

1-1 By: Homer (Senate Sponsor - Wentworth) H.B. No. 3002
1-2 (In the Senate - Received from the House May 18, 2009;
1-3 May 19, 2009, read first time and referred to Committee on
1-4 Jurisprudence; May 25, 2009, reported favorably by the following
1-5 vote: Yeas 5, Nays 0; May 25, 2009, sent to printer.)

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

1-8 relating to certain duties, functions, and procedures of county
1-9 clerks, district clerks, and local registrars.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 64.091(d), Civil Practice and Remedies
1-12 Code, is amended to read as follows:

1-13 (d) In an action under Subsection (b)(1):

1-14 (1) the plaintiff, in the verified petition, must name
1-15 the last known owner or the last record owner of the interest as
1-16 defendant;

1-17 (2) the plaintiff must serve notice on the defendant
1-18 by publication as provided by the Texas Rules of Civil Procedure;

1-19 (3) the court may appoint as receiver the county judge
1-20 and his successors~~[, the county clerk and his successors,]~~ or any
1-21 other resident of the county in which the land is located;

1-22 (4) notwithstanding the Texas Rules of Civil
1-23 Procedure, the applicant is not required to post bond; and

1-24 (5) the receiver is not required to post bond.

1-25 SECTION 2. Section 64.093(d), Civil Practice and Remedies
1-26 Code, is amended to read as follows:

1-27 (d) In an action under Subsection (a):

1-28 (1) the plaintiff, in the petition, must name the last
1-29 known owner or the last record owner of the interest as defendant;

1-30 (2) the plaintiff must serve notice on the defendant
1-31 by publication as provided by the Texas Rules of Civil Procedure;

1-32 (3) the court may appoint as receiver the county
1-33 judge~~[, the county clerk,]~~ or any other resident of the county in
1-34 which the land is located;

1-35 (4) notwithstanding the Texas Rules of Civil
1-36 Procedure, the applicant is not required to post bond; and

1-37 (5) the receiver is not required to post bond.

1-38 SECTION 3. Chapter 136, Civil Practice and Remedies Code,
1-39 is amended by adding Section 136.002 to read as follows:

1-40 Sec. 136.002. ELECTRONIC CONFIRMATION OF DELIVERY OF
1-41 CERTIFIED MAIL. (a) A district or county clerk who has implemented
1-42 a system for the electronic filing of documents may provide for the
1-43 electronic filing of confirmation of receipt of any document
1-44 otherwise required by statute or rule to be sent by certified mail,
1-45 return receipt requested.

1-46 (b) A clerk shall obtain services for the electronic filing
1-47 of confirmation of receipt of a document from a provider the clerk
1-48 determines is reliable and capable of providing the services. A
1-49 confirmation filed under authority of this section is not subject
1-50 to acknowledgment by the receiving station.

1-51 (c) A confirmation filed electronically in accordance with
1-52 this section is an original record for filing and evidentiary
1-53 purposes.

1-54 SECTION 4. Subchapter I, Chapter 51, Government Code, is
1-55 amended by adding Section 51.808 to read as follows:

1-56 Sec. 51.808. ELECTRONIC CONFIRMATION OF DELIVERY OF
1-57 CERTIFIED MAIL. (a) A district or county clerk who has implemented
1-58 a system for the electronic filing of documents after approval by
1-59 the supreme court under Section 51.803 may, without further
1-60 approval but subject to the supreme court's authority to withdraw
1-61 approval of the system, provide for the electronic filing of
1-62 confirmation of receipt of any document otherwise required by
1-63 statute or rule to be sent by certified mail, return receipt
1-64 requested.

(b) A clerk shall obtain services for the electronic filing of confirmation of receipt of a document from a provider the clerk determines is reliable and capable of providing the services. A confirmation filed under authority of this section is not subject to acknowledgment by the receiving station under Section 51.804.

(c) A confirmation filed electronically in accordance with this section is an original record for filing and evidentiary purposes.

SECTION 5. Section 102.010(c), Family Code, is amended to read as follows:

(c) Citation by publication shall be sufficient if given in substantially the following form:

To (names of persons to be served with citation) and to all whom it may concern (if the name of any person to be served with citation is unknown), Respondent(s),

"STATE OF TEXAS

"You have been sued. You may employ an attorney. If you or your attorney do (does) not file a written answer with the clerk who issued this citation by 10 a.m. on the Monday next following the expiration of 42 [20] days after you were served this citation and petition, a default judgment may be taken against you. The petition of _____, Petitioner, was filed in the Court of _____ County, Texas, on the ___ day of _____, _____, against _____, Respondent(s), numbered _____, and entitled 'In the interest of _____, a child (or children).' The suit requests (statement of relief requested, e.g., 'terminate the parent-child relationship'). The date and place of birth of the child (children) who is (are) the subject of the suit: _____.

"The court has authority in this suit to render an order in the child's (children's) interest that will be binding on you, including the termination of the parent-child relationship, the determination of paternity, and the appointment of a conservator with authority to consent to the child's (children's) adoption.

"Issued and given under my hand and seal of the Court at _____, Texas, this the ___ day of _____, _____.

Clerk of the District Court of _____ County, Texas.

By _____, Deputy."

SECTION 6. Section 159.005(b), Local Government Code, is amended to read as follows:

(b) The county clerk shall make [~~mail two~~] copies of the form available to each person required to file under this subchapter within the time prescribed by Section 572.030(c), Government Code.

SECTION 7. Section 191.030, Health and Safety Code, is repealed.

SECTION 8. As soon as practicable after the effective date of this Act, the applicable court shall appoint a replacement receiver for each county clerk serving on the effective date of this Act as a receiver under Section 64.091 or 64.093, Civil Practice and Remedies Code, as those sections existed immediately before the effective date of this Act. The court shall provide for the transfer of all records, documents, and materials pertaining to the receivership from the county clerk to the replacement receiver appointed by the court.

SECTION 9. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

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