

1-1 By: Wentworth S.B. No. 1305  
1-2 (In the Senate - Filed March 7, 2007; March 19, 2007, read  
1-3 first time and referred to Committee on Jurisprudence;  
1-4 April 23, 2007, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 23, 2007,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1305 By: Wentworth

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to service of process; creating a penalty.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subchapter B, Chapter 17, Civil Practice and  
1-13 Remedies Code, is amended by adding Sections 17.028 and 17.029 to  
1-14 read as follows:

1-15 Sec. 17.028. RETURN OF SERVICE. (a) A person who serves  
1-16 process shall complete a return of service that is endorsed on or  
1-17 attached to the original process issued and must:

1-18 (1) state when process was served;

1-19 (2) state on whom process was served; and

1-20 (3) be signed under penalty of perjury by the person  
1-21 making the service.

1-22 (b) Notwithstanding Section 22.004, Government Code, the  
1-23 supreme court may not amend or adopt rules in conflict with this  
1-24 section.

1-25 Sec. 17.029. SERVICE AT GATED COMMUNITY. (a) In this  
1-26 section:

1-27 (1) "Civil process" means all process issued or  
1-28 sanctioned by a civil court, except that the term does not include  
1-29 service of any writ that requires the actual taking of possession of  
1-30 a person, property, or thing or an enforcement action required of or  
1-31 directed to a peace officer related to the taking of possession of a  
1-32 person, property, or thing.

1-33 (2) "Gated community" means a residential subdivision  
1-34 or housing development that contains two or more dwellings not  
1-35 under common ownership and that has a vehicular or pedestrian gate.

1-36 (3) "Process server" means a person certified by the  
1-37 supreme court who serves civil process.

1-38 (b) A property owner, manager, or security guard who in the  
1-39 exercise of reasonable care grants access to a gated community to a  
1-40 process server, constable, or sheriff for delivery of process is  
1-41 not liable for any damages that may arise as a result of that act.

1-42 SECTION 2. Subsection (b), Section 17.065, Civil Practice  
1-43 and Remedies Code, is amended to read as follows:

1-44 (b) The return of service under this section shall be  
1-45 endorsed on or attached to the original process issued and must:

1-46 (1) state when it was served;

1-47 (2) state on whom it was served; and

1-48 (3) be signed under penalty of perjury [and sworn to]  
1-49 by the party making the service [before a person authorized by law  
1-50 to make an affidavit under his hand and seal].

1-51 SECTION 3. Subchapter A, Chapter 51, Government Code, is  
1-52 amended by adding Section 51.008 to read as follows:

1-53 Sec. 51.008. COLLECTION OF FEES. (a) The process server  
1-54 review board may set fees for the certification of a person as a  
1-55 process server. The supreme court must approve a fee adopted by the  
1-56 process server review board under this section.

1-57 (b) The Office of Court Administration of the Texas Judicial  
1-58 System may collect the fees adopted by the process server review  
1-59 board. Fees collected under this section shall be deposited in the  
1-60 general revenue fund.

1-61 (c) Fees collected and deposited under this section may be  
1-62 used only for the support of programs of the supreme court, the  
1-63 process server review board, or the Office of Court Administration

2-1 of the Texas Judicial System for certification programs of the  
2-2 judiciary. The supreme court must approve the purpose of any  
2-3 expenditure under this section.

2-4 SECTION 4. Subchapter B, Chapter 72, Government Code, is  
2-5 amended by adding Section 72.013 to read as follows:

2-6 Sec. 72.013. PROCESS SERVER REVIEW BOARD. A person  
2-7 appointed to the process server review board is entitled to  
2-8 reimbursement for travel expenses incurred in attending process  
2-9 server review board meetings. Reimbursement may be made from the  
2-10 process server review account in the judicial fund.

2-11 SECTION 5. Section 5.201, Business Organizations Code, is  
2-12 amended by adding Subsection (d) to read as follows:

2-13 (d) If the registered agent is a domestic entity or foreign  
2-14 entity that is also required to appoint a registered agent, process  
2-15 may be served by serving an agent or clerk at the registered office  
2-16 of the registered agent.

2-17 SECTION 6. Subsections (a) and (b), Section 36.06, Penal  
2-18 Code, are amended to read as follows:

2-19 (a) A person commits an offense if he intentionally or  
2-20 knowingly harms or threatens to harm another by an unlawful act:

2-21 (1) in retaliation for or on account of the service or  
2-22 status of another as a:

2-23 (A) public servant, process server, witness,  
2-24 prospective witness, or informant; or

2-25 (B) person who has reported or who the actor  
2-26 knows intends to report the occurrence of a crime; or

2-27 (2) to prevent or delay the service of another as a:

2-28 (A) public servant, process server, witness,  
2-29 prospective witness, or informant; or

2-30 (B) person who has reported or who the actor  
2-31 knows intends to report the occurrence of a crime.

2-32 (b) In this section:

2-33 (1) "Civil process" means all process issued or  
2-34 sanctioned by a civil court, except that the term does not include  
2-35 service of any writ that requires the actual taking of possession of  
2-36 a person, property, or thing or an enforcement action required of or  
2-37 directed to a peace officer related to the taking of possession of a  
2-38 person, property, or thing.

2-39 (2) "Honorably retired peace officer" means a peace  
2-40 officer who:

2-41 (A) did not retire in lieu of any disciplinary  
2-42 action;

2-43 (B) was eligible to retire from a law enforcement  
2-44 agency or was ineligible to retire only as a result of an injury  
2-45 received in the course of the officer's employment with the agency;  
2-46 and

2-47 (C) is entitled to receive a pension or annuity  
2-48 for service as a law enforcement officer or is not entitled to  
2-49 receive a pension or annuity only because the law enforcement  
2-50 agency that employed the officer does not offer a pension or annuity  
2-51 to its employees.

2-52 (3) [~~2~~] "Informant" means a person who has  
2-53 communicated information to the government in connection with any  
2-54 governmental function.

2-55 (4) "Process server" means a person who serves civil  
2-56 process.

2-57 (5) [~~3~~] "Public servant" includes an honorably  
2-58 retired peace officer.

2-59 SECTION 7. (a) The change in law made by Section 6 of this  
2-60 Act applies only to an offense committed on or after the effective  
2-61 date of this Act. For purposes of this section, an offense is  
2-62 committed before the effective date of this Act if any element of  
2-63 the offense occurs before the effective date.

2-64 (b) An offense committed before the effective date of this  
2-65 Act is governed by the law in effect when the offense was committed,  
2-66 and the former law is continued in effect for that purpose.

2-67 SECTION 8. This Act applies to all process served on or  
2-68 after the effective date of this Act, without regard to whether the  
2-69 process was issued before, on, or after that date.

3-1 SECTION 9. This Act takes effect September 1, 2007.

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