

1-1 By: Hartnett (Senate Sponsor - Wentworth) H.B. No. 397
1-2 (In the Senate - Received from the House May 13, 2009;
1-3 May 14, 2009, read first time and referred to Committee on
1-4 Jurisprudence; May 21, 2009, reported favorably by the following
1-5 vote: Yeas 5, Nays 0; May 21, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to rules regarding return of service.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Subchapter B, Chapter 17, Civil Practice and
1-11 Remedies Code, is amended by adding Section 17.030 to read as
1-12 follows:

1-13 Sec. 17.030. RETURN OF SERVICE. (a) The supreme court
1-14 shall adopt rules of civil procedure requiring a person who serves
1-15 process to complete a return of service.

1-16 (b) The rules:

1-17 (1) must provide that the return of service:

1-18 (A) is not required to be endorsed or attached to
1-19 the original process issued; and

1-20 (B) may be electronically filed; and

1-21 (2) may require that the following information be
1-22 included in the return of service:

1-23 (A) the cause number and case name;

1-24 (B) the court in which the case has been filed;

1-25 (C) the date and time process was received for
1-26 service;

1-27 (D) the person or entity served;

1-28 (E) the address served;

1-29 (F) the date of service;

1-30 (G) the manner of delivery of service;

1-31 (H) a description of process served;

1-32 (I) the name of the person serving process; and

1-33 (J) if the process server is certified as a
1-34 process server by the supreme court, the process server's
1-35 identification number.

1-36 (c) A person certified by the supreme court as a process
1-37 server or a person authorized outside of Texas to serve process
1-38 shall sign the return of service under penalty of perjury. The
1-39 return of service is not required to be verified.

1-40 (d) A person who knowingly or intentionally falsifies a
1-41 return of service may be prosecuted for tampering with a
1-42 governmental record as provided by Chapter 37, Penal Code.

1-43 SECTION 2. Section 17.065(b), Civil Practice and Remedies
1-44 Code, is amended to read as follows:

1-45 (b) The return of service under this section [~~shall be~~
1-46 ~~endorsed on or attached to the original process issued and~~] must:

1-47 (1) state when it was served;

1-48 (2) state on whom it was served; and

1-49 (3) be signed under penalty of perjury [~~and sworn to~~]
1-50 by the party making the service [~~before a person authorized by law~~
1-51 ~~to make an affidavit under his hand and seal~~].

1-52 SECTION 3. Section 17.030, Civil Practice and Remedies
1-53 Code, as added by this Act, and Section 17.065, Civil Practice and
1-54 Remedies Code, as amended by this Act, apply to all process served
1-55 on or after January 1, 2010, without regard to whether the process
1-56 was issued before, on, or after that date.

1-57 SECTION 4. This Act takes effect January 1, 2010.

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