

FIRST REGULAR SESSION

SENATE BILL NO. 344

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR WHEELER.

Read 1st time February 14, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

1523S.011

AN ACT

To repeal section 534.090, RSMo, and to enact in lieu thereof one new section relating to service of summons in unlawful detainer actions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 534.090, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 534.090, to read as follows:

534.090. 1. Such summons shall be served as in other civil cases at least four days before the court date specified in such summons.

2. If the summons in such action cannot be served in the ordinary manner as provided by law, it shall be the duty of the judge before whom the proceeding is commenced, at the request of the plaintiff, to make an order directing that notices shall be set up for ten days on the premises in question and in one public place in the county where the defendant was believed to dwell, informing the defendant of the commencement of the proceedings against the defendant and to make an order directing that a copy of the summons be delivered to the defendant at the defendant's last known address by [certified mail, return receipt requested, delivered to addressee only] **ordinary mail**. [On proof of the notice and of the mailing of the notice by certified mail by affidavit of some competent witness] **If the officer, or other person empowered to execute the summons, shall return that the defendant is not found, or that the defendant has absconded or vacated his or her usual place of abode in this state, and if proof be made by affidavit of the posting and of the mailing of a copy of the summons and complaint, the judge shall proceed to hear the case as if**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

there had been personal service, and judgment shall be rendered and proceedings had as in other cases, except that where the defendant is in default no money judgment shall be granted the plaintiff under the order of publication and [certified] **ordinary** mail procedure set forth in this section. If such summons is returned executed, then the judge shall set the case on the next available court date.

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