# BILL ANALYSIS

Senate Research Center                                                    H.B. 397
                                By: Hartnett (Wentworth)
                                       Jurisprudence
                                       5/18/2009
                                       Engrossed

## AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, process servers are required to have returns of service signed before a notary public. This adds additional time and cost to litigants. Most states have changed their laws to allow for the signature of only the server, signed under penalty of perjury, rather than requiring the service to be verified.

H.B. 397 requires the Supreme Court of Texas to adopt rules of civil procedure requiring a person who serves process to complete a return of service. The bill streamlines the process and 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, rather than requiring the return of service to be verified.

## 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 services process to complete a return of service.
>
> (b) Provides that the rules:
>
>> (1) are required to provide that the return of service is not required to be endorsed or attached to the original process issued and is authorized to be electronically filed; and
>>
>> (2) are authorized to 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, to require 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 added by this Act, apply to all process served on or after January 1, 2010, without regard to whether the process was issued before, on, or after that date.

SECTION 4. Effective date: January 1, 2010.