

*My Laws, My Courts, My Maryland:*  
***SERVICE OF PROCESS***

You've started your lawsuit by filing a complaint with the court. Now, you, as the **plaintiff**, must ensure that the other side gets "service of process." "**Service of process**" is a term that describes how the **defendant** receives notice about your case. The defendant must be served before the court will hear your case. This special step makes sure that the defendant gets **due process** – that he or she has a chance to be present and to tell his or her side of the story in court. Today, we'll go through the steps involved in serving someone.

When you file the complaint, the clerk's office will issue a **summons**. The summons is an official court paper that orders the defendant to show up to court at a certain time. The defendant must receive the summons and a copy of your complaint in one of several ways. This is known as "service of process."

Generally, you may not serve the defendant yourself. Someone else, 18 years or older, who is not involved in the case, must serve the defendant. There are three ways to serve someone: by certified mail, by sheriff or constable, or by private process.

First, you can use **certified mail with a return receipt**. If you filed your case in the District Court, you can request to serve someone by Certified Mail simply by checking the "Certified Mail" box when filing your complaint (form DC/CV 1). For a small fee, the clerk's office will send the summons and your complaint by certified mail to the person whom you are trying to serve. If the defendant accepts service by certified mail, the clerk's office will record the Return Receipt as "proof of service" in your case. The clerk's office will tell you if the defendant is

served by certified mail. If the clerk's office is unable to serve the defendant, you may need to choose another method of service.

If you filed your case in a circuit court, you must arrange for service by certified mail yourself. The court will send the defendant's summons directly to you. Once you receive the summons, have some other person go to any United States post office. Have that person send the summons to the defendant for you, by certified mail, return receipt requested. Remember, you can't serve the defendant yourself. So, the person serving the defendant must not write your address in the "From" box. Also, ask the person to check off the box next to "Restricted Delivery." This means that only the person listed in the "To" box (the defendant) can accept the delivery.

Once the defendant accepts service by certified mail, the post office will send the Return Receipt postcard back to the person who helped you with the service. The other person should give it to you along with an affidavit. Submit the affidavit and the Return Receipt to the court as **proof of service**.

Certified mail with return receipt is often the easiest, cheapest way to serve someone. However, if no one answers the door, or if the defendant won't sign the return receipt, you'll have to choose another way to serve him or her. If you think the defendant will try to avoid service, consider another method of service at the start.

The second way to serve someone is to pay an extra fee to the court for the local sheriff's office or constable to serve the defendant in person. The sheriff may also leave the papers at the

defendant's house with a resident of suitable age and discretion. Generally, someone 18 or older is of "suitable age." The sheriff or constable will send the clerk of the court an affidavit of service – a sworn statement that the sheriff made proper service.

The last two options are called **private process service**. You can have an adult other than you, who is not involved in the case, serve the other side in person. Often, people use a family member or friend. Or, you can pay a private process service company to serve the defendant. When making service in person, either the defendant, or a resident of suitable age and discretion who lives with the defendant, may accept service. You can also pay a private process service company to help find a defendant who is difficult to locate.

After private process service is made, the person who served the defendant must file an affidavit of service with the court as proof that he or she served the defendant. It should state that the person who made service is at least 18 years of age. The affidavit will also name and describe the person served, and the date, time, and place of service. If the defendant wasn't served personally, the affidavit should state the relationship of the person served to the defendant.

If you can't get the defendant served before the date noted on the summons, you can ask the court to renew the summons, giving you more time to complete service. In the District Court, file a "Request for Renewal of Writ of Summons" (court form DC/CV 10). You may have to pay a fee to renew the summons. In the District Court, this fee is \$5. The clerk will send you a new summons with a new trial date, and a new date by which you must serve the defendant.

If you've tried all reasonable ways to serve the defendant, and still haven't succeeded, there's one last option. You can ask that the court let you serve the defendant by posting or publication. To do so in the District Court, file "Plaintiff's Affidavit to Secure Service by Posting or Publication" (court form DC/CV 6). If you're in Circuit Court and you're involved in a family case, file a "Motion for Alternative Service" (court form DOM REL 70). You must state in an affidavit that you don't know the defendant's whereabouts, and you must explain the good faith, reasonable efforts you've made to find and serve the defendant. List the dates and results of each attempt. If the court grants your motion, it may let you serve the defendant in a special way. The court may permit service by mailing a notice to the defendant's last known address, having the sheriff post notice on the courthouse door or a bulletin board, or publishing the notice in local newspapers. In some cases, including landlord/tenant matters, the court may order the notice posted on the property.

You can learn more about how to find and serve a defendant in the court's domestic relations instructions for filing a Motion for Alternate Service (listed online as "DRIN 70"), which outlines the steps involved.

Be aware that the defendant may argue that he or she wasn't served correctly, even if you did everything right. If this happens, the court may hold a hearing on the issue. For this reason, it's important to save copies of receipts and papers related to service, and bring them with you to court.

There's one last thing you should know. If you're filing a case against a corporation, you can serve that business using the same ways we talked about before: by certified mail, sheriff or constable, or private process. For example, maybe your landlord is a business and not a person. To serve the business, first you'll need to find its correct legal name. Then, you'll serve the president, secretary, or treasurer of the business, or someone who has agreed to accept service for the business. This other person or organization is called the "resident agent." Every corporation must choose a resident agent. The name and address of the corporation's resident agent is on file with the state. You can check for the correct business name and find its resident agent in the records of the State Department of Assessments and Taxation at the courthouse. This information is also online at [www.dat.state.md.us/](http://www.dat.state.md.us/), under "Business Data Search."

Once the defendant has been served and the court has received proof of service, you can sit back and wait for the other side to answer your complaint. You can find more information about service of process and other legal topics on the People's Law Library website at [peoples-law.org](http://peoples-law.org). Additionally, all of the court forms we discussed today are available online at [mdcourts.gov/courtforms](http://mdcourts.gov/courtforms).

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