

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 13.
PROCEDURE GENERALLY.

CHAPTER 3.
PROCESS AND PARTIES.

2001 Edition

DISTRICT OF COLUMBIA OFFICIAL CODE

CHAPTER 3. PROCESS AND PARTIES.

TABLE OF CONTENTS

Subchapter I. General Provisions.

- § 13-301. Courts to which applicable.
- § 13-302. Service by marshal.
- § 13-302.01. Service by Metropolitan Police Department.
- § 13-303. Service or execution on Sunday.[Repealed]

Subchapter II. Service of Process; Legal Representatives.

- § 13-331. Service under other laws and rules of court.
- § 13-332. Service on infants; appointment and compensation of guardian and attorney.
- § 13-333. Service on incompetent persons.
- § 13-334. Service on foreign corporations.
- § 13-335. Service by publication on domestic or foreign corporations.
- § 13-336. Service by publication on nonresidents, absent defendants, and unknown heirs or devisees.
- § 13-337. Personal service outside District in lieu of publication.
- § 13-338. Prerequisites for order of publication.
- § 13-339. Form of order of publication.
- § 13-340. Manner of publication; mailing of copy; default; appointment and compensation of guardian and attorney.
- § 13-341. Service by publication on persons unknown to be living or dead and on unknown heirs and devisees.

CHAPTER 3. PROCESS AND PARTIES.

SUBCHAPTER I. GENERAL PROVISIONS.

§ 13-301. COURTS TO WHICH APPLICABLE.

Except as otherwise specifically provided by law or rules of court, this chapter applies to the District of Columbia courts.

(Dec. 23, 1963, 77 Stat. 513, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 552, Pub. L. 91-358, title I, § 142(2).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 13-301.

1973 Ed., § 13-301.

§ 13-302. SERVICE BY MARSHAL.

Subject to the provisions of law or rules of court for service by other persons, the United States marshal for the District of Columbia or his deputy shall serve the process of the District of Columbia Court of Appeals, and the Superior Court of the District of Columbia.

(Dec. 23, 1963, 77 Stat. 513, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 552, Pub. L. 91-358, title I, § 142(3).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 13-302.

1973 Ed., § 13-302.

§ 13-302.01. SERVICE BY METROPOLITAN POLICE DEPARTMENT.

(a) The Metropolitan Police Department shall execute, upon request, a bench warrant in any case in which paternity establishment or child support is at issue.

(b) The Metropolitan Police Department shall serve civil process in any case in which paternity establishment or child support is at issue and shall serve the process at the request of the IV-D agency in any IV-D case. In a non-IV-D case, a judicial officer may order the Metropolitan Police Department to serve process pursuant to this section or to accompany a private process server upon a finding of danger to the process server or a finding that the respondent is evading service. The affidavit of a private process server shall be considered sufficient evidence for a finding of danger or evasion of service.

(c) A special unit that consists of at least 4 police officers shall be established for the exclusive purpose of performing the duties enumerated in section 13-302.01(a) and (b).

(d) The IV-D agency shall provide funds to the Metropolitan Police Department to pay for the full cost, including administrative costs, of providing the services in section 13-302.01(a) and (b) in all IV-D cases.

(June 18, 1991, D.C. Law 9-5, § 3(b), 38 DCR 2717; Aug. 17, 1991, D.C. Law 9-39, § 3(b), 38 DCR 4970.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 13-302.1.

Law 9-5, the "District of Columbia Paternity Establishment Temporary Act of 1991," was introduced in Council and assigned Bill No. 9-142. The Bill was adopted on first and second readings on March 5, 1991, and April 9, 1991, respectively. Signed by the Mayor on April 26, 1991, it was assigned Act No. 9-20 and transmitted to both Houses of Congress for its review.

Law 9-39, the "District of Columbia Paternity Establishment Act of 1991," was introduced in Council and assigned Bill No. 9-2, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 4, 1991, and July 2, 1991, respectively. Signed by the Mayor on July 24, 1991, it was assigned Act No. 9-76 and transmitted to both Houses of Congress for its review.

Miscellaneous Notes

Section 25(b) of D.C. Law 15-354 provides that the section designation of § 13-302.1 of the District of Columbia Official Code is redesignated as § 13-302.01.

§ 13-303. SERVICE OR EXECUTION ON SUNDAY.[REPEALED]

(June 18, 1991, D.C. Law 9-5, § 3(c), 38 DCR 2717; Aug. 17, 1991, D.C. Law 9-39, § 3(c), 38 DCR 4970.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 13-303.

Legislative History of Laws

For legislative history of D.C. Law 9-5, see Historical and Statutory Notes following § 13-302.01.

For legislative history of D.C. Law 9-39, see Historical and Statutory Notes following § 13-302.01.

SUBCHAPTER II. SERVICE OF PROCESS; LEGAL REPRESENTATIVES.

§ 13-331. SERVICE UNDER OTHER LAWS AND RULES OF COURT.

This chapter does not limit or affect the right to serve process in any other manner now or hereafter required or permitted by:

- (1) other law, including Chapter 4 of this title or, any other provisions of this Code; or
- (2) rule of court.

(Dec. 23, 1963, 77 Stat. 513, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 552, Pub. L. 91-358, title I, § 142(4).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 13-331.

1973 Ed., § 13-331.

§ 13-332. SERVICE ON INFANTS; APPOINTMENT AND COMPENSATION OF GUARDIAN AND ATTORNEY.

(a) When an infant is a party defendant in an action, the summons and complaint shall be served upon him personally and, when he is under 16 years of age, upon the person with whom he resides, if within the District. The infant shall be produced in court unless, for cause shown, the court dispenses with his appearance. The provisions of rules of court regarding guardians ad litem apply, and whenever in the judgment of the court the interests of an infant defendant require it, the court shall assign an attorney to represent the infant whose compensation shall be paid by the plaintiff, or out of the estate of the infant, at the discretion of the court.

(b) An infant who secretes himself or evades service of process may be proceeded against as if he were a nonresident.

(c) Whoever secretes an infant against whom process has issued, so as to prevent service of the process, or prevents his appearance in court, is liable to attachment and punishment as for contempt.

(Dec. 23, 1963, 77 Stat. 513, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 13-332.

1973 Ed., § 13-332.

§ 13-333. SERVICE ON INCOMPETENT PERSONS.

When a person non compos mentis is a party defendant in an action, process shall be served upon him personally, if within the District, and upon his committee, if there is one within the District.

(Dec. 23, 1963, 77 Stat. 513, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 13-333.

1973 Ed., § 13-333.

§ 13-334. SERVICE ON FOREIGN CORPORATIONS.

(a) In an action against a foreign corporation doing business in the District, process may be served on the agent of the corporation or person conducting its business, or, when he is absent and can not be found, by leaving a copy at the principal place of business in the District, or, where there is no such place of business, by leaving a copy at the place of business or residence of the agent in the District, and that service is effectual to bring the corporation before the court.

(b) When a foreign corporation transacts business in the District without having a place of business or resident agent therein, service upon any officer or agent or employee of the corporation in the District is effectual as to actions growing out of contracts entered into or to be performed, in whole or in part, in the District of Columbia or growing out of any tort committed in the District.

(Dec. 23, 1963, 77 Stat. 513, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 13-334.

1973 Ed., § 13-334.

§ 13-335. SERVICE BY PUBLICATION ON DOMESTIC OR FOREIGN CORPORATIONS.

In an action specified by section 13-336, when process can not be served upon a domestic or foreign corporation, the corporation may be proceeded against as a nonresident defendant, by notice by publication.

(Dec. 23, 1963, 77 Stat. 514, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 13-335.

1973 Ed., § 13-335.

§ 13-336. SERVICE BY PUBLICATION ON NONRESIDENTS, ABSENT DEFENDANTS, AND UNKNOWN HEIRS OR DEVISEES.

(a) In actions specified by subsection (b) of this section, publication may be substituted for personal service of process upon a defendant who can not be found and who is shown by affidavit to be a nonresident, or to have been absent from the District for at least six months, or against the unknown heirs or devisees of deceased persons.

(b) This section applies only to:

- (1) actions for partition;
- (2) actions for divorce or annulment;
- (3) actions for child custody under D.C. Official Code, Title 16, Chapter 45;
- (4) actions by attachment;
- (5) actions for foreclosure of mortgages and deeds of trust;
- (6) actions for the establishment of title to real estate by possession;
- (7) actions for the enforcement of mechanics' liens, and other liens against real or personal property within the District; and
- (8) actions that have for their immediate object the enforcement or establishment of any lawful right, claim, or demand to or against any real or personal property within the jurisdiction of the court.

(Dec. 23, 1963, 77 Stat. 514, Pub. L. 88-241, § 1; Mar. 10, 1983, D.C. Law 4-200, § 3, 30 DCR 125.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 13-336.

1973 Ed., § 13-336.

Legislative History of Laws

Law 4-200, the "District of Columbia Adoption of the Uniform Child Custody Jurisdiction and Marital or Parent and Child Long-Arm Jurisdiction Amendments Act of 1982," was introduced in Council and assigned Bill No. 4-237, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on November 16, 1982, and December 14, 1982, respectively. Signed by the Mayor on December 28, 1982, it was assigned Act No. 4-284 and transmitted to both Houses of Congress for its review.

§ 13-337. PERSONAL SERVICE OUTSIDE DISTRICT IN LIEU OF PUBLICATION.

(a) In actions specified by section 13-336, personal service of process may be made on a nonresident defendant out of the District, and the service has the same effect, and no other, as an order of publication duly executed.

(b) The service may be made by any person not a party to or otherwise interested in the subject-matter in controversy. The return shall be made under oath in the District of Columbia, unless the person making the service is a sheriff, deputy sheriff, marshal, or deputy marshal, authorized to serve process where service is made. The return must show the time and place of service and that the defendant so served is a nonresident of the District of Columbia.

(c) The cost and expense of such service of process out of the District shall be borne by the party at whose instance it is made and may not be taxed as part of the costs in the case; but where the service of process is made by an authorized officer of the law specified by this section, the actual and usual cost of the service of process shall be taxed as a part of the costs in the case.

(Dec. 23, 1963, 77 Stat. 514, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 13-337.

1973 Ed., § 13-337.

§ 13-338. PREREQUISITES FOR ORDER OF PUBLICATION.

An order for the substitution of publication for personal service may not be made until:

- (1) a summons for the defendant has been issued and returned "Not to be found," and
- (2) the nonresidence of the defendant or his absence for at least six months is proved by affidavit to the satisfaction of the court.

(Dec. 23, 1963, 77 Stat. 514, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 13-338.

1973 Ed., § 13-338.

§ 13-339. FORM OF ORDER OF PUBLICATION.

An order of publication shall be in the following or an equivalent form:

United States District Court for the District of Columbia.

AB, plaintiff,

versus

In _____.

No. _____

CD, defendant.

The object of this action is to (state it briefly).

On motion of the plaintiff, it is this ____ day of ____, A.D. ____, ordered that the defendant cause his appearance to be entered herein on or before the fortieth day, exclusive of Sundays and legal holidays, occurring after the day of the first publication of this order; otherwise the cause will be proceeded with as in cause of default.

_____ judge.

(Dec. 23, 1963, 77 Stat. 515, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 13-339.

1973 Ed., § 13-339.

§ 13-340. MANNER OF PUBLICATION; MAILING OF COPY; DEFAULT; APPOINTMENT AND COMPENSATION OF GUARDIAN AND ATTORNEY.

(a) An order of publication shall be published at least once a week for three successive weeks, or oftener, or for such further time as the court orders. In actions for divorce in which service by publication is authorized under this chapter, and satisfactory evidence is presented to the court that the plaintiff is unable to pay the cost of publishing an advertisement pursuant to D.C. Official Code sec. 13-340, without substantial hardship to himself or herself, or to his or her family, the court may direct that such publication may be made by posting the order of publication defined in D.C. Official Code sec. 13-339, for a period of twenty-one calendar days, in the Clerk's Office of the Family Division of the Superior Court of the District of Columbia.

(b) An order, judgment or decree may not be entered against an absent or nonresident defendant upon proof of notice by publication, unless the plaintiff, his agent, or attorney files in the action an affidavit showing that at least twenty days before applying for the order, judgment or decree he mailed, postpaid, a copy of the advertisement or the order of the publication posted pursuant to subsection (a) of this section, directed to the party therein ordered to appear, at his last known place of residence, or that after diligent effort he has been unable to ascertain the last place of residence of the party.

(c) On failure of the defendant to appear in obedience to the notice within the time stated therein, a judgment or decree by default may be entered.

(d) If the absent or nonresident defendant is an infant, the provisions of the rules of court concerning guardians ad litem and default judgments shall apply, and the court may assign counsel to represent the infant in the manner provided by subsection (a) of section 13-332.

(e) If the absent or nonresident defendant is non compos mentis, the provisions of the rules of court concerning guardians ad litem and default judgments shall apply, and the court shall assign an attorney to represent the defendant, whose compensation shall be paid by the plaintiff, or out of the estate of the defendant, at the discretion of the court.

(Dec. 23, 1963, 77 Stat. 515, Pub. L. 88-241, § 1; Apr. 7, 1977, D.C. Law 1-107, title II, § 201, 23 DCR 8737.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 13-340.

1973 Ed., § 13-340.

Legislative History of Laws

Law 1-107, the "District of Columbia Marriage and Divorce Act," was introduced in Council and assigned Bill No. 1-89, which was referred to the Committee on the Judiciary and Criminal Law. The Bill was adopted on amended first readings on July 27, 1976 and September 15, 1976, and second readings on November 22, 1976 and December 7, 1976. Signed by the Mayor on January 4, 1977, it was assigned Act No. 1-193 and transmitted to both Houses of Congress for its review.

§ 13-341. SERVICE BY PUBLICATION ON PERSONS UNKNOWN TO BE LIVING OR DEAD AND ON UNKNOWN HEIRS AND DEVISEES.

(a) When a person would be a proper party to a judicial proceeding if living, and upon allegation under oath and proof satisfactory to the court that it is unknown whether he is living or dead, he may be proceeded against as if he were living, and with like effect, if a representative of or claimant under him does not intervene in the action before final determination thereof, after notice by publication as in the case of nonresident parties.

(b) When a person who would have been a proper party to a judicial proceeding is dead, and it is unknown whether he died testate or left heirs, or his heirs and devisees are unknown, the unknown persons may be described as the heirs or devisees of the person who, if living, would be the proper party. Notice shall be given by publication to them according to that description, and the same proceedings shall be had against them as are had against nonresident defendants, except that:

(1) the notice shall be published at least twice a month for such period, not less than three months without good cause shown, as the court orders, and the notice shall require the parties to appear on or before the day fixed in the notice to appear; and

(2) an order, judgment or decree may not be entered against the parties unless the court is satisfied that due diligence has been used to ascertain the unknown heirs.

(Dec. 23, 1963, 77 Stat. 515, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 13-341.

1973 Ed., § 13-341.