



2020 South Dakota Legislature

House Bill 1067

Introduced by: **Representative Reed**

1 **An Act to modify certain provisions regarding notice, service, and execution of**
 2 **judgments.**

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

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

5 **15-9-7.1. Service--Publication--Exemption.**

6 A plaintiff may initiate service by publication under § 15-9-7 on the same day as
 7 the first attempt at service under § 21-16-6 without prior approval from the court.

8 **Section 2.** That § 21-16-6 be AMENDED:

9 **21-16-6. Verified Complaint--Service with Summons--Procedure.**

10 The complaint ~~must~~shall be in writing and verified by the plaintiff or ~~his~~the
 11 plaintiff's agent or signed by ~~his~~the plaintiff's attorney, and served with a summons, ~~and~~
 12 ~~the procedure, except as otherwise provided, shall be the same as in other actions in the~~
 13 ~~court where the action is pending.~~ A sheriff or constable of the county shall attempt to
 14 serve a lessee, subtenant, or party in possession with a minimum of four service attempts.
 15 Each attempt shall be at least six hours apart and all four attempts shall be within thirty
 16 days.

17 On the fourth service attempt, the summons may be posted in a conspicuous place
 18 on the property and delivered to a person there residing, if such person can be found, and
 19 also sent by first class mail addressed to the tenant at the place where the property is
 20 situated.

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

22 **21-16-7. Appearance--Defendant.**

23 The time for appearance and pleading shall be four days from the time of service
 24 on the defendant ~~and no~~ or thirty days after the first publication of service under § 15-9-

1 7, whichever occurs sooner. No adjournment or continuance shall be made for more than
2 five days, unless the defendant applying therefor shall give an undertaking to the plaintiff
3 with good and sufficient surety to be approved by the court, conditioned for the payment
4 of the rent that may accrue, together with costs if judgment be rendered against the
5 defendant.

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

7 **21-16-10. Judgment--Plaintiff.**

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

12 **Section 5.** That § 21-16-12 be AMENDED:

13 **21-16-12. Possession--Execution.**

14 An execution for possession shall occur within five days of a judgment for a plaintiff
15 under § 21-16-10. If a lessee, subtenant, or party in possession fails to answer or appear,
16 an execution of possession shall occur within two days. No execution for possession can
17 be served except in the daytime.