

STATE OF NEW YORK

9784

IN SENATE

May 30, 2024

Introduced by Sen. HOYLMAN-SIGAL -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the domestic relations law, in relation to modifying the provisions regarding notice of a matrimonial action where the complaint is not personally served with the summons

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 232 of the domestic relations law, as amended by
2 chapter 765 of the laws of 1974, subdivision a as amended by chapter 528
3 of the laws of 1978, is amended to read as follows:

4 § 232. Notice of nature of matrimonial action; proof of service. a. In
5 an action to annul a marriage or for divorce or for separation, if the
6 complaint is not personally served with the summons, the summons shall
7 have legibly written or printed upon the face thereof: "Action to annul
8 a marriage", "Action to declare the nullity of a void marriage", "Action
9 for a divorce", or "Action for a separation", as the case may be, and
10 shall specify the nature of any ancillary relief demanded. A judgment
11 shall not be rendered in favor of the plaintiff upon the defendant's
12 default in appearing or pleading, unless either (1) the summons and a
13 copy of the complaint were personally delivered to the defendant; or (2)
14 the copy of the summons (a) personally delivered to the defendant, or
15 (b) served on the defendant pursuant to an order directing the method of
16 service of the summons in accordance with the provisions of section
17 three hundred eight or three hundred fifteen of the civil practice law
18 and rules, or served on the defendant pursuant to an order directing
19 alternative service of the summons pursuant to subdivision five of
20 section three hundred eight of the civil practice law and rules through
21 proof of an active email account of the defendant which is shown to be
22 reasonably calculated to give notice to the defendant, shall contain
23 such notice. As used in this subdivision, an active email account of the
24 defendant shall be an account that has been used by the defendant in the
25 last thirty days.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 b. An affidavit or certificate proving service shall state affirma-
2 tively in the body thereof that the required notice was written or
3 printed on the face of the copy of the summons delivered to the defend-
4 ant and what knowledge the affiant or officer who executed the certif-
5 icate had that [~~he~~] such person was the defendant named and how [~~he~~] the
6 affiant or officer who executed the affidavit or certificate acquired
7 such knowledge. The court may require the affiant or officer who
8 executed the affidavit or certificate to appear in court and be examined
9 in respect thereto.

10 § 2. This act shall take effect immediately.