

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 796

6
7 S.P. 307

In Senate, February 28, 1985

8 Reference to the Committee on Legal Affairs suggested. On motion of
9 Senator Violette of Aroostook, referred to the Committee on Judiciary. Sent
down for concurrence and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

11 Presented by Senator Gauvreau of Androscoggin.

Cosponsored by Representative Mayo of Thomaston, Representative
Handy of Lewiston and Representative Baker of Orrington.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT Relating to Service of Process by
18 Sheriffs, Deputies and Constables.
19

20 Be it enacted by the People of the State of Maine as
21 follows:

22 Sec. 1. 14 MRSA §702 is amended by adding at the
23 end the following:

24 A sheriff or his deputy may serve, execute and
25 return civil process outside of his county when:

26 1. Local officers unavailable. Local municipal
27 or county law enforcement officers are unavailable to
28 serve process on a weekend, after business hours or
29 on a holiday;

30 2. Local officers unable to serve. Local munic-
31 ipal or county law enforcement officers are unable to
32 serve civil process due to vacations, illness or at-
33 tention to more pressing law enforcement needs; or

1 3. Prejudice to parties. The inability or un-
2 availability of local municipal or county law en-
3 forcement personnel may reasonably be expected to
4 prejudice a party to civil litigation related to the
5 process of service.

6 Sec. 2. 14 MRSA §703, as amended by PL 1977, c.
7 650, §1, is further amended by adding at the end the
8 following:

9 A constable may serve, execute and return civil
10 process outside of his municipality when:

11 1. Local officers unavailable. Local municipal
12 or county law enforcement officers are unavailable to
13 serve process on a weekend, after business hours or
14 on a holiday;

15 2. Local officers unable to serve. Local munic-
16 ipal or county law enforcement officers are unable to
17 serve civil process due to vacations, illness or at-
18 tention to more pressing law enforcement needs; or

19 3. Prejudice to parties. The inability or un-
20 availability of local municipal or county law en-
21 forcement personnel may reasonably be expected to
22 prejudice a party to civil litigation related to the
23 process of service.

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STATEMENT OF FACT

2 Under present Maine law, sheriffs, sheriff's dep-
3 uties and constables are authorized to serve civil
4 process. Sheriffs and their deputies are not allowed
5 to serve process outside their respective counties
6 and constables are restricted to service of process
7 within the municipalities from which they are ap-
8 pointed. This geographical restriction occasionally
9 causes hardship to parties who are unable to secure
10 prompt civil process due to the inability or unavail-
11 ability of local sheriffs, deputies and constables to
12 respond.

13 The hardship occurs most frequently on weekends
14 and after the close of regular business hours when
15 sheriffs and deputies usually cease serving process.
16 If the local constable is otherwise engaged or ill,
17 process must be delayed until the next business day
18 when a deputy is available. In certain situations,
19 the delay in process can be critical. Emergency in-
20 junctions or restraining orders will not become ef-
21 fective until served. A deadline for commencing a
22 legal action may expire due to the unavailability of
23 a deputy to serve process. A party whose case re-
24 quires immediate attention may be required to wait
25 precious hours or days until local law enforcement
26 personnel become available to serve process.

27 This bill relieves this hardship by allowing
28 sheriffs or their deputies from another county, or
29 constables from another municipality, to serve civil
30 process outside their regular territory in the lim-
31 ited situations which would present serious hardships
32 to parties unable to secure prompt service of civil
33 process.

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