

This material is provided to answer general questions about the law in New York State. The information and forms were created to assist readers with general issues and not specific situations, and, as such, does not replace the legal advice or representation of an attorney. Because of this and because of unanticipated changes in the law, the Rural Law Center of New York (RLC) makes no claim that this information will achieve the results you desire. Also, the RLC disclaims any responsibility for actions taken based on this material. If you are seeking advice about a specific legal issue, you should contact an attorney licensed to practice in New York State.

Rural Law Center of New York, Inc.

WHAT IS SERVICE?

Service is the personal delivery of legal documents (summons, complaints, writs, etc.) to an individual to whom the document is directed. The purpose is to establish jurisdiction and to give the individual notice and the opportunity to respond. Service of documents usually has a deadline. In New York, service must be completed in 120 days after filing for almost all cases. Be sure to check with the court about deadlines for your case.

Service sometimes requires delivery "in person", other times it is possible to serve by mail or to someone in the same household or business. Be sure to check with the court to be sure you are arranging for service in the way required in your case. In New York, personal service is required in divorce and similar matrimonial actions.

Service cannot be done by a party to the action. If this is your case, you may not serve the other party. In New York State, service must be done by someone over 18 years of age. If you don't know someone who is able to do this, or if you'd rather not ask someone, you may contact the sheriff's office or a private process service company and ask them to serve the document. In some cases there will be a charge. Be sure to ask. But remember, whomever you choose, service cannot be done on a Sunday.

Once the person is served, the server completes and Affidavit of Service proving that the person was served. This contains the details of the service (date, time, place of service, description of documents, description of person served, etc.). Some Affidavits of Service require a notary's stamp and signature, as well.

Usually, this Affidavit is filed with the court as proof that the party has received the documents.