

HB1391



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB1391

Introduced 1/28/2025, by Rep. Mary Beth Carty

SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-213

from Ch. 110, par. 2-213

Amends the Code of Civil Procedure. Deletes provisions that a defendant may refuse to waive service of summons. Provides that if a defendant located within the United States fails, without good cause, to sign and return a waiver requested by a plaintiff located within the United States, the court must impose on the defendant (1) the expenses later incurred in making service and (2) the reasonable expenses, including attorney's fees, of any motion required to collect those service expenses.

LRB104 06058 JRC 16091 b

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by
5 changing Section 2-213 as follows:

6 (735 ILCS 5/2-213) (from Ch. 110, par. 2-213)

7 Sec. 2-213. Waiver of service.

8 (a) Notice and request for waiver. A plaintiff may notify
9 a defendant of the commencement of an action and request that
10 the defendant waive service of a summons. The notice and
11 request shall be in writing in a form prescribed by Supreme
12 Court rule. The notice and request shall:

13 (1) be addressed to an individual who is the defendant
14 or who could be served as representative of an entity that
15 is the defendant;

16 (2) be dispatched through first class U.S. mail or
17 other equally reliable means;

18 (3) contain a copy of the complaint and identify the
19 court in which it has been filed;

20 (4) inform the defendant of the consequences of
21 compliance and of a failure to comply with the request;

22 (5) allow the defendant a reasonable time to return
23 the waiver, which shall be at least (i) 30 days from the

1 date on which the request is sent or (ii) 60 days if the
2 defendant is addressed outside the United States; and

3 (6) provide the defendant with an extra copy of the
4 notice and request and prepaid means of compliance in
5 writing.

6 (b) Limits on waiver. A defendant who waives service of a
7 summons in the manner provided in subsection (a) does not
8 thereby waive any objection to the venue or to the
9 jurisdiction of the court over the person of the defendant.

10 (c) Time to appear or answer. A defendant who returns a
11 timely waiver of service is not required to appear or serve an
12 answer to the complaint until (i) 60 days from the date on
13 which the request for waiver of service was sent or (ii) 90
14 days if the defendant was addressed outside of the United
15 States.

16 (d) Effect of filing. When a waiver of service is filed by
17 the plaintiff with the court, the action shall proceed as if a
18 summons and complaint had been served at the time of filing of
19 the waiver, and no proof of service shall be required.

20 (e) Right to refuse to waive service; effect of refusal. ~~A~~
21 ~~defendant may refuse to waive service of a summons.~~ If a
22 defendant does not return the waiver provided for in
23 subsection (a), the plaintiff must serve summons on that
24 defendant as otherwise provided by this Code and Supreme Court
25 rules. If a defendant located within the United States fails,
26 without good cause, to sign and return a waiver requested by a

1 plaintiff located within the United States, the court must
2 impose on the defendant (1) the expenses later incurred in
3 making service and (2) the reasonable expenses, including
4 attorney's fees, of any motion required to collect those
5 service expenses.

6 (Source: P.A. 87-352.)