

HOUSE BILL 564
By Towns

AN ACT to amend Tennessee Code Annotated, Title 8,
Chapter 8, Part 1, relative to service of process.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-8-108(c), is amended by deleting subdivisions (1) and (2) and substituting instead the following language:

(c)

(1) A person to serve process shall be appointed upon the petition of five (5) attorneys practicing before the general sessions court requesting appointment of persons to serve process. Such petition shall be filed with the sheriff and shall attest to the fact that the attorneys are unable to obtain reasonable, prompt service from the general sessions court. A person requesting appointment to serve process must file a petition with the sheriff requesting such appointment. A person appointed to serve process must be of legal age, a permanent resident of the state of Tennessee, have no mental or legal disability, and be qualified to serve any process or other papers issued by the general sessions court or to do any act which the sheriff might do in serving process, except that such person shall not be authorized to serve process requiring the arrest of any person. The sheriff shall approve the petition to allow a person to serve process after a background check by the Tennessee bureau of investigation and any county sheriff's office has been completed. The sheriff shall administer an oath to the petitioner to uphold the laws of this state and the constitutions of the United States and Tennessee. A petitioner shall pay a fee not to exceed two hundred

dollars (\$200) to the sheriff for the cost of the background checks and application processing.

(2) Such appointment shall be made in writing under the hand of the sheriff. The sheriff may prescribe additional rules and regulations directly related to the eligibility of a person to become a private process server or to have such person's name maintained on the list of private process servers.

SECTION 2. Tennessee Code Annotated, Section 8-8-108(c)(5), is amended by deleting the language "county clerk" and substituting instead the language "county attorney".

SECTION 3. Tennessee Code Annotated, Section 8-8-108(c)(8), is amended by deleting subdivision (B) and substituting instead the following:

(B) The sheriff has the power to revoke the authority of any person appointed to serve process who has violated the state or city laws governing the laws pertaining to civil process or any regulations established by the sheriff pursuant to subdivision (c)(2);

SECTION 4. Tennessee Code Annotated, Section 8-8-108(c)(8), is further amended by adding the following as new subdivisions thereto:

(D) The sheriff shall issue each private process server an identification card bearing such process server's identification number, printed name, signature, photograph, and an expiration date. Each identification card shall be renewable annually upon proof of good standing. The annual renewal fee shall be sixty dollars (\$60.00). The private process server while carrying out the duties of this section, shall wear identification furnished by the sheriff and shall be prohibited from displaying on his/her person a five or six point star;

(E) The sheriff shall have the discretion to revoke an appointment at any time such sheriff determines that the private process server is not fully and properly discharging the duties of a private process server. The sheriff shall institute a program

to determine whether private process servers appointed under this section are faithfully discharging their duties pursuant to such appointment. Revocation of appointments may be appealed to the general sessions court of the county where such appointment was made;

(F) The following shall be grounds for revocation of an appointment as a private process server:

- (i) Committed any act of dishonesty or fraud in performance of duties; or
- (ii) Knowingly made a false statement on an application; or
- (iii) Violated any state or federal law

; and

(G) A private process server shall not be interested in any process such process server serves. If a private process server willfully and knowingly executes false return of service, such process server is guilty of a Class C misdemeanor, and if convicted shall, in addition to the penalty under § 40-35-111, be permanently barred from serving process in this state.

SECTION 5. This act shall take effect July 1, 2005, the public welfare requiring it.