
RULES AND REGULATIONS

GEORGIA

CERTIFIED PROCESS SERVER PROGRAM



Administrative Office of the Courts
244 Washington Street SW, Suite 300
Atlanta, GA 30334
Effective Date: May 31, 2012

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ARTICLE 1: Purpose

To improve the standards of practice for private service of process and to provide a list of persons eligible to serve process in courts statewide, the Georgia General Assembly amended O.C.G.A. § 9-11-4.1, effective July 1, 2010, to permit civil process to be served in Georgia by persons deemed by Sheriffs of any county in Georgia to have met the criteria to be certified to serve process in addition to Sheriffs, marshals, and permanent process servers. The Judicial Council of Georgia hereby promulgates these rules to implement and explain specific procedures regarding certified process servers in Georgia.

ARTICLE 2: General Provisions

A. Legal Authority

O.C.G.A. § 9-11-4.1(a) authorizes the Judicial Council of Georgia to promulgate rules and regulations regarding certified process servers in Georgia by requiring all those desiring to become certified process servers in Georgia to comply with O.C.G.A. § 9-11-4.1 “and any procedures and requirements set forth in any rules or regulations promulgated by the Judicial Council of Georgia regarding this Code section.”

B. Location of Offices

The address of the principal office of both the Judicial Council of Georgia and the Administrative Office of the Courts of Georgia is: 244 Washington Street, S.W., Suite 300, Atlanta, Georgia 30334-5900. The address of the principal office of the Georgia Sheriffs’ Association, Inc. is: 3000 Highway 42 N., Stockbridge, GA 30281.

C. Definitions

For the purpose of these rules:

1. “*Council*” means the Judicial Council of Georgia;
2. “*AOC*” means the Administrative Office of the Courts of Georgia;
3. “*GSA*” means the Georgia Sheriffs’ Association, Inc.;
4. “*GCPS*” means Georgia Certified Process Server;
5. “*Coordinator*” means the program coordinator of the Georgia certified process server program; and
6. “*Exam*” means the Georgia Certified Process Server Examination.
7. “*Identification Card*” means the non-law enforcement credentials issued to certified process servers by the certifying Sheriff.

D. Administration

1. The Director of the AOC shall designate the Coordinator. The Coordinator shall assist the Judicial Council in its promulgation of rules and regulations, approval of training and testing programs, and coordination with the GSA and others involved in the certification process.

2. The Sheriff of each county shall accept certification applications as outlined within the law and these rules. A Sheriff retains the discretion to permit or deny a certified process server to operate within the county of jurisdiction.
3. Service in Georgia Counties
 - a. Prior to service, a certified process server must file with the sheriff of the county written notice, in such form as shall be prescribed by GSA, of the server's intent to serve process in that county.
 - b. Such notice shall be effective for a period of one year; and a new notice shall be filed before the certified process server again serves process or who was appointed as a permanent process server by a court.
 - c. This provision does not apply to a certified process server who was appointed by the court to serve process or who was appointed as a permanent process server by the court.

E. Effect of these Rules on Persons Permitted to Serve Process by Other Law

These rules pertain to only process servers certified pursuant to O.C.G.A. § 9-11-4.1(a).

ARTICLE 3: Certification

A. General Requirements

1. To be a certified process server in Georgia, an individual must:
 - a. Be at least 18 years of age;
 - b. Be a citizen of the United States or a repatriated or naturalized citizen of the United States as of the date employment commences as evidenced by a certified copy of applicant's birth certificate.
 - c. Not have:
 1. Been convicted of or entered a plea of nolo contendere to a felony or of impersonating a peace officer or other public employee under O.C.G.A. § 16-10-23;
 2. An outstanding warrant for arrest; or
 3. A pending criminal charge in the following areas: felony, domestic violence, or misdemeanor involving moral turpitude.

B. Application; Review

1. A person seeking certification must file with the Sheriff of any county in Georgia a completed, sworn GCPS application packet.
2. For an application packet to be complete, it must contain the following:
 - a. A complete GCPS application as required by the packet;
 - b. A certified copy of applicant's birth certificate;
 - c. Results of a fingerprint-based criminal background check conducted in accordance with Article 7 of these Rules;
 - d. A certificate of successful completion of pre-certification training, given to the applicant by the approved training provider, as detailed in Article 5.D. of these Rules;
 - e. A certificate of successful completion of the GCPS Exam as detailed in Article 6 of these Rules;
 - f. A surety bond substantially in the form of Appendix A, or a commercial insurance binder demonstrating that applicant has obtained, and maintains a policy of liability insurance in the amount of at least \$25,000 as required by O.C.G.A. § 9-11-4.1 (b)(1)(D) to protect members of the public and persons employing the certified process server

- against any damage arising from any actionable misconduct, error, or omission on the part of the applicant while acting as a certified process server;
- g. An \$80 application fee in the form of money order or cashier's check made payable to the Sheriff's office that receives the application; and
 - h. Other fees that the Council may establish from time to time.
3. Sheriffs shall not accept incomplete application packets.

C. Application Review; Rejection; Approval; Identification card; Oath; List

- 1. Complete application packets shall be reviewed and either approved or rejected for cause by the receiving Sheriff, within 15 business days of their receipt.
- 2. When the receiving Sheriff approves an application, an Identification Card shall be issued to the applicant, who, upon receipt of the Identification Card and writing of the Oath as specified in Article 8, will be a certified process server in Georgia.
- 3. An applicant may appeal the receiving Sheriff's decision as provided for in Article 11.A. of these Rules.

D. List of Certified Process Servers

In accordance with O.C.G.A. § 9-11-4.1(e) the GSA shall maintain a registry of all certified process servers in Georgia.

E. Length of Certification

- 1. Certification is effective for three years from the certification date indicated on the process server's Identification Card, unless the certification is revoked or suspended as provided by O.C.G.A. § 9-11-4.1(c) and these Rules.
- 2. All certificates expire at midnight on the expiration date indicated on the process server's Identification Card as provided by Article 9.B. of these Rules.

F. Withdrawal

- 1. A certified process server may withdraw certification in lieu of permitting certification to lapse, which would otherwise result in suspension for non-renewal. See Article 4C.
- 2. A certified process server may not request withdrawal of certification if placed under investigation.

ARTICLE 4: Renewal

A. Generally

A certified process server desiring to renew an existing certification must file with any Georgia Sheriff an application for renewal in the form available from the AOC and the GSA.

B. Renewal Process

1. When a certified process server has filed a completed application for renewal prior to the expiration of the existing certification, the existing certification does not expire until the certifying Sheriff has approved or denied the application. It is the responsibility of each process server to ensure, prior to serving process under certification, that proper certification remains in effect.
2. If the certifying Sheriff denies the renewal application, the existing certification does not expire until the last day to file an appeal as identified by Article 11.

C. Inactive Status

1. A certified process server who wishes to cease serving process in Georgia may elect to withdraw certification and become inactive by submitting written notice to the GSA and the certifying Sheriff.
2. An inactive certified process server shall not be required to obtain continuing education hours if they remain inactive for greater than 26 weeks during a calendar year.
3. An inactive certified process server who wishes to again become an active certified process server in Georgia must:
 - a. Become certified through testing in the manner prescribed by Article 6.
 - b. Pay a renewal / reactivation fee established within Article 12 of these rules with \$30 of the fee to be disbursed by the certifying Sheriff to the GSA.

ARTICLE 5: Training

A. Generally

1. Educational activity shall address the areas of proficiency, competency and performance of and impart knowledge and understanding of the service of process, the Georgia judiciary and the legal process, and increase the participant's understanding of the responsibilities of a certified private process server and the process server's impact on the judicial process.

B. Approved Training Programs

1. Individuals and entities wishing to administer a training activity shall submit the proposed training activity on the approved form to the Coordinator for consideration prior to conducting the activity. Applications submitted after the training activity has been completed or conducted will be rejected.
2. The Coordinator, in consultation with GSA, will review and approve pre-certification training curriculum.
3. At a minimum, the proposal shall meet all requirements of this policy and shall include the following:
 - a. Course content, objectives, teaching methods and the evaluation method;
 - b. Names and qualifications of the faculty, which may be updated by amendment to the original application;
 - c. Written materials for the participants (a copy of the materials shall be included with the proposal); and
 - d. Number of CE credits the sponsoring entity is recommending the AOC grant for completion of the activity.
 - e. A statement that the sponsor agrees to assume responsibility for the following:
 - i. Verifying attendance of the participants;
 - ii. Providing a certificate of attendance for each participant who successfully completes the activity; and
 - iii. Maintaining registration and attendance documents for a period of three (3) years.
 - iv. Submitting an electronic copy of the following to the GSA:
 - a. Sign In/Attendance log containing the applicants signature; and
 - b. Comprehensive list of all attendees and their corresponding test scores.

- v. Upon request of the AOC, providing any additional information requested to assist the AOC in evaluating whether to approve the activity or to ensure compliance with this policy.

C. Trainer Standards

1. Individuals presenting a training activity should possess experience and expertise in the service of process, legal and judicial communities. Faculty from other disciplines is permissible when their expertise will contribute to the goals of a specific program.
2. The individual or entity that received approval for the training curriculum shall retain a resume on file for all trainers for a period of three (3) years after the delivery of each training session.
3. The individual or entity that received approval for the training curriculum maintains liability and responsibility for the quality of the training provided.

D. Precertification Training

1. To submit a complete application packet, an applicant must first successfully complete a 12-hour course of instruction as approved by the AOC.
2. Upon successful completion of the 12-hour course of pre-certification instruction, the applicant will receive a certificate of completion from the instructor.
3. Pre-certification training curriculum (12 hour) shall include:
 - a. Regulation of Process Serving (.5 hour): an overview of O.C.G.A. § 9-11-4.1 and these rules
 - b. Ethics and Professionalism (1.5 hours)
 - c. Process Server Liabilities and Responsibilities (1 hour):
 - i. All work shall be performed in a lawful, professional and ethical manner and a certified process server shall do all things possible to protect the rights and confidentiality of a client and of any person to whom legal process is directed.
 - ii. A certified process server shall maintain high personal standards that do not impugn upon the reputation of the process service profession.
 - iii. A certified process server must be a citizen of the United States, at least 18 years of age and not a party to the case. The process server must not have an interest in the outcome of the case or be related by blood or marriage to someone who has such an interest.

- iv. A certified process server shall attempt to perfect service within five days from receipt of a summons and complaint, but if unable to do so, shall engage in diligent efforts to perfect service.
- v. A certified process server must supply and file a proof of service with the court in the county in which the action is pending within five business days of the service date. A certified process server shall not falsify or misrepresent the facts surround the delivery of legal process to any person or entity. The proof of service must be signed in the presence of a notary public and should never be signed in blank.
- vi. A certified process server shall display credentials at all times while engaged in service of process and shall report lost or stolen credentials to the certifying County Sherriff's Office within three days of discovery of the loss.
- vii. A certified process server shall not impersonate or pretend to be a peace officer or public officer or employee.
- viii. A certified process server shall immediately notify the Sheriff of the county in which the process server's certification was issued of any arrest for an alleged felony during the three-year period of certification.
- ix. A certified process server shall immediately notify the Sheriff of the county in which the process server's certification was issued of any conviction of a felony.
- x. A certified process server must maintain a commercial surety bond in an amount not less than the amount required by the rules set forth by the Judicial Council.

d. Constitutional Law and Georgia Law relevant to service of process (6 hours):

Knowledge and understanding of applicability of the relevant code sections.

- i. O.C.G.A. § 9-11-4 Process
- ii. O.C.G.A. § 9-11-4.1 Certified process servers
- iii. O.C.G.A. § 9-11-45 Subpoena for taking depositions
- iv. O.C.G.A. § 9-10-72 Issuance of second original
- v. O.C.G.A. § 9-10-94 Service outside of Georgia
- vi. O.C.G.A. § 19-6-28 Service of Rule Nisi by mail in alimony or child support
- vii. O.C.G.A. § 15-10-43 Statement of claim; service of process in magistrate court

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| viii. | O.C.G.A. § 18-4-23 | Manner of Service, garnishment on corporations |
| ix. | O.C.G.A. § 18-4-62 | Service of summons on garnishment |
| x. | O.C.G.A. § 18-4-64 | Service of copy of summons of garnishment upon defendant |
| xi. | O.C.G.A. § 24-10-21 | Subpoena for attendance of witnesses, where served |
| xii. | O.C.G.A. § 24-10-23 | Service of subpoenas |
| xiii. | O.C.G.A. § 24-10-24 | Fees and mileage; when tender required |
| xiv. | O.C.G.A. § 24-10-96 | Exemption of witnesses from arrest and service of process |
| xv. | O.C.G.A. § 24-10-111 | How foreign depositions taken |
| xvi. | O.C.G.A. § 44-7-51 | Dispossessory proceedings |
| xvii. | O.C.G.A. § 44-14-232 | Summons; service on defendant for foreclosure on personalty |
- e. Personal Safety (1 hour)
- f. Best Practices: Practical Exercises on Process Serving (2 hours)

E. Annual Renewal Training

1. Each certified process server shall complete a minimum of 5 hours of training per calendar year relevant to the performance of duties as a certified process server, including, but not limited to the following:
 - a. Ethics
 - b. Updates to law relevant to serving process.
2. The failure to obtain the requisite annual training shall result in suspension of certificate.
3. The certificate of training issued by the approved vendor shall be submitted to the certifying Sheriff during the month of January, for training received during the preceding calendar year.
4. Approved instructors may receive two (2) hours of pre-certification or renewal credit for each hour of instruction they provide in a course. The hours of instruction should be submitted by the approved vendor in a certificate of training, noting credits for instructional time.

ARTICLE 6: Examination and Testing

A. Certification Examination

1. The AOC shall provide for an exam to be administered to an applicant, pursuant to a written protocol established by the AOC from time to time.
2. The exam shall be designed to test the competency of the applicant as a process server in Georgia by testing the applicant's knowledge of the laws, rules, and regulations governing serving process in Georgia in the following areas and shall reflect the information presented within Article 5.D. and Article 10 of these rules.
 - a. Regulation of Process Serving
 - b. Ethics and Professionalism
 - c. Process Server Liabilities and Responsibilities
 - d. Constitutional law and Georgia law relevant to Process Serving
 - e. Personal Safety
 - f. Best Practices: Practical Exercises on Process Serving

B. Testing

1. For a complete application, an applicant must complete successfully an exam as approved by the AOC.
2. Upon successful completion of the exam, applicant will receive from the tester a certificate of completion.
3. Applicants who fail to achieve a validated score on the exam may not retest for a period of 30 calendar days.
4. Applicants must repeat the 12-hour pre-certification training, at their own expense, should they test three (3) consecutive times and fail to achieve a passing examination score.

ARTICLE 7: Criminal Background Requirements

A. Criminal Background Check; Fingerprinting

1. As per Article 3.B.2.d. of these Rules, each application to become a certified process server shall contain a criminal background fingerprint check.
2. The applicant shall submit to electronic fingerprinting by the office of the certifying Sheriff no more than two weeks prior to submission of an application packet to a Georgia Sheriff to ensure current criminal history information is presented.
3. Each Sheriff shall set the cost of obtaining a fingerprint-based criminal history.
4. The applicant shall bear the cost of obtaining the applicant's criminal history.

B. Ongoing Qualifications

1. No certified process server shall be employed who has been convicted of or pled guilty to or nolo contendere to any felony offense, impersonating a peace officer or other public employee under O.C.G.A. § 16-10-23, or any misdemeanor involving moral turpitude.
2. Each certified process server shall notify the GSA and the certifying Sheriff in writing if charged, arrested or pled guilty or nolo contendere to, or convicted of any felony or a misdemeanor involving moral turpitude, within three business days of any such event.
3. Failure to submit notification within three business days of any such event will result in immediate suspension of certification and may result in prosecution if the event violates Georgia's criminal statutes.
4. Suspension of certification results in the process server's inability to operate in any county within Georgia until the suspension is lifted or the term of suspension expires.

ARTICLE 8: Oath

Upon completion of the certification process, the certifying Sheriff will present each applicant with the following oath. The certifying Sheriff shall retain the original written oath and provide a copy to the certified process server.

"I do solemnly swear (or affirm) that I will conduct myself as a process server truly and honestly, justly and uprightly, and according to law; and that I will support the Constitution of the State of Georgia and the Constitution of the United States. I further swear (or affirm) that I will not serve any papers or process in any action where I have a financial or personal interest in the outcome of the matter or where any person to whom I am related by blood or marriage has such an interest."

CERTIFIED PROCESS SERVER

DATE

SHERIFF

DATE

_____ COUNTY, GEORGIA

ARTICLE 9: Certified Process Server Conduct

A. Punishment for False Representation

1. Certified process servers are not employees of the State or of any State agency, and may not in any way represent themselves as such.
2. Any certified process server who claims, depicts, or portrays to be a peace officer or public officer shall be punished in accordance with O.C.G.A. § 16-10-23.
3. It is unlawful for any person who is not a certified process server to misrepresent themselves to be a certified process server. Any person convicted of such is guilty of a misdemeanor.

B. Identification card

1. A certified process server shall carry and prominently display the Identification Card issued to them by the certifying Sheriff at all times when serving process. This Identification Card will serve as the certified process servers credentials as required by O.C.G.A. 9-11-(h)(2)(i).
2. Certified process servers shall report lost or stolen Identification Cards to the certifying Sheriff within three days of discovery of the loss. Upon filing a loss form with the certifying Sheriff and payment of a replacement fee, the certifying Sheriff shall request and issue a replacement Identification Card.
3. Failure of a certified process server to notify the certifying Sheriff of a lost or stolen credential may result in suspension of certification or prosecution.
4. Immediately upon withdrawal, suspension, or revocation of certification for any reason, a process server must surrender the designated or issued Identification Card to the certifying Sheriff in person or via certified mail within three business days of such event.

ARTICLE 10: Ethics

A. Generally

A certified process server shall perform services in a manner consistent with legal and ethical standards.

1. A certified process server, having located the sought-after party or persons receiving process for those parties intended for service, shall serve process in a professional manner, utilizing sound judgment and avoiding rudeness and unprofessional conduct.
2. A certified process server shall serve process in an objective, nonjudgmental manner.
3. A certified process server shall not misrepresent the certified process server's qualifications, fees, or any other information relating to the role of the server as a certified process server.
4. A certified process server shall not utilize the position for any purpose other than to gain access to information or services authorized by the applicable statutory, case law, administrative orders, and these Rules.
5. A certified process server shall act in the best interests of the client by maintaining a high standard of work and reporting to the client the full facts determined as a result of the work and effort expended, whether they are advantageous or detrimental to the client.
6. A certified process server shall file promptly an affidavit of service or certificate of service or return the unserved documents.

B. Compliance with Rules and Applicable Laws

Certified process servers shall perform all services and discharge all obligations in accordance with current Georgia and federal law, Georgia rules of civil procedure, administrative orders, and these Rules.

C. Professionalism

Certified process servers shall exercise the highest degree of professionalism in all interactions with clients, the party located, and others they come into contact with during the service. Certified process servers shall utilize professional judgment and discretion at all times.

1. A certified process server shall handle all legal documents with care and maintain required records in a professional manner.

2. A certified process server may act as a mentor to assist an inexperienced certified process server to increase skill level and successful service of process.
3. A certified process server shall not provide or offer legal advice.
4. Certified process servers shall not violate any rules adopted by the Judicial Council, or conduct themselves in a manner that would reflect adversely on the Judicial Council, the judiciary, law enforcement, or other agencies involved in the administration of justice.
5. A certified process server shall respect the confidentiality of information and shall preserve the confidences of all parties before, during, and following the formal relationship with the client.
6. A certified process server shall maintain a professional appearance at all times.
7. A certified process server shall be courteous and polite in all dealings and shall abstain from using profanity or vulgarity in contact with others.
8. A certified process server shall never attempt to decide the merits of a lawsuit. A certified process server shall never engage in discussions regarding the action being taken with the persons being served except those discussions necessary for the certified process server to successfully, professionally serve process on the party.
9. A certified process server shall know the protocol in a court building before proceeding with service and shall take appropriate steps to avoid impairing security or creating a security issue in a court building.

D. Skills and Knowledge

Certified process servers shall demonstrate adequate skills and knowledge to perform the work of a private process server, and shall seek training opportunities to maintain professional competency and growth.

1. A certified process server has an obligation to have knowledge and keep informed of all current and applicable laws regarding the service of process in Georgia.
2. A certified process server has a responsibility to maintain a working knowledge of proper method of service of process.
3. A certified process server shall possess the necessary verbal and written communication skills sufficient to perform the private process server role.
4. A certified process server shall manage service proficiently, including skills necessary to be a competent process server, which skills include, but are not limited to those necessary to serve process, maintain records, and communicate with clients in a timely manner.

5. A certified process server shall keep clients, court personnel, and other relevant public officers reasonably informed about the status of the service and promptly comply with reasonable requests.
6. A certified process server shall ensure all affidavits and certificates prepared by the certified process server are complete, accurate, understandable, and are filed with the court in a timely manner.

ARTICLE 11: Denial, Suspension, Revocation, and Appeals

A. Denial of Certification

Any certified process server applicant whose application is denied by the receiving sheriff pursuant to Article 3.C.1. of these Rules may dispute the receiving sheriff's decision by filing suit against the receiving sheriff pursuant to the Georgia Civil Practice Act, codified at O.C.G.A. § 9-11-1 *et. seq.*

B. Suspension and Reinstatement

1. A process server's certification is suspended automatically if the server in question:
 - a. Fails to submit the renewal application and/or pay the renewal fee by midnight on the expiration date of the term of certification;
 - b. When the expiration date falls on a non-business day, renewal applications are due on the next business day after expiration.
 - c. Fails to meet annual continuing education requirements as required by Article 5.E.;
 - d. Certification is revoked by order of a Superior Court Judge as per Article 11.C;
 - e. Is convicted of or entered a plea of nolo contendere to a felony, impersonating a peace officer or other public employee under O.C.G.A. § 16-10-23, a charge involving domestic violence, or a misdemeanor involving moral turpitude. Upon suspension of certification, a process server must immediately surrender the issued Identification Card to the certifying Sheriff.
2. Upon a showing that the process server has achieved full compliance with requirements and reinstatement requirements of (B.1.a.) and (B.1.b.) above, the certifying Sheriff shall consider renewal of certification.

C. Suspension or Revocation and Appeal via Judicial Process

1. A Sheriff or member of the public may file a complaint against a certified process server for violation of law or these Rules.
2. Actions for suspension or revocation of a certified process server's certificate shall take place before a Georgia Superior Court and shall be in the form of and comply with all provisions of filings and proceedings under the Georgia Civil Practice Act.
3. A process server's suspension or revocation becomes effective immediately on the date indicated by the Judge's order.

4. The appeal process for revocation or suspension of a certified process server by a Superior Court Judge shall be in accordance with the Georgia Civil Practice Act.
5. Any process server whose certification has been revoked may not reapply for certification for a period of five (5) years from the date of revocation.
6. Suspension of certification shall be for a set term of months or years, not to exceed 5 years.

D. Surety Bond and Insurance Coverage; No Lapse

A certified process server may not serve process without a valid surety bond or insurance in compliance with O.C.G.A. Section 9-11-4.1. The certified process server must send written notice of a lapse or change in coverage to the Georgia Sheriffs' Association and the certifying sheriff within 48 hours of notice to the certified process server of the lapse in or cancellation of coverage.

ARTICLE 12: Fee Schedule

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| A. Georgia Certified Process Server (GCPS) Application Fee: | \$80 |
| B. GCPS Certification Renewal Fee: | \$80 |
| C. GCPS Reinstatement Fee: | \$80 |
| D. Pre-certification and Continuing Education Fee: | \$15 per credit hour |
| E. GCPS Test Administration Fee: | \$250 for the first test
administration; if an applicant applies to re-take the test a second time within six months, the
second test administration fee shall be \$125. |
| F. GCPS Identification Card and Replacement Fee: | \$15 |
| G. Fingerprint processing fee: | set by each Sheriff |