THAT**
23 **AUTHORIZES THE APPLICANT TO PROVIDE PRIVATE PROCESS SERVICE UNTIL**
24 **THE APPLICANT RECEIVES A REGISTRATION CARD ISSUED UNDER § 13.5-304 OF**
25 **THIS SUBTITLE.**

26 **(B) A TEMPORARY REGISTRATION CARD ISSUED UNDER THIS SECTION**
27 **EXPIRES AFTER 60 DAYS.**

28 **13.5-304.**

1 **(A) THE SECRETARY SHALL REGISTER AS A PRIVATE PROCESS SERVER**
2 **EACH INDIVIDUAL WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE.**

3 **(B) THE SECRETARY SHALL ISSUE TO EACH INDIVIDUAL WHO IS**
4 **REGISTERED AS A PRIVATE PROCESS SERVER UNDER THIS SUBTITLE A**
5 **REGISTRATION CARD THAT IDENTIFIES THE INDIVIDUAL AS A REGISTERED**
6 **PRIVATE PROCESS SERVER.**

7 **(C) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION,**
8 **THE SECRETARY SHALL DETERMINE THE FORM AND CONTENT OF THE**
9 **REGISTRATION CARD.**

10 **(2) THE REGISTRATION CARD SHALL BE OF A SIZE AND MADE OF**
11 **MATERIALS APPROPRIATE FOR ITS INTENDED USE, AS PROVIDED UNDER §**
12 **13.5-305 OF THIS SUBTITLE.**

13 **(3) THE REGISTRATION CARD SHALL CONTAIN:**

14 **(I) A STATEMENT THAT IN SUBSTANCE AFFIRMS THAT THE**
15 **INDIVIDUAL IS REGISTERED BY THE SECRETARY AS A PRIVATE PROCESS**
16 **SERVER; AND**

17 **(II) THE REGISTRATION NUMBER OF THE PRIVATE PROCESS**
18 **SERVER.**

19 **13.5-305.**

20 **(A) AT ANY TIME THAT A REGISTERED PRIVATE PROCESS SERVER**
21 **PROVIDES PRIVATE PROCESS SERVICE, THE PRIVATE PROCESS SERVER SHALL**
22 **CARRY THE REGISTRATION CARD ISSUED UNDER § 13.5-304 OF THIS SUBTITLE.**

23 **(B) A REGISTERED PRIVATE PROCESS SERVER SHALL PROVIDE THE**
24 **REGISTRANT'S REGISTRATION NUMBER ON ALL DOCUMENTS FILED IN COURT BY**
25 **THE REGISTERED PRIVATE PROCESS SERVER.**

26 **(C) IF A REGISTERED PRIVATE PROCESS SERVER LOSES A**
27 **REGISTRATION CARD, THE PRIVATE PROCESS SERVER IMMEDIATELY SHALL**
28 **GIVE THE SECRETARY NOTICE OF THE LOSS AND THE CIRCUMSTANCES**
29 **REGARDING THE LOSS.**

30 **13.5-306.**

1 (A) BY REGULATION, THE SECRETARY SHALL ESTABLISH
2 REQUIREMENTS FOR PERIODIC RENEWAL OF A REGISTRATION ISSUED UNDER
3 THIS SUBTITLE.

4 (B) THE REGULATIONS GOVERNING RENEWAL SHALL REQUIRE A STATE
5 AND NATIONAL CRIMINAL HISTORY RECORDS CHECK OF EACH REGISTRANT AT
6 LEAST ONCE EVERY 3 YEARS.

7 **13.5-307.**

8 SUBJECT TO THE HEARING PROVISIONS OF § 13.5-309 OF THIS SUBTITLE,
9 THE SECRETARY MAY DENY REGISTRATION AS A PRIVATE PROCESS SERVER TO
10 ANY APPLICANT, REPRIMAND OR FINE ANY INDIVIDUAL REGISTERED AS A
11 PRIVATE PROCESS SERVER, OR SUSPEND OR REVOKE THE REGISTRATION OF
12 ANY INDIVIDUAL IF:

13 (1) THE APPLICANT OR INDIVIDUAL FRAUDULENTLY OR
14 DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN REGISTRATION AS A PRIVATE
15 PROCESS SERVER FOR THE APPLICANT OR INDIVIDUAL OR FOR ANOTHER;

16 (2) THE APPLICANT OR INDIVIDUAL FAILS TO MAINTAIN THE
17 STANDARDS OF CONDUCT SET BY THE SECRETARY FOR PRIVATE PROCESS
18 SERVERS; OR

19 (3) THE INDIVIDUAL HAS MADE A SERVICE OF PROCESS THAT
20 DOES NOT COMPLY WITH THE LAWS GOVERNING SERVICE OF PROCESS IN THE
21 STATE.

22 **13.5-308.**

23 (A) THE SECRETARY SHALL COMMENCE PROCEEDINGS UNDER §
24 13.5-307 OF THIS SUBTITLE ON THE SECRETARY'S OWN COMPLAINT OR ON A
25 COMPLAINT MADE TO THE SECRETARY BY ANY PERSON WHO IS SUBJECT TO THE
26 SERVICE OF PROCESS ON WHICH THE COMPLAINT IS BASED.

27 (B) (1) A COMPLAINT SHALL:

28 (I) BE IN WRITING;

29 (II) BE SIGNED BY THE COMPLAINANT; AND

30 (III) STATE SPECIFICALLY THE FACTS ON WHICH THE
31 COMPLAINT IS BASED.

1 **(2) IF A COMPLAINT IS MADE BY ANY PERSON OTHER THAN THE**
2 **SECRETARY, THE COMPLAINT SHALL BE MADE UNDER OATH BY THE PERSON**
3 **WHO SUBMITS THE COMPLAINT.**

4 **(C) ON RECEIPT OF A COMPLAINT THAT ALLEGES FACTS THAT ARE**
5 **GROUND FOR ACTION UNDER § 13.5-307 OF THIS SUBTITLE, THE SECRETARY**
6 **SHALL ORDER AN INVESTIGATION TO DETERMINE WHETHER THERE IS A**
7 **REASONABLE BASIS TO BELIEVE THAT THERE ARE GROUNDS FOR DISCIPLINARY**
8 **ACTION UNDER § 13.5-307 OF THIS SUBTITLE.**

9 **(D) IF, FOLLOWING AN INVESTIGATION, THERE IS A REASONABLE BASIS**
10 **FOR DISCIPLINARY ACTION, THE SECRETARY MAY ACT ON THE COMPLAINT AS**
11 **PROVIDED UNDER § 13.5-309 OF THIS SUBTITLE.**

12 **13.5-309.**

13 **(A) EXCEPT AS OTHERWISE PROVIDED IN § 10-226 OF THE STATE**
14 **GOVERNMENT ARTICLE, BEFORE THE SECRETARY TAKES ANY FINAL ACTION**
15 **UNDER § 13.5-307 OF THIS SUBTITLE, THE SECRETARY SHALL GIVE THE**
16 **INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY**
17 **FOR A HEARING BEFORE THE SECRETARY.**

18 **(B) THE SECRETARY SHALL GIVE NOTICE AND HOLD THE HEARING IN**
19 **ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT**
20 **ARTICLE.**

21 **(C) THE SECRETARY MAY ADMINISTER OATHS IN CONNECTION WITH**
22 **ANY PROCEEDINGS UNDER THIS SECTION.**

23 **(D) THE HEARING NOTICE TO BE GIVEN TO THE INDIVIDUAL SHALL BE**
24 **WRITTEN AND SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AT**
25 **LEAST 15 DAYS BEFORE THE HEARING.**

26 **(E) THE INDIVIDUAL MAY BE REPRESENTED AT THE HEARING BY**
27 **COUNSEL.**

28 **(F) IF, AFTER DUE NOTICE, THE INDIVIDUAL AGAINST WHOM THE**
29 **ACTION IS CONTEMPLATED FAILS OR REFUSES TO APPEAR, THE SECRETARY**
30 **MAY HEAR AND DETERMINE THE MATTER.**

31 **13.5-310.**

1 **13.5-501.**

2 **THIS TITLE MAY BE CITED AS THE MARYLAND PRIVATE PROCESS**
3 **SERVERS ACT.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December
5 31, 2016, the Department of Labor, Licensing, and Regulation shall report to the
6 General Assembly, in accordance with § 2-1246 of the State Government Article, on
7 the number of complaints filed under this Act, the nature of the complaints, the
8 disposition of the complaints, and any other information the Department considers
9 relevant.

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2014.