

WHITE PAPER
Submission by The Business Law Section of The Florida Bar
Regarding Proposed Bill Authorizing Service of Process on
Registered Agents of Business Entities through Email and Other
Electronic Means

Date: January 8, 2026

The Florida Association of Process Servers (FAPPS) has proposed to file a bill (the FAPPS proposed bill) that would amend s. 48.191, Florida Statutes, to allow for service of process on registered agents of business entities through email or through an online document portal, effectuated by a sheriff, a special process server appointed by a sheriff, a certified process server, or a person appointed by a court.

The Chapter 48 Task Force (the BLS Task Force) of the Florida Business Law Section (BLS) that was established several years ago to study and prepare legislation relating to Florida service of process has examined the FAPPS proposed bill and has serious concerns about its advisability, efficacy and compliance with requirements of due process. The BLS Task Force has recommended to the Executive Council of the BLS that the BLS oppose the adoption of the FAPPS proposed bill in its current form; and the Executive Council of the BLS supports this recommended position of the Task Force.

Historically, under Florida law, the original service of process that is required to commence a civil lawsuit in Florida has generally been required to be served on an opposing party by way of and through personal delivery. See s. 48.031, Fla. Stat. With respect to a business entity, under current Florida law, personal service of process must first be attempted on its registered agent. See ss. 48.061, 48.062, 48.081, Fla. Stat. Under the current versions of those statutory provisions, if personal service on the registered agent cannot be made after one good faith attempt, service may be effectuated on the business entity by seeking personal service on a specified officials or representatives of such business entity, following a specified hierarchy (waterfall). *Id.* If service of process on the business entity cannot be made, however, through personal service on any of these individuals using due diligence, substituted service of process then may be made on the opposing party by delivery of such process to the Florida Secretary of State as the agent for such opposing party, with a copy also mailed to the opposing party. See s. 48.161, Fla. Stat.

As an alternative to substituted service on the Florida Secretary of State, pursuant to s. 48.102, Fla. Stat. (which is a new statute added to Chapter 48 in a 2022 bill that was largely drafted by the BLS Task Force and sponsored by the BLS), a party may also serve a business entity through alternative means, including through email or other electronic

means. That statute, however, contains a clearly enumerated set of safeguards, including (1) alternative service under the statute can only be made pursuant to a court order; (2) the applicant must show to the court that it has through reasonable diligence attempted to serve the party through traditional means, i.e. by hand delivery; and (3) the applicant must also demonstrate that the proposed method of service would be reasonably likely to provide actual notice to the opposing party.

The FAPPS proposed bill allowing service of process on business entities by serving their registered agents through email or through an online document portal contains no effective safeguards, including none of the safeguards appearing in s. 48.102, Fla. Stat. Service. Under the FAPPS proposed bill, service of process could be made in the first instance without any attempt to effectuate service by personal delivery, without any court involvement and without any court order. Moreover, the FAPPS proposed bill contains no requirement that the party seeking to effectuate service verify that (i) an email address to which the process is supposedly being sent to the registered agent is a valid and current email address and (ii) emails from unknown senders, such as sheriffs or process servers, would not be blocked or directed to spam folders where they would be unlikely to be seen by the intended recipient. The FAPPS proposed bill also contains no specified requirements for what would constitute an acceptable online document portal, such as that the portal be operable and dedicated solely to receipt of service or process. There also is no requirement in the FAPPS proposed bill that the receipt of the process by the registered agent through the email or document portal must be authenticated or proven.

The BLS Task Force has found only one other state in the United States that allows service of process to be effectuated on a business entity by email service on its registered agent. See S.C. Code 26-6-190 (2024). The South Carolina statute, however, contains safeguards that the service must be made to an email address for the registered agent registered with the South Carolina Secretary of State and the emailed process must have been postmarked by a “United States Postal Service Electronic Postmark in a manner approved by the South Carolina Supreme Court.” *Id.*, at subsection (C)(4). Again, the FAPPS proposed bill does not contain any similar or other effective safeguards.

Finally, if one of the key purposes of the FAPPS proposed bill is to seek to shorten the time involved in completing service of process and thus to streamline the entire process, there would appear to be no reason why effectuating the service of process on registered agents of business entities by way of email or through a document portal must only be effectuated by a sheriff or process server, rather than also permitting such streamlined service of process to be effectuated by the attorney for the party seeking to effectuate the service. In this regard, we note that s. 48.102, Fla. Stat., allows the service by alternative means to be made either by a sheriff, process server, or by an attorney.

