

BILL ANALYSIS

C.S.H.B. 518
By: Menendez
Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Generally, in civil cases, courts may order citation by publication, by posting a notice at the courthouse door, provided that the court finds that this method would give the defendant actual notice of the proceeding. However, under the current version of Section 102.010 of the Family Code, courts invariably disagree as to whether they may order substituted service of citation by publication, which includes publication by posting at a courthouse door.

Moreover, in proceedings filed by the Texas Department of Protective and Regulatory Services, substituted service by posting is desirable. Additionally, when a court determines such service is as likely as publication to give actual notice of the proceeding, the cost to the state in cases filed for the protection of children is greatly reduced.

C.S.H.B.518 would specifically allow, at the court's discretion, citation by publication by posting at the courthouse door in suits filed by the Texas Department of Protective and Regulatory Services that affect children.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 102.010 of the Family Code to specifically provide that in any suit in which service is by publication, a statement of the evidence of service, approved and signed by the court, must be filed with the papers of the suit as a part of the record. Additionally, in a suit filed under Chapter 262, the court may order substituted service of citation by publication, including publication by posting the citation at the courthouse door for a specified time, if the court finds and states in its order that the method of substituted service is as likely as citation by publication in a newspaper.

SECTION 2. This Act takes effect September 1, 2003, and applies only to a suit affecting the parent-child relationship filed on or after that date.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B.518 modifies the original H.B.518 by adding the words, "in a newspaper" after the word "publication" on line 16. Additionally, on lines 16 and 17, the words "Subsection (c)" have been changed to "Subsection (b)", making no material change.

