

**38-1-5. Service of process; failure to report.**

A. In case any domestic corporation or any foreign corporation authorized to transact business in this state fails to file a report within the time required, or, in case the agent of any corporation, designated by the corporation as the agent upon whom process against the corporation may be served, dies, resigns or leaves the state, or the agent cannot with due diligence be found, it is lawful, while the default continues, to serve process against the corporation upon the secretary of state, and the service shall be as effective to all intents and purposes as if made upon an officer, director or the registered agent of the corporation. The plaintiff shall include an affidavit that the registered agent has died, resigned, left the state or cannot be found. The plaintiff shall provide, if known, the name upon whom the summons and complaint is to be served and the last known address and include two copies of every paper, including the summons, complaint, attachments and affidavits.

B. Within two days after service upon the secretary of state, the secretary shall notify the corporation of service of process by certified or registered mail directed to the corporation at its registered office and enclose a copy of the process or other paper served.

C. It is the duty of the plaintiff in any action in which the process is issued to pay to the secretary of state the sum of twenty-five dollars (\$25.00), which sum shall be taxed as a part of the taxable costs in the suit if the plaintiff prevails in the suit.

D. The secretary of state shall keep a record of all summonses that have been presented for service to the secretary of state, along with a summary of all that occurred in regard to the service of each summons.

History: Laws 1905, ch. 79, § 48 (2); Code 1915, § 933; C.S. 1929, § 32-150; 1941 Comp., § 19-305; 1953 Comp., § 21-3-5; 1993, ch. 184, § 1.