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**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

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LLS NO. 17-1160.01 Yelana Love x2295

HOUSE BILL

HOUSE SPONSORSHIP

Melton,

SENATE SPONSORSHIP

(None),

**BILL TOPIC: "Registration Process Servers"
DEADLINES: File by: 4/12/2017**

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF PROCESS SERVERS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Under current law, process servers are not subject to regulation by any state agency. **Section 1** of the bill creates the "Process Servers Registration Act" and makes it unlawful for a person to act as a process server without first obtaining registration from the division of professions and occupations in the department of regulatory agencies (DORA).

Section 2 requires a review of the division's duties and functions in registering process servers after 7 years under the existing sunset laws.

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 59.5 to
3 title 12 as follows:

4 **ARTICLE 59.5**

5 **Process Servers**

6 **12-59.5-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 59.5
7 IS THE "PROCESS SERVERS REGISTRATION ACT".

8 **12-59.5-102. Definitions.** AS USED IN THIS ARTICLE 59.5, UNLESS
9 THE CONTEXT OTHERWISE REQUIRES:

10 (1) "APPLICANT" MEANS A PROCESS SERVER WHO APPLIES FOR AN
11 INITIAL OR RENEWAL REGISTRATION PURSUANT TO THIS ARTICLE 59.5.

12 (2) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OR THE
13 DIRECTOR'S DESIGNEE.

14 (3) "DIVISION" MEANS THE DIVISION OF PROFESSIONS AND
15 OCCUPATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES.

16 (4) "PROCESS SERVER" MEANS A NATURAL PERSON WHO SERVES
17 LEGAL PAPERS IN LAWSUITS, CRIMINAL PROCEEDINGS, OR ADMINISTRATIVE
18 PROCEEDINGS.

19 (5) "REGISTRANT" MEANS A PROCESS SERVER REGISTERED BY THE
20 DIRECTOR PURSUANT TO THIS ARTICLE 59.5.

21 **12-59.5-103. Registration - title protection - unauthorized**
22 **practice - penalty - repeal.** (1) (a) BY SIX MONTHS AFTER THE
23 EFFECTIVE DATE OF THIS ACT, A PROCESS SERVER IN THIS STATE IS
24 REQUIRED TO MEET THE QUALIFICATIONS SET FORTH IN SECTION
25 12-59.5-105 AND TO REGISTER WITH THE DIRECTOR.

26 (b) ONLY A PROCESS SERVER WHO OBTAINS A REGISTRATION

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1 PURSUANT TO SECTION 12-59.5-105 MAY PRESENT HIMSELF OR HERSELF AS
2 OR USE THE TITLE OF A "REGISTERED PROCESS SERVER" OR "PROCESS
3 SERVER".

4 (2) ANY PERSON WHO SERVES PROCESS OR PRESENTS HIMSELF OR
5 HERSELF AS OR USES THE TITLE "PROCESS SERVER" OR "REGISTERED
6 PROCESS SERVER" WITHOUT AN ACTIVE REGISTRATION ISSUED UNDER THIS
7 ARTICLE 59.5 COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED
8 AS PROVIDED IN SECTION 18-1.3-501 FOR THE FIRST OFFENSE AND, FOR THE
9 SECOND OR ANY SUBSEQUENT OFFENSE, COMMITS A CLASS 1
10 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION
11 18-1.3-501.

12 **12-59.5-104. Exemptions.** (1) THIS ARTICLE 59.5 DOES NOT
13 APPLY TO A CERTIFIED PEACE OFFICER OF A LAW ENFORCEMENT AGENCY
14 OPERATING IN HIS OR HER OFFICIAL CAPACITY. _____

15 _____

16 **12-59.5-105. Process server registration - qualifications - fees**
17 **- renewal - disqualifications.** (1) THE DIRECTOR MAY ISSUE
18 REGISTRATION TO AN APPLICANT WHO, UPON APPLICATION IN THE FORM
19 AND MANNER DETERMINED BY THE DIRECTOR, PAYMENT OF THE REQUIRED
20 FEE, AND SATISFACTION OF THE REQUIREMENTS OF SUBSECTION (2) OF THIS
21 SECTION, PROVIDES EVIDENCE SATISFACTORY TO THE DIRECTOR THAT THE
22 APPLICANT:

- 23 (a) IS AT LEAST EIGHTEEN YEARS OF AGE;
- 24 (b) IS LAWFULLY PRESENT IN THE UNITED STATES AND A
25 COLORADO RESIDENT; AND
- 26 (c) DEMONSTRATES KNOWLEDGE AND UNDERSTANDING OF THE
27 LAWS AND RULES AFFECTING THE ETHICS AND ACTIVITIES OF PROCESS

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1 SERVERS IN THIS STATE BY SUCCESSFULLY COMPLETING A PROCESS SERVER
2 EDUCATION COURSE THAT MEETS THE REQUIREMENTS OF SECTION
3 12-59.5-106.

4 _____
5 (2) (a) EXCEPT AS PROVIDED IN SUBSECTION (2)(b) OF THIS
6 SECTION, WITH THE SUBMISSION OF AN APPLICATION FOR A REGISTRATION
7 GRANTED PURSUANT TO THIS ARTICLE 59.5, EACH APPLICANT SHALL
8 SUBMIT A COMPLETE SET OF HIS OR HER FINGERPRINTS TO THE DIVISION.
9 THE DIVISION SHALL SUBMIT THE FINGERPRINTS TO THE COLORADO
10 BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING
11 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS. THE COLORADO
12 BUREAU OF INVESTIGATION SHALL FORWARD THE FINGERPRINTS TO THE
13 FEDERAL BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING
14 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS. THE DIVISION
15 MAY ACQUIRE A NAME-BASED CRIMINAL HISTORY RECORD CHECK FOR AN
16 APPLICANT OR A REGISTRANT WHO HAS TWICE SUBMITTED TO A
17 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK AND WHOSE
18 FINGERPRINTS ARE UNCLASSIFIABLE. THE DIVISION SHALL USE THE
19 INFORMATION RESULTING FROM THE FINGERPRINT-BASED CRIMINAL
20 HISTORY RECORD CHECK TO INVESTIGATE AND DETERMINE WHETHER AN
21 APPLICANT IS QUALIFIED TO HOLD A REGISTRATION PURSUANT TO THIS
22 ARTICLE 59.5. THE DIVISION MAY VERIFY THE INFORMATION AN APPLICANT
23 IS REQUIRED TO SUBMIT. THE APPLICANT SHALL PAY THE COSTS
24 ASSOCIATED WITH THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD
25 CHECK TO THE COLORADO BUREAU OF INVESTIGATION.

26 (b) AN APPLICANT LICENSED AS A PRIVATE INVESTIGATOR
27 PURSUANT TO ARTICLE 58.5 OF THIS TITLE 12 IS NOT REQUIRED TO SUBMIT

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1 TO THE CRIMINAL HISTORY RECORD CHECK DESCRIBED IN SUBSECTION
2 (2)(a) OF THIS SECTION.

3 (3) AN APPLICANT FOR REGULATION UNDER THIS SECTION SHALL
4 PAY REGISTRATION, RENEWAL, AND REINSTATEMENT FEES ESTABLISHED
5 BY THE DIRECTOR PURSUANT TO SECTION 24-34-105. A REGISTRANT MUST
6 RENEW HIS OR HER REGISTRATION IN ACCORDANCE WITH A SCHEDULE
7 ESTABLISHED BY THE DIRECTOR PURSUANT TO SECTION 24-34-102 (8). IF
8 A REGISTRANT FAILS TO RENEW HIS OR HER REGISTRATION PURSUANT TO
9 THE SCHEDULE ESTABLISHED BY THE DIRECTOR, THE REGISTRATION
10 EXPIRES, AND THE PERSON SHALL NOT PROVIDE SERVICE OF PROCESS IN
11 THIS STATE UNTIL THE PERSON PAYS THE APPROPRIATE FEES TO REINSTATE
12 THE REGISTRATION AND THE DIRECTOR REINSTATES THE REGISTRATION. A
13 PERSON WHOSE REGISTRATION EXPIRES AND WHO CONTINUES TO DO
14 BUSINESS AS A PROCESS SERVER IS SUBJECT TO THE PENALTIES PROVIDED
15 IN THIS ARTICLE 59.5 AND SECTION 24-34-102 (8). THE REGISTRATION,
16 RENEWAL, AND REINSTATEMENT FEES FOR LICENSED PRIVATE
17 INVESTIGATORS MUST BE LOWER THAN THE FEES FOR APPLICANTS AND
18 REGISTRANTS WHO ARE NOT LICENSED PRIVATE INVESTIGATORS.

19 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
20 DIRECTOR SHALL DENY OR REVOKE A REGISTRATION TO AN APPLICANT OR
21 REGISTRANT WHO WAS CONVICTED OF OR ENTERED A PLEA OF GUILTY OR
22 NOLO CONTENDERE TO ANY OFFENSE, THE UNDERLYING FACTUAL BASIS OF
23 WHICH HAS BEEN FOUND BY THE COURT TO INVOLVE:

24 (A) UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION
25 16-22-102;

26 (B) DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1);

27 (C) STALKING, AS DEFINED IN SECTION 18-3-602; OR

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1 (D) VIOLATION OF A PROTECTION ORDER, AS DEFINED IN SECTION
2 18-6-803.5;

3 _____

4 (II) THE DIRECTOR IS GOVERNED BY SECTION 24-5-101 IN
5 CONSIDERING THE CONVICTION OR PLEA IN CONNECTION WITH ANY
6 CONTEMPLATED DISCIPLINARY ACTION.

7 **12-59.5-106. Process server education course.** (1) EACH
8 APPLICANT SHALL COMPLETE A FOUR-HOUR PROCESS SERVER EDUCATION
9 COURSE. THE COURSE MUST INCLUDE EDUCATION ON:

10 (a) THE "ADDRESS CONFIDENTIALITY PROGRAM ACT", PART 21 OF
11 ARTICLE 30 OF TITLE 24;

12 (b) HARASSMENT, AS DEFINED IN SECTION 18-9-111;

13 (c) TRESPASS, AS DEFINED IN SECTIONS 18-4-502 TO 18-4-504;

14 (d) RULES 4 AND 45 OF THE FEDERAL RULES OF CIVIL PROCEDURE;

15 (e) COLORADO RULES OF CIVIL PROCEDURE 4, 45, AND 69 AND
16 COLORADO RULES OF COUNTY COURT PROCEDURE 304, 345, AND 369; AND

17 (f) SAFETY.

18 (2) (a) THE COURSE SPECIFIED IN SUBSECTION (1) OF THIS SECTION
19 MUST BE SPONSORED BY A COMPANY EMPLOYING AT LEAST FIVE PROCESS
20 SERVERS OR A PROFESSIONAL PROCESS SERVERS ASSOCIATION _____. THE
21 COURSE INSTRUCTOR MUST HAVE AT LEAST FIVE YEARS OF EXPERIENCE
22 SERVING PROCESS IN COLORADO, BE A MEMBER OF A PROFESSIONAL
23 PROCESS SERVERS ASSOCIATION. _____

24 (b) UPON COMPLETION OF THE COURSE, THE COURSE PROVIDER
25 SHALL PROVIDE EACH PROCESS SERVER WITH A CERTIFICATE OF
26 COMPLETION.

27 (3) A PROCESS SERVER WHO HAS ATTENDED A COURSE THAT

1 COVERED THE TOPICS LISTED IN SUBSECTION (1) OF THIS SECTION WITHIN
2 THE FIVE YEARS PRIOR TO THE EFFECTIVE DATE OF THIS ARTICLE 59.5 MAY
3 SATISFY THE REQUIREMENT OF SUBSECTION (1) OF THIS SECTION BY
4 PROVIDING THE DIVISION WITH A CERTIFICATE OF COMPLETION.

5 **12-59.5-107. Director's powers and duties - rules.** (1) IN
6 ADDITION TO ALL OTHER POWERS AND DUTIES CONFERRED OR IMPOSED
7 UPON THE DIRECTOR BY THIS ARTICLE 59.5 OR BY ANY OTHER LAW, THE
8 DIRECTOR MAY:

9 (a) PROMULGATE RULES PURSUANT TO SECTION 24-4-103 TO
10 IMPLEMENT THIS ARTICLE 59.5, INCLUDING RULES TO:

11 (I) ESTABLISH THE FORM AND MANNER FOR APPLYING FOR A
12 REGISTRATION UNDER THIS ARTICLE 59.5; AND

13 (II) ADDRESS ANY OTHER MATTERS DETERMINED NECESSARY BY
14 THE DIRECTOR TO IMPLEMENT THIS ARTICLE 59.5;

15 (b) REVIEW AND GRANT OR DENY APPLICATIONS FOR NEW OR
16 RENEWAL REGISTRATIONS AS PROVIDED IN THIS ARTICLE 59.5;

17 (c) ESTABLISH FEES FOR THE ISSUANCE OF A NEW REGISTRATION
18 AND FOR EACH REGISTRATION RENEWAL PURSUANT TO SECTION
19 24-34-105; AND

20 (d) DETERMINE WHETHER AN APPLICANT HAS SUCCESSFULLY
21 COMPLETED THE PROCESS SERVER EDUCATION COURSE REQUIRED IN
22 SECTION 12-59.5-106.

23 **12-59.5-108. Disciplinary actions - grounds for discipline -**
24 **rules - cease-and-desist orders.** (1) THE DIRECTOR MAY DENY, SUSPEND,
25 OR REVOKE A REGISTRATION, PLACE AN APPLICANT OR REGISTRANT ON
26 PROBATION, OR ISSUE A LETTER OF ADMONITION TO AN APPLICANT OR
27 REGISTRANT IF THE APPLICANT OR REGISTRANT:

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1 (a) VIOLATES ANY ORDER OF THE DIRECTOR, ANY PROVISION OF
2 THIS ARTICLE 59.5, OR ANY RULE ADOPTED UNDER THIS ARTICLE 59.5;

3 (b) FAILS TO MEET THE REQUIREMENTS OF SECTION 12-59.5-105 OR
4 USES FRAUD, MISREPRESENTATION, OR DECEIT IN APPLYING FOR OR
5 ATTEMPTING TO APPLY FOR A REGISTRATION;

6 _____

7 (c) ADVERTISES OR PRESENTS HIMSELF OR HERSELF AS A
8 REGISTERED PROCESS SERVER WITHOUT HOLDING AN ACTIVE
9 REGISTRATION;

10 (d) HAS BEEN SUBJECT TO DISCIPLINE RELATED TO THE PRACTICE
11 OF SERVING PROCESS IN ANOTHER JURISDICTION. EVIDENCE OF
12 DISCIPLINARY ACTION IN ANOTHER JURISDICTION IS PRIMA FACIE EVIDENCE
13 FOR DENIAL OF A REGISTRATION OR OTHER DISCIPLINARY ACTION IF THE
14 VIOLATION WOULD BE GROUNDS FOR DISCIPLINARY ACTION IN THIS STATE.

15 _____

16 (2) THE DIRECTOR MAY ADOPT RULES ESTABLISHING FINES THAT
17 HE OR SHE MAY IMPOSE ON A REGISTRANT. THE RULES MUST INCLUDE A
18 GRADUATED FINE STRUCTURE, WITH A MAXIMUM ALLOWABLE FINE OF NOT
19 MORE THAN THREE THOUSAND DOLLARS PER VIOLATION. THE DIRECTOR
20 SHALL TRANSMIT ANY FINES HE OR SHE COLLECTS FROM A REGISTRANT TO
21 THE STATE TREASURER FOR DEPOSIT IN THE GENERAL FUND.

22 (3) THE DIRECTOR NEED NOT FIND THAT THE ACTIONS THAT ARE
23 GROUNDS FOR DISCIPLINE WERE WILLFUL BUT MAY CONSIDER WHETHER
24 THE ACTIONS WERE WILLFUL WHEN DETERMINING THE NATURE OF
25 DISCIPLINARY SANCTIONS TO IMPOSE.

26 (4) (a) THE DIRECTOR MAY COMMENCE A PROCEEDING TO
27 DISCIPLINE A REGISTRANT WHEN THE DIRECTOR HAS REASONABLE

1 GROUND TO BELIEVE THAT THE REGISTRANT HAS COMMITTED AN ACT OR
2 OMISSION SPECIFIED IN THIS SECTION.

3 (b) IN ANY PROCEEDING HELD UNDER THIS SECTION, THE DIRECTOR
4 MAY ACCEPT AS EVIDENCE OF GROUNDS FOR DISCIPLINARY ACTION ANY
5 DISCIPLINARY ACTION TAKEN AGAINST A REGISTRANT IN ANOTHER
6 JURISDICTION IF THE VIOLATION THAT PROMPTED THE DISCIPLINARY
7 ACTION IN THE OTHER JURISDICTION WOULD BE GROUNDS FOR
8 DISCIPLINARY ACTION UNDER THIS ARTICLE 59.5.

9 (5) THE DIRECTOR SHALL CONDUCT DISCIPLINARY PROCEEDINGS
10 IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24. THE DIRECTOR SHALL
11 CONDUCT THE HEARING AND PROVIDE AN OPPORTUNITY FOR REVIEW
12 PURSUANT TO ARTICLE 4 OF TITLE 24. THE DIRECTOR MAY EXERCISE ALL
13 POWERS AND DUTIES CONFERRED BY THIS ARTICLE 59.5 DURING THE
14 DISCIPLINARY PROCEEDINGS.

15 (6) THE DIRECTOR MAY REQUEST THAT THE ATTORNEY GENERAL
16 SEEK AN INJUNCTION IN ANY COURT OF COMPETENT JURISDICTION TO
17 ENJOIN A PERSON FROM COMMITTING AN ACT PROHIBITED BY THIS ARTICLE
18 59.5. WHEN SEEKING AN INJUNCTION UNDER THIS SUBSECTION (6), THE
19 ATTORNEY GENERAL IS NOT REQUIRED TO ALLEGE OR PROVE THE
20 INADEQUACY OF ANY REMEDY AT LAW OR THAT SUBSTANTIAL OR
21 IRREPARABLE DAMAGE IS LIKELY TO RESULT FROM A CONTINUED
22 VIOLATION OF THIS ARTICLE 59.5.

23 (7) A FINAL ACTION OF THE DIRECTOR IS SUBJECT TO JUDICIAL
24 REVIEW BY THE COURT OF APPEALS PURSUANT TO SECTION 24-4-106 (11).
25 THE DIRECTOR MAY INSTITUTE A JUDICIAL PROCEEDING IN ACCORDANCE
26 WITH SECTION 24-4-106 TO ENFORCE AN ORDER OF THE DIRECTOR.

27 (8) WHEN A COMPLAINT OR AN INVESTIGATION DISCLOSES AN

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1 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR,
2 WARRANTS FORMAL ACTION, THE DIRECTOR SHALL NOT RESOLVE THE
3 COMPLAINT BY A DEFERRED SETTLEMENT, ACTION, JUDGMENT, OR
4 PROSECUTION.

5 (9) (a) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
6 EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT, THAT A REGISTRANT
7 IS ACTING IN A MANNER THAT IS AN IMMINENT THREAT TO THE HEALTH
8 AND SAFETY OF THE PUBLIC, OR IF A PERSON IS SERVING PROCESS OR
9 PRESENTING HIMSELF OR HERSELF AS OR IS USING THE TITLE "REGISTERED
10 PROCESS SERVER" OR "PROCESS SERVER" WITHOUT HAVING OBTAINED A
11 REGISTRATION, THE DIRECTOR MAY ISSUE AN ORDER TO CEASE AND DESIST
12 THE ACTIVITY. THE DIRECTOR SHALL SET FORTH IN THE ORDER THE
13 STATUTES AND RULES ALLEGED TO HAVE BEEN VIOLATED, THE FACTS
14 ALLEGED TO HAVE CONSTITUTED THE VIOLATION, AND THE REQUIREMENT
15 THAT ALL UNLAWFUL ACTS OR UNREGISTERED PRACTICES IMMEDIATELY
16 CEASE.

17 (b) WITHIN TEN DAYS AFTER SERVICE OF THE ORDER TO CEASE AND
18 DESIST PURSUANT TO SUBSECTION (10)(a) OF THIS SECTION, THE
19 RESPONDENT MAY REQUEST A HEARING ON THE QUESTION OF WHETHER
20 ACTS OR PRACTICES IN VIOLATION OF THIS ARTICLE 59.5 HAVE OCCURRED.
21 THE DIRECTOR SHALL CONDUCT THE HEARING PURSUANT TO SECTIONS
22 24-4-104 AND 24-4-105.

23 (10) (a) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
24 EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT, THAT A PERSON HAS
25 VIOLATED ANY OTHER PORTION OF THIS ARTICLE 59.5, IN ADDITION TO ANY
26 SPECIFIC POWERS GRANTED PURSUANT TO THIS ARTICLE 59.5, THE
27 DIRECTOR MAY ISSUE TO THE PERSON AN ORDER TO SHOW CAUSE AS TO

1 WHY THE DIRECTOR SHOULD NOT ISSUE A FINAL ORDER DIRECTING THE
2 PERSON TO CEASE AND DESIST FROM THE UNLAWFUL ACT OR
3 UNREGISTERED PRACTICE.

4 (b) THE DIRECTOR SHALL PROMPTLY NOTIFY THE PERSON AGAINST
5 WHOM AN ORDER TO SHOW CAUSE HAS BEEN ISSUED PURSUANT TO
6 SUBSECTION (10)(a) OF THIS SECTION OF THE ISSUANCE OF THE ORDER AND
7 SHALL INCLUDE IN THE NOTICE A COPY OF THE ORDER, THE FACTUAL AND
8 LEGAL BASIS FOR THE ORDER, AND THE DATE SET BY THE DIRECTOR FOR A
9 HEARING ON THE ORDER. THE DIRECTOR MAY SERVE THE NOTICE ON THE
10 PERSON AGAINST WHOM THE ORDER HAS BEEN ISSUED BY PERSONAL
11 SERVICE, BY FIRST-CLASS, POSTAGE-PREPAID UNITED STATES MAIL, OR IN
12 ANOTHER MANNER AS MAY BE PRACTICABLE. PERSONAL SERVICE OR
13 MAILING OF AN ORDER OR DOCUMENT PURSUANT TO THIS SUBSECTION
14 (10)(b) CONSTITUTES NOTICE OF THE ORDER TO THE PERSON.

15 (c) (I) THE DIRECTOR SHALL HOLD THE HEARING ON AN ORDER TO
16 SHOW CAUSE NO SOONER THAN TEN AND NO LATER THAN FORTY-FIVE
17 CALENDAR DAYS AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE
18 NOTIFICATION BY THE DIRECTOR AS PROVIDED IN SUBSECTION (10)(b) OF
19 THIS SECTION. THE DIRECTOR MAY CONTINUE THE HEARING BY
20 AGREEMENT OF ALL PARTIES BASED UPON THE COMPLEXITY OF THE
21 MATTER, NUMBER OF PARTIES TO THE MATTER, AND LEGAL ISSUES
22 PRESENTED IN THE MATTER, BUT IN NO EVENT SHALL THE DIRECTOR HOLD
23 THE HEARING LATER THAN SIXTY CALENDAR DAYS AFTER THE DATE OF
24 TRANSMISSION OR SERVICE OF THE NOTIFICATION.

25 (II) IF A PERSON AGAINST WHOM AN ORDER TO SHOW CAUSE HAS
26 BEEN ISSUED PURSUANT TO SUBSECTION (10)(a) OF THIS SECTION DOES
27 NOT APPEAR AT THE HEARING, THE DIRECTOR MAY PRESENT EVIDENCE

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1 THAT NOTIFICATION WAS PROPERLY SENT OR SERVED ON THE PERSON
2 PURSUANT TO SUBSECTION (10)(b) OF THIS SECTION AND SUCH OTHER
3 EVIDENCE RELATED TO THE MATTER AS THE DIRECTOR DEEMS
4 APPROPRIATE. THE DIRECTOR MUST ISSUE THE ORDER WITHIN TEN DAYS
5 AFTER THE DIRECTOR'S DETERMINATION RELATED TO REASONABLE
6 ATTEMPTS TO NOTIFY THE RESPONDENT, AND THE ORDER BECOMES FINAL
7 AS TO THAT PERSON BY OPERATION OF LAW. THE HEARING MUST BE
8 CONDUCTED PURSUANT TO SECTIONS 24-4-104 AND 24-4-105.

9 (III) IF THE DIRECTOR REASONABLY FINDS THAT THE PERSON
10 AGAINST WHOM THE ORDER TO SHOW CAUSE WAS ISSUED IS ACTING OR
11 HAS ACTED WITHOUT THE REQUIRED REGISTRATION OR HAS ENGAGED OR
12 IS ABOUT TO ENGAGE IN ACTS OR PRACTICES CONSTITUTING VIOLATIONS
13 OF THIS ARTICLE 59.5, THE DIRECTOR MAY ISSUE A FINAL
14 CEASE-AND-DESIST ORDER DIRECTING THE PERSON TO CEASE AND DESIST
15 FROM FURTHER UNLAWFUL ACTS OR UNREGISTERED PRACTICES.

16 (IV) THE DIRECTOR SHALL PROVIDE NOTICE, IN THE MANNER SET
17 FORTH IN SUBSECTION (10)(b) OF THIS SECTION, OF THE FINAL
18 CEASE-AND-DESIST ORDER WITHIN TEN CALENDAR DAYS AFTER THE
19 HEARING CONDUCTED PURSUANT TO THIS SUBSECTION (10)(c) TO EACH
20 PERSON AGAINST WHOM THE FINAL ORDER HAS BEEN ISSUED. THE FINAL
21 ORDER ISSUED PURSUANT TO SUBSECTION (10)(c)(III) OF THIS SECTION IS
22 EFFECTIVE WHEN ISSUED AND IS A FINAL ORDER FOR PURPOSES OF JUDICIAL
23 REVIEW.

24 (11) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
25 EVIDENCE PRESENTED TO THE DIRECTOR, THAT A PERSON HAS ENGAGED OR
26 IS ABOUT TO ENGAGE IN AN ACT OR PRACTICE CONSTITUTING A VIOLATION
27 OF THIS ARTICLE 59.5, A RULE PROMULGATED PURSUANT TO THIS ARTICLE

1 59.5, OR AN ORDER ISSUED PURSUANT TO THIS ARTICLE 59.5, OR ANY
2 OTHER ACT OR PRACTICE CONSTITUTING GROUNDS FOR ADMINISTRATIVE
3 SANCTION PURSUANT TO THIS ARTICLE 59.5, THE DIRECTOR MAY ENTER
4 INTO A STIPULATION WITH THE PERSON.

5 (12) IF A PERSON FAILS TO COMPLY WITH A FINAL
6 CEASE-AND-DESIST ORDER OR A STIPULATION, THE DIRECTOR MAY
7 REQUEST THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY FOR THE
8 JUDICIAL DISTRICT IN WHICH THE ALLEGED VIOLATION EXISTS TO BRING,
9 AND IF SO REQUESTED THE ATTORNEY SHALL BRING, SUIT FOR A
10 TEMPORARY RESTRAINING ORDER AND FOR INJUNCTIVE RELIEF TO
11 PREVENT ANY FURTHER OR CONTINUED VIOLATION OF THE FINAL ORDER.

12 (13) A PERSON AGGRIEVED BY THE FINAL CEASE-AND-DESIST
13 ORDER MAY SEEK JUDICIAL REVIEW OF THE DIRECTOR'S DETERMINATION
14 OR OF THE DIRECTOR'S FINAL ORDER AS PROVIDED IN SUBSECTION (8) OF
15 THIS SECTION.

16 (14) (a) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN
17 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR, DOES
18 NOT WARRANT FORMAL ACTION BY THE DIRECTOR BUT THAT SHOULD NOT
19 BE DISMISSED AS BEING WITHOUT MERIT, THE DIRECTOR MAY ISSUE AND
20 SEND TO THE REGISTRANT A LETTER OF ADMONITION.

21 (b) WHEN THE DIRECTOR SENDS A LETTER OF ADMONITION TO A
22 REGISTRANT, THE DIRECTOR SHALL ADVISE THE REGISTRANT THAT HE OR
23 SHE HAS THE RIGHT TO REQUEST IN WRITING, WITHIN TWENTY DAYS AFTER
24 RECEIPT OF THE LETTER, THAT FORMAL DISCIPLINARY PROCEEDINGS BE
25 INITIATED TO ADJUDICATE THE PROPRIETY OF THE CONDUCT UPON WHICH
26 THE LETTER OF ADMONITION IS BASED.

27 (c) IF THE REGISTRANT TIMELY REQUESTS ADJUDICATION, THE

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1 DIRECTOR SHALL VACATE THE LETTER OF ADMONITION AND PROCESS THE
2 MATTER BY MEANS OF FORMAL DISCIPLINARY PROCEEDINGS.

3 (15) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN
4 INSTANCE OF CONDUCT THAT DOES NOT WARRANT FORMAL ACTION BY THE
5 DIRECTOR AND, IN THE OPINION OF THE DIRECTOR, THE COMPLAINT
6 SHOULD BE DISMISSED, BUT THE DIRECTOR HAS NOTICED INDICATIONS OF
7 POSSIBLE ERRANT CONDUCT BY THE REGISTRANT THAT COULD LEAD TO
8 SERIOUS CONSEQUENCES IF NOT CORRECTED, THE DIRECTOR MAY SEND
9 THE REGISTRANT A CONFIDENTIAL LETTER OF CONCERN.

10 **12-59.5-109. Revocation.** A PERSON WHOSE REGISTRATION IS
11 REVOKED OR WHO SURRENDERS A REGISTRATION TO AVOID DISCIPLINE IS
12 INELIGIBLE TO APPLY FOR A REGISTRATION UNDER THIS ARTICLE 59.5
13 UNTIL AT LEAST TWO YEARS AFTER THE DATE OF REVOCATION OR
14 SURRENDER OF THE REGISTRATION. THE DIRECTOR SHALL TREAT A
15 SUBSEQUENT APPLICATION FOR REGISTRATION FROM A PERSON WHOSE
16 REGISTRATION WAS REVOKED OR SURRENDERED AS AN APPLICATION FOR
17 A NEW REGISTRATION UNDER THIS ARTICLE 59.5.

18 **12-59.5-110. Fees - cash fund.** THE DIVISION SHALL TRANSMIT
19 ALL FEES COLLECTED PURSUANT TO THIS ARTICLE 59.5 TO THE STATE
20 TREASURER, WHO SHALL CREDIT THE FEES TO THE DIVISION OF
21 PROFESSIONS AND OCCUPATIONS CASH FUND CREATED IN SECTION
22 24-34-105 (2)(b). THE GENERAL ASSEMBLY SHALL MAKE ANNUAL
23 APPROPRIATIONS FROM THE DIVISION OF PROFESSIONS AND OCCUPATIONS
24 CASH FUND FOR EXPENDITURES OF THE DIVISION INCURRED IN THE
25 PERFORMANCE OF ITS DUTIES UNDER THIS ARTICLE 59.5.

26 **12-59.5-111. Repeal of article.** THIS ARTICLE 59.5 IS REPEALED,
27 EFFECTIVE SEPTEMBER 1, 2024. BEFORE ITS REPEAL, THE REGISTRATION

LA: Please remove double underlining before returning to drafter.

UNEDITED
UNREVISED
REDRAFT
4.12.17
Double underlining
denotes changes from
prior draft

1 OF PROCESS SERVERS BY THE DIVISION IS SCHEDULED FOR REVIEW IN
2 ACCORDANCE WITH SECTION 24-34-104.

3 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, amend
4 (25)(a) introductory portion; and **add** (25)(a)(XV) as follows:

5 **24-34-104. General assembly review of regulatory agencies**
6 **and functions for repeal, continuation, or reestablishment - legislative**
7 **declaration - repeal.** (25) (a) The following agencies, functions, or both,
8 ~~will~~ ARE SCHEDULED FOR repeal on September 1, 2024:

9 (XV) THE REGULATION OF PROCESS SERVERS BY THE DIVISION OF
10 PROFESSIONS AND OCCUPATIONS IN THE DEPARTMENT OF REGULATORY
11 AGENCIES IN ACCORDANCE WITH ARTICLE 59.5 OF TITLE 12.

12 **SECTION 3. Act subject to petition - effective date.** This act
13 takes effect at 12:01 a.m. on the day following the expiration of the
14 ninety-day period after final adjournment of the general assembly (August
15 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
16 referendum petition is filed pursuant to section 1 (3) of article V of the
17 state constitution against this act or an item, section, or part of this act
18 within such period, then the act, item, section, or part will not take effect
19 unless approved by the people at the general election to be held in
20 November 2018 and, in such case, will take effect on the date of the
21 official declaration of the vote thereon by the governor.