

## 2020 South Dakota Legislature

**House Bill 1067****AMENDMENT 1067J FOR THE SENATE JUDICIARY BILL**

1 **An Act to modify certain provisions regarding notice, service, and execution of**  
2 **judgments in forcible entry and detainer actions.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That a NEW SECTION be added:**

5 ~~Service--Publication--Exemption.~~

6 ~~A plaintiff may initiate service by publication under § 15-9-7 on the same day as the first~~  
7 ~~attempt at service under § 21-16-6 without prior approval from the court. A plaintiff shall only~~  
8 ~~be required to provide service by publication once pursuant to § 21-16-6.~~

9 ~~Publication under this section shall be made in a legal newspaper printed in the county where~~  
10 ~~the subject property or some part of the property is situated, or as allowed by § 17-2-10.~~

11 ~~A plaintiff who provides notice by publication under this section is exempt from the~~  
12 ~~requirements of § 15-9-17.~~

13 **Section 1.** That § 21-16-6 be AMENDED:

14 **21-16-6. Verified Complaint--Service with Summons--Procedure.**

15 The complaint ~~must~~shall be in writing and verified by the plaintiff or ~~his~~the  
16 plaintiff's agent or signed by ~~his~~the plaintiff's attorney, and served with a summons, ~~and~~  
17 the procedure, except as otherwise provided, shall be the same as in other actions in the  
18 court where the action is pending. A sheriff, any person legally authorized to effect service  
19 under § 15-6-4(c), or constable of the county shall attempt to serve a lessee, subtenant,  
20 or party in possession with a minimum of two service attempts. Each attempt shall be at  
21 least one week apart and both attempts shall be within thirty days.

1           On the second service attempt, the summons may be posted in a conspicuous place  
2           on the property and delivered to a person there residing, if such person can be found, and  
3           also sent by first class mail addressed to the tenant at the place where the property is  
4           situated.

5           **Section 2.** That a NEW SECTION be added:

6           **21-16-6.1. Service by publication--Exemption.**

7           On the same day as the first attempted service under § 21-16-6, the plaintiff  
8           bringing an action of forcible entry and detainer, or of detainer only, under § 21-16-1 may  
9           cause the summons to be published in a legal newspaper printed in the county where the  
10          subject property is located or in an adjacent county in accordance with § 17-2-10. A  
11          plaintiff who causes a summons to be published under this section must cause the  
12          publication only once.

13          Section 15-9-17 does not apply to any publication required under this section.

14          **Section 3.** That § 21-16-7 be AMENDED:

15          **21-16-7. Appearance--Defendant.**

16          The time for appearance and pleading shall be four days from the time of service  
17          on the defendant ~~and no~~ or thirty days after the publication of service under ~~§ 15-9-7.1~~  
18          § 21-16-6.1, whichever occurs sooner. No adjournment or continuance shall be made for  
19          more than ~~five~~ fourteen days, unless the defendant applying therefor shall give an  
20          undertaking to the plaintiff with good and sufficient surety to be approved by the court,  
21          conditioned for the payment of the rent that may accrue, together with costs if judgment  
22          be rendered against the defendant.

23          **Section 4.** That § 21-16-10 be AMENDED:

24          **21-16-10. Judgment--Plaintiff.**

25          If the finding of the court or the verdict of the jury be in favor of the plaintiff, the  
26          judgment shall be for the delivery of possession to the plaintiff, and for rents and profits  
27          or damages, including those authorized by § 21-3-8, where the same are claimed in the  
28          complaint, and for costs.