

# STATE OF NEW YORK

8408

2025-2026 Regular Sessions

## IN ASSEMBLY

May 13, 2025

Introduced by M. of A. DAIS -- (at request of the Unified Court System)  
-- read once and referred to the Committee on Judiciary

AN ACT to amend the surrogate's court procedure act, in relation to allowing certain methods for service of process

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

1 Section 1. Subdivisions 1, 2 and 3 of section 307 of the surrogate's  
2 court procedure act, as amended by chapter 355 of the laws of 2000, and  
3 subparagraph (ii) of paragraph (a) and paragraph (e) of subdivision 3 as  
4 amended by chapter 669 of the laws of 2022, are amended to read as  
5 follows:

6 1. Service by personal delivery. Service of the process may be made on  
7 any person by personal delivery [~~to him~~] of a copy of the process either  
8 within or without the state.

9 2. Service by registered or certified mail, [~~return receipt~~  
10 ~~requested,~~] or by special mail service[~~, upon non-domiciliaries~~].  
11 Service of the process may be made by registered or certified mail,  
12 [~~return receipt requested,~~] or by special mail service, [~~upon non-domi-~~  
13 ~~ciliaries, whether or not they be natural persons~~] within or without the  
14 state.

15 3. Service by court order. As an alternative to service under subdivi-  
16 sions 1 and 2, service may be made in the manner directed by the court;  
17 but such service, except as provided by subdivision 6, shall not be  
18 ordered upon a domiciliary natural person unless it be shown that, with  
19 due diligence, service [~~by personal delivery within the state~~] under  
20 subdivision 1 or 2 cannot be effected, or where for good cause shown,  
21 [~~personal service within the state~~] such service would be impracticable.  
22 Any proof necessary hereunder may be submitted in the petition or by  
23 affidavit. The court may take into account the size of the estate and  
24 the remoteness of kinship of any person to be cited in determining the  
25 appropriate due diligence necessary to permit alternate service under

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

LBD09845-01-5

1 this section. The court may direct service by any one or more of the  
2 following methods, which shall not, however, be exclusive:

3 (a) service by publication, such as is provided by CPLR 316, subject  
4 to 308 and 309, and to such variations of CPLR 316 as the court may  
5 provide, except that

6 (i) where persons are to be served by publication, publication in only  
7 1 newspaper shall be required, or

8 (ii) where a person is alleged to be within a country with which the  
9 United States of America is at war or a place with which the United  
10 States of America does not maintain postal communication, the court may  
11 direct that a copy of the process shall be mailed on behalf of such  
12 person to the officer who may have been appointed to take possession of  
13 the property of noncitizen enemies, or

14 (iii) where the person to be served is an absentee or alleged to be  
15 deceased, the court may direct that in addition to the foregoing  
16 requirements, the process be published in a newspaper published at or  
17 near the place where the absentee was last known to be, or

18 (iv) in an adoption proceeding under article seven of the domestic  
19 relations law or in a proceeding under section three hundred eighty-  
20 four-b of the social services law, a single publication in only one  
21 newspaper shall be sufficient.

22 (b) service by [~~mail, by registered or certified mail with or without~~  
23 ~~return receipt requested, or by any manner of special mail service, as~~  
24 ~~the court may direct~~] electronic means, as that term is defined by CPLR  
25 2103(f)(2), bearing the caption of the matter in the subject line of  
26 said transmission;

27 (c) substituted service such as is provided by CPLR 308 (2) and (4),  
28 within or without the state, subject to 308 and 309, and to such vari-  
29 ations of CPLR 308 as the court may provide;

30 (d) service within or without the state, by personal delivery to a  
31 person duly designated by respondent to receive process [~~in his~~] on the  
32 respondent's behalf, or to a person whose relationship, whatever its  
33 character, and by blood or otherwise to the respondent, indicates in the  
34 circumstances the probability that actual notice will reach the latter  
35 [~~through him~~];

36 (e) if the interest of a non-domiciliary noncitizen in the estate is  
37 less than \$2,500 or [~~his or her~~] such person's address is unknown or  
38 such estate's gross assets are less than \$25,000, by delivery of a copy  
39 of the process to a consular official of the noncitizen's nation.

40 § 2. Paragraph (a) of subdivision 1 of section 308 of the surrogate's  
41 court procedure act, as amended by chapter 685 of the laws of 1967, is  
42 amended to read as follows:

43 (a) The citation shall be served at least the following number of days  
44 before the return day:

45 (i) 10 days if the person is served within the state by personal  
46 delivery;

47 (ii) 20 days if the person is served [~~without the state but~~] within  
48 the United States, the District of Columbia, the Commonwealth of Puerto  
49 Rico or the possessions or territories of the United States by other  
50 than personal delivery; and

51 (iii) 30 days in all other cases and where the office of the attorney  
52 general is a party.

53 § 3. Subdivision 2 of section 309 of the surrogate's court procedure  
54 act, as amended by chapter 355 of the laws of 2000, is amended to read  
55 as follows:

1 2. Service by other means. Unless the court directs otherwise, the  
2 service of the process shall be complete when served by:

3 (a) mailing or by registered or certified mail, [~~with or without~~  
4 ~~return receipt requested,~~] upon the mailing thereof;

5 (b) special mail service, upon receipt of the envelope containing the  
6 process by the United States Postal Service in the case of express mail  
7 or upon receipt of the envelope containing the process by the designated  
8 delivery service in the case of any other special mail service;

9 (c) substituted service, upon the delivery or affixing and the mailing  
10 thereof, whichever is done last;

11 (d) personal delivery to a person duly designated by the respondent,  
12 or to a person or consular official designated by the court by order to  
13 be served in respondent's behalf, upon such personal delivery;

14 (e) publication, on the 28th day after the first publication; [~~or~~]

15 (f) electronic means, upon transmittal of the process to the recipi-  
16 ent; or

17 (g) any other means, as the court directs.

18 § 4. This act shall take effect immediately.