

**504B.331 SUMMONS; HOW SERVED.**

(a) The summons must be served at least seven days before the date of the court appearance specified in section 504B.321, in the manner provided for service of a summons in a civil action in district court. It may be served by any person not named a party to the action.

(b) If the defendant cannot be found in the county, the summons may be served at least seven days before the date of the court appearance by:

(1) leaving a copy at the defendant's last usual place of abode with a person of suitable age and discretion residing there; or

(2) if the defendant had no place of abode, by leaving a copy at the property described in the complaint with a person of suitable age and discretion occupying the premises.

(c) Failure of the sheriff to serve the defendant is prima facie proof that the defendant cannot be found in the county.

(d) Where the defendant cannot be found in the county, service of the summons may be made upon the defendant by posting the summons in a conspicuous place on the property for not less than one week if:

(1) the property described in the complaint is:

(i) nonresidential and no person actually occupies the property; or

(ii) residential and service has been attempted at least twice on different days, with at least one of the attempts having been made between the hours of 6:00 p.m. and 10:00 p.m.; and

(2) the plaintiff or the plaintiff's attorney has signed and filed with the court an affidavit stating that:

(i) the defendant cannot be found, or that the plaintiff or the plaintiff's attorney believes that the defendant is not in the state; and

(ii) a copy of the summons has been mailed to the defendant at the defendant's last known address if any is known to the plaintiff.

(e) If the defendant or the defendant's attorney does not appear in court on the date of the appearance, the trial shall proceed.

**History:** 1999 c 199 art 1 s 46; 2005 c 10 art 2 s 4