



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-3621/1
SWB:amn

2017 ASSEMBLY BILL 566

October 19, 2017 - Introduced by Representatives TUSLER, C. TAYLOR, JARCHOW, ANDERSON, BORN, BRANDTJEN, GANNON, GOYKE, HEBL, HORLACHER, KERKMAN, KOOYENGA, SPIROS, SPREITZER and KESSLER, cosponsored by Senators RISSER and STROEBEL. Referred to Committee on Judiciary.

1 **AN ACT** *to amend* 801.14 (2), 801.15 (5) (b), 801.18 (12) (c) and 802.05 (1) of the
2 statutes; **relating to:** service of certain pleadings and other papers by
3 electronic mail.

Analysis by the Legislative Reference Bureau

This bill allows service of certain pleadings and other papers to be served by e-mail. Under current law, when service of pleadings and other papers is required or permitted to be made upon a party represented by an attorney, a party must serve the attorney unless a court orders service upon the party in person. Current law also provides for service in certain cases and counties via an electronic filing system. In cases where users have registered to use the electronic filing system, the notice of activity generated by the system constitutes valid and effective service on other users for documents that do not require personal service. For documents other than initiating documents that do require personal service, the documents must be served by traditional methods unless the responding party has consented in writing to accept electronic service or service by some other method.

With respect to traditional means of service, current law permits service to be made by delivering a copy or by mailing it to the last-known address, or, if no address is known, by leaving it with the clerk of the court. Delivery of a copy means 1) handing it to the attorney or to the party; 2) transmitting a copy of the paper by facsimile machine to his or her office; 3) leaving it at his or her office with a clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no

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office, leaving it at his or her dwelling house or usual place of abode with someone residing at that location that is “of suitable age and discretion.” Under the bill, if an attorney, or a party if appropriate, has consented in writing to accept service by e-mail, service may be made via e-mail to that person’s primary or other designated e-mail address. The bill requires documents submitted to the court to contain an e-mail address as part of the required signature information. The bill further requires an attorney or party signing a paper for submission, by use of the electronic filing system or otherwise, to keep the e-mail information provided to the court up to date. Under the bill, e-mail service is complete upon transmission, except if the sender receives notification or indication that the message was not delivered.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 801.14 (2) of the statutes is amended to read:

2 801.14 (2) Whenever under these statutes, service of pleadings and other
3 papers is required or permitted to be made upon a party represented by an attorney,
4 the service shall be made upon the attorney unless service upon the party in person
5 is ordered by the court. Service upon the attorney or upon a party shall be made by
6 delivering a copy or by mailing it to the last-known address, or, if no address is
7 known, by leaving it with the clerk of the court. Delivery of a copy within this section
8 means: handing it to the attorney or to the party; transmitting a copy of the paper
9 by facsimile machine to his or her office; or leaving it at his or her office with a clerk
10 or other person in charge thereof; or, if there is no one in charge, leaving it in a
11 conspicuous place therein; or, if the office is closed or the person to be served has no
12 office, leaving it at his or her dwelling house or usual place of abode with some person
13 of suitable age and discretion then residing therein. Except as otherwise provided
14 in s. 801.18 (6) (a) and (b), if an attorney, or a party if appropriate, has consented in
15 writing to accept service by electronic mail, delivery of a copy within this section may
16 also include transmitting a copy of the paper by electronic mail to his or her primary
17 or other designated electronic mail address. Service by mail is complete upon

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1 mailing. Service by facsimile is complete upon transmission. Service by electronic
2 mail is complete upon transmission, except if the sender receives notification or
3 indication that the message was not delivered. The first sentence of this subsection
4 shall not apply to service of a summons or of any process of court or of any paper to
5 bring a party into contempt of court.

6 **SECTION 2.** 801.15 (5) (b) of the statutes is amended to read:

7 801.15 (5) (b) If the notice or paper is served by facsimile transmission,
8 electronic mail, or by the electronic filing system under s. 801.18 and such
9 transmission is completed between 5 p.m. and midnight, ~~1~~ one day shall be added
10 to the prescribed period.

11 **SECTION 3.** 801.18 (12) (c) of the statutes is amended to read:

12 801.18 (12) (c) Each electronically filed document shall bear that person's
13 name, mailing address, electronic mail address, telephone number, and state bar
14 number if applicable. Users shall notify the electronic filing system of any change
15 in this information, consistent with sub. (3) (f).

16 **SECTION 4.** 802.05 (1) of the statutes is amended to read:

17 802.05 (1) SIGNATURE. Every pleading, written motion, and other paper shall
18 be signed by at least one attorney of record in the attorney's individual name, or, if
19 the party is not represented by an attorney, shall be signed by the party. Each paper
20 shall state the signer's address and telephone number, electronic mail address, and
21 state bar number, if any. Any attorney or party signing a paper under this section
22 shall designate and provide the court with a primary electronic mail address and
23 shall be responsible for the accuracy of and any necessary changes to the electronic
24 mail address provided to the court. Except when otherwise specifically provided by
25 rule or statute, pleadings need not be verified or accompanied by affidavit. An

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SECTION 4

1 unsigned paper shall be stricken unless omission of the signature is corrected
2 promptly after being called to the attention of the attorney or party.

3 (END)