

BILL ANALYSIS

Senate Research Center
82R2907 CAE-D

H.B. 962
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Jurisprudence
5/3/2011
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, process servers are required to have returns of service signed before a notary public, which adds additional time and cost to litigants. Most states have changed their laws to allow for only the signature of the server signed under penalty of perjury, rather than require the service to be verified. The purpose of H.B. 962 is to streamline the return of service process by providing rules regarding return of service and requiring a process server to sign the return of service under penalty of perjury rather than requiring verification.

H.B. 962 amends current law relating to rules regarding return of service.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Supreme Court of Texas in SECTION 1 (Section 17.030, Civil Practice and Remedies Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 17, Civil Practice and Remedies Code, by adding Section 17.030, as follows:

Sec. 17.030. RETURN OF SERVICE. (a) Requires the Supreme Court of Texas (supreme court) to adopt rules of civil procedure requiring a person who serves process to complete a return of service.

(b) Provides that that the rules:

(1) must provide that the return of service is not required to be endorsed or attached to the original process issued, and may be electronically filed; and

(2) may require that the following information be included in the return of service the cause number and case name, the court in which the case has been filed, the date and time process was received for service, the person or entity served, the address served, the date of service, the manner of delivery of service, a description of process served, the name of the person serving process, and, if the process server is certified as a process server by the supreme court, the process server's identification number.

(c) Requires a person certified by the supreme court as a process server or a person authorized outside of Texas to serve process to sign the return of service under penalty of perjury. Provides that the return of service is not required to be verified.

(d) Authorizes a person who knowingly or intentionally falsifies a return of service to be prosecuted for tampering with a governmental record as provided by Chapter 37 (Perjury and Other Falsification), Penal Code.

SECTION 2. Amends Section 17.065(b), Civil Practice and Remedies Code, as follows:

(b) Requires that the return of service under this section state when it was served, state on whom it was served, and be signed under penalty of perjury by the party making the service. Deletes existing text requiring that the return of service under this section be endorsed on or attached to the original process issued and be signed and sworn to by the party making the service before a person authorized by law to make an affidavit under his hand and seal.

SECTION 3. Provides that Section 17.030, Civil Practice and Remedies Code, as added by this Act, and Section 17.065, Civil Practice and Remedies Code, as amended by this Act, apply to all process served on or after January 1, 2012, without regard to whether the process was issued before, on, or after that date.

SECTION 4. Effective date: January 1, 2012.