

## **BILL ANALYSIS**

C.S.H.B. 397  
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Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

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 only the signature of the server signed under penalty of perjury, rather than require the service to be verified.

C.S.H.B 397 requires the supreme court to adopt rules of civil procedure requiring a person who serves process to complete a return of process. 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**

It is the committee's opinion that rulemaking authority is expressly granted to the Supreme Court of Texas in SECTION 1 of this bill.

### **ANALYSIS**

C.S.H.B. 397 amends the Civil Practice and Remedies Code to require 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 requires the rules 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. The bill authorizes the rules to require certain information to be included in the return of service. The bill 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. The bill provides that the return of service is not required to be verified. The bill establishes that a person who knowingly or intentionally falsifies a return of service may be prosecuted for tampering with a governmental record as provided by the Penal Code.

C.S.H.B. 397 amends a provision relating to service of process on a nonresident or an agent of a nonresident in any suit against the person or agent that grows out of a collision or accident in which the person or his agent is involved while operating a motor vehicle in Texas to make conforming changes.

### **EFFECTIVE DATE**

January 1, 2010.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 397 adds provisions not in the original requiring the supreme court to adopt rules of civil procedure requiring a person who serves process to complete a return of process and making conforming changes. The substitute adds provisions not in the original requiring 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, providing that the return of service is not required to be verified, and authorizing a person who knowingly or intentionally falsifies a return of service to be prosecuted for tampering with a governmental record as provided by the Penal Code.

C.S.H.B. 397 removes provisions in the original creating a process server license for a person who serves or offers to serve civil process in Texas as a private process server, including provisions relating to the license application, a criminal history record check of a license applicant, the issuance of such a license by the Texas Department of Licensing and Regulation, the term and renewal of a license, the powers and duties of license holders, the fees charged and collected by a license holder, an assault on a license holder during the delivery of civil process, the unique identification number issued to each license holder, the return of service completed by a license holder, disciplinary actions against a license holder, and criminal penalties for a person who practices as a private process server and is not authorized to do so and for a person who knowingly or intentionally falsifies a return of civil process.

C.S.H.B. 397 omits a provision included in the original that removes a provision of the Local Government Code specifying that a constable is considered a private process server for purposes of collecting fees for serving notices relating to eviction actions.

C.S.H.B. 397 adds a savings provision not in the original and differs from the original by changing the effective date.