

By: Thompson of Harris

H.B. No. 866

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the protection of certain information from disclosure  
3 in suits affecting the parent-child relationship and to service of  
4 process in those suits on a party whose information is protected  
5 from disclosure; providing a punishment for contempt of court.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Section 105.006, Family Code, is amended by  
8 amending Subsections (c), (e), and (f) and adding Subsections  
9 (c-1), (c-2), (c-3), and (c-4) to read as follows:

10 (c) If a court finds after notice and hearing that requiring  
11 a party to provide the information required by this section to  
12 another party is likely to cause the child or a conservator  
13 harassment, abuse, serious harm, or injury, or to subject the child  
14 or a conservator to family violence, as defined by Section 71.004,  
15 the court may render a final order omitting the information  
16 required by this section and may:

17 (1) order the information not to be disclosed to  
18 another party; or

19 (2) render any other order the court considers  
20 necessary.

21 (c-1) If a court renders an order under Subsection (c), the  
22 court shall:

23 (1) require the party with respect to whom information  
24 is omitted under the final order to designate:

1           (A) a substitute post office box address that the  
2 party may use in place of that party's true residential, business,  
3 or school address; and

4           (B) an individual at that post office box address  
5 to act as agent to receive service of process and mail on the  
6 protected party's behalf;

7           (2) inform the party of the party's right to designate  
8 the attorney general as the party's agent to receive service of  
9 process and mail on behalf of the party through the address  
10 confidentiality program created by Article 56.82, Code of Criminal  
11 Procedure, and provide the party with information regarding that  
12 program; and

13           (3) if the party chooses to participate in the address  
14 confidentiality program described by Subdivision (2), provide the  
15 party with the application for the program.

16           (c-2) The substitute address and name of the individual  
17 acting as the party's agent or the designation of the attorney  
18 general as the party's agent must be contained in the final order.

19           (c-3) If a party designates a substitute address and an  
20 individual to act as the party's agent, any summons, writ, notice,  
21 demand, or process in a matter arising under Title 1 or Title 5 may  
22 be served on the designated individual in accordance with the Texas  
23 Rules of Civil Procedure.

24           (c-4) If a party designates the attorney general as the  
25 party's agent, any summons, writ, notice, demand, or process in a  
26 matter arising under Title 1 or Title 5 may be served on the  
27 attorney general in accordance with Article 56.82, Code of Criminal

1 Procedure.

2 (e) Except as provided by Subsection (c), an order in a suit  
3 that orders child support or possession of or access to a child must  
4 also contain the following prominently displayed statement in  
5 boldfaced type, in capital letters, or underlined:

6 "UNLESS THE COURT HAS ORDERED A PARTY TO DESIGNATE A  
7 SUBSTITUTE ADDRESS AND AN INDIVIDUAL TO ACT AS AN AGENT TO RECEIVE  
8 SERVICE OF PROCESS, EACH PERSON WHO IS A PARTY TO THIS ORDER IS  
9 ORDERED TO NOTIFY EACH OTHER PARTY, THE COURT, AND THE STATE CASE  
10 REGISTRY OF ANY CHANGE IN THE PARTY'S CURRENT RESIDENCE ADDRESS,  
11 MAILING ADDRESS, HOME TELEPHONE NUMBER, NAME OF EMPLOYER, ADDRESS  
12 OF EMPLOYMENT, DRIVER'S LICENSE NUMBER, AND WORK TELEPHONE NUMBER.  
13 THE PARTY IS ORDERED TO GIVE NOTICE OF AN INTENDED CHANGE IN ANY OF  
14 THE REQUIRED INFORMATION TO EACH OTHER PARTY, THE COURT, AND THE  
15 STATE CASE REGISTRY ON OR BEFORE THE 60TH DAY BEFORE THE INTENDED  
16 CHANGE. IF THE PARTY DOES NOT KNOW OR COULD NOT HAVE KNOWN OF THE  
17 CHANGE IN SUFFICIENT TIME TO PROVIDE 60-DAY NOTICE, THE PARTY IS  
18 ORDERED TO GIVE NOTICE OF THE CHANGE ON OR BEFORE THE FIFTH DAY  
19 AFTER THE DATE THAT THE PARTY KNOWS OF THE CHANGE."

20 "IF THE COURT HAS ORDERED A PARTY TO DESIGNATE A SUBSTITUTE  
21 ADDRESS AND AN INDIVIDUAL TO ACT AS AN AGENT TO RECEIVE SERVICE OF  
22 PROCESS, THE PARTY IS ORDERED TO NOTIFY EACH OTHER PARTY, THE COURT,  
23 AND THE STATE CASE REGISTRY OF ANY CHANGE IN THE PARTY'S DESIGNATED  
24 SUBSTITUTE ADDRESS OR AGENT, INCLUDING THE PARTY DESIGNATING OR  
25 CEASING TO DESIGNATE THE ATTORNEY GENERAL AS THE PARTY'S AGENT  
26 THROUGH THE ADDRESS CONFIDENTIALITY PROGRAM CREATED BY ARTICLE  
27 56.82, CODE OF CRIMINAL PROCEDURE."

1           "THE DUTY TO FURNISH THIS INFORMATION TO EACH OTHER PARTY,  
2 THE COURT, AND THE STATE CASE REGISTRY AND TO NOTIFY EACH OTHER  
3 PARTY, THE COURT, AND THE STATE CASE REGISTRY OF ANY CHANGE  
4 REGARDING A DESIGNATED SUBSTITUTE ADDRESS OR AGENT CONTINUES AS  
5 LONG AS ANY PERSON, BY VIRTUE OF THIS ORDER, IS UNDER AN OBLIGATION  
6 TO PAY CHILD SUPPORT OR ENTITLED TO POSSESSION OF OR ACCESS TO A  
7 CHILD."

8           "FAILURE BY A PARTY TO OBEY THE ORDER OF THIS COURT TO PROVIDE  
9 EACH OTHER PARTY, THE COURT, AND THE STATE CASE REGISTRY WITH THE  
10 CHANGE IN THE REQUIRED INFORMATION MAY RESULT IN FURTHER LITIGATION  
11 TO ENFORCE THE ORDER, INCLUDING CONTEMPT OF COURT. A FINDING OF  
12 CONTEMPT MAY BE PUNISHED BY CONFINEMENT IN JAIL FOR UP TO SIX  
13 MONTHS, A FINE OF UP TO \$500 FOR EACH VIOLATION, AND A MONEY  
14 JUDGMENT FOR PAYMENT OF ATTORNEY'S FEES AND COURT COSTS. IF  
15 APPLICABLE, FAILURE BY A PARTY TO NOTIFY EACH OTHER PARTY, THE  
16 COURT, AND THE STATE CASE REGISTRY OF ANY CHANGE IN THE PARTY'S  
17 DESIGNATED SUBSTITUTE ADDRESS OR AGENT MAY RESULT IN A DEFAULT  
18 JUDGMENT."

19           (f) Except for an action in which contempt is sought, in any  
20 subsequent child support enforcement action, the court may:

21           (1) [7] on a showing that diligent effort has been made  
22 to determine the location of a party, consider due process  
23 requirements for notice and service of process to be met with  
24 respect to that party on delivery of written notice to the most  
25 recent residential or employer address filed by that party with the  
26 court and the state case registry; or

27           (2) on a showing that diligent effort has been made to

1 determine the location of a party who is subject to an order  
2 rendered under Subsection (c), consider due process requirements  
3 for notice and service of process to be met with respect to that  
4 party on delivery of written notice to the most recent substitute  
5 address designated by the party.

6 SECTION 2. Section 105.007, Family Code, is amended to read  
7 as follows:

8 Sec. 105.007. COMPLIANCE WITH ORDER REQUIRING NOTICE OF  
9 CHANGE OF REQUIRED INFORMATION. (a) Except for a suit in which an  
10 order is rendered under Subsection (c), a [A] party shall comply  
11 with the order by giving written notice to each other party of an  
12 intended change in the party's current residence address, mailing  
13 address, home telephone number, name of employer, address of  
14 employment, and work telephone number.

15 (b) Except for a suit in which an order is rendered under  
16 Subsection (c), the [The] party must give written notice by  
17 registered or certified mail of an intended change in the required  
18 information to each other party on or before the 60th day before the  
19 change is made. If the party does not know or could not have known of  
20 the change in sufficient time to provide 60-day notice, the party  
21 shall provide the written notice of the change on or before the  
22 fifth day after the date that the party knew of the change.

23 (c) A party who has been ordered under Section 105.006(c) to  
24 designate a substitute address and an individual to act as an agent  
25 to receive service of process on the party's behalf, including a  
26 party who has designated the attorney general as the party's agent  
27 through the address confidentiality program created by Article

1 56.82, Code of Criminal Procedure, must give written notice of a  
2 change in either the substituted address or the designated agent by  
3 registered or certified mail on or before the 60th day before the  
4 change is made. If the party does not know or could not have known of  
5 the change in sufficient time to provide the 60-day notice, the  
6 party shall provide the written notice of the change on or before  
7 the fifth day after the date the party knew of the change [~~The court~~  
8 ~~may waive the notice required by this section on motion by a party~~  
9 ~~if it finds that the giving of notice of a change of the required~~  
10 ~~information would be likely to expose the child or the party to~~  
11 ~~harassment, abuse, serious harm, or injury~~].

12 SECTION 3. Subtitle A, Title 5, Family Code, is amended by  
13 adding Chapter 112 to read as follows:

14 CHAPTER 112. SERVICE OF PROCESS ON PARTY WHOSE INFORMATION IS  
15 PROTECTED FROM DISCLOSURE

16 Sec. 112.001. UNAUTHORIZED DISCLOSURE OR DUPLICATION  
17 PROHIBITED; CONTEMPT. (a) A party's information that is subject to  
18 an order of nondisclosure under Section 105.006(c) rendered before  
19 September 1, 2021, may be disclosed, copied, or otherwise  
20 duplicated only as provided by this chapter.

21 (b) A person who violates the provisions of this chapter may  
22 be punished for contempt of court. A person who is found in  
23 contempt of court is subject to:

24 (1) incarceration in the county jail for a period of  
25 not less than three days; and

26 (2) a fine of not less than \$200 for each instance of  
27 contempt.

1       Sec. 112.002. REQUEST FOR DISCLOSURE. (a) A party who  
2 files any pleading seeking relief, including contempt, with respect  
3 to any matter arising under this title or Title 4 against a party  
4 whose information is subject to an order of nondisclosure under  
5 Section 105.006(c) rendered before September 1, 2021, may request  
6 disclosure of the other party's information to the clerk of the  
7 court and to a person authorized to serve process under this chapter  
8 solely for purposes of notice and service of process.

9       (b) A party requesting disclosure under Subsection (a) must  
10 state in writing that the party does not have information necessary  
11 to satisfy the due process requirements for notice and service of  
12 process to the other party.

13       Sec. 112.003. DISCLOSURE TO AUTHORIZED PERSON. (a) On  
14 receiving a request under Section 112.002, the clerk of the court  
15 shall send a request to the state case registry for the disclosure  
16 of the current residence address of the party whose information is  
17 subject to an order of nondisclosure under Section 105.006(c). The  
18 state case registry shall provide the requested information in  
19 writing to the clerk of the court not later than the 10th day after  
20 the date the state case registry receives the request. On  
21 disclosure of the address by the state case registry, the clerk of  
22 the court shall provide the information in writing to a person  
23 authorized to serve process under this chapter.

24       (b) The information may only be provided in person at the  
25 office of the clerk of the court.

26       (c) If a citation is issued, the clerk of the court shall  
27 ensure that the respondent is identified on the citation by name

1 only.

2 Sec. 112.004. PERSON AUTHORIZED TO SERVE PROCESS. Unless  
3 otherwise authorized by written court order, only a sheriff or  
4 constable may serve process under this chapter.

5 Sec. 112.005. NOTICE SENT BY CLERK. Before or at the time  
6 the citation is issued, the clerk of the court must give notice to  
7 the party identified in the citation at the provided address that  
8 states the style and cause number of the case. The notice must  
9 contain the following prominently displayed statement in boldfaced  
10 type, in capital letters, or underlined:

11 "YOUR ADDRESS HAS BEEN WITHHELD FROM DISCLOSURE FROM A PARTY  
12 IN THE CAUSE NUMBER ABOVE. A CITATION HAS BEEN ISSUED TO GIVE YOU  
13 NOTICE THAT A SUIT HAS BEEN FILED. YOUR ADDRESS HAS BEEN PROVIDED  
14 TO A PERSON AUTHORIZED TO SERVE CITATION. YOUR ADDRESS HAS NOT BEEN  
15 DISCLOSED TO ANY OTHER PARTIES. A DISCLOSURE OF YOUR INFORMATION BY  
16 THE PERSON AUTHORIZED TO SERVE CITATION MAY RESULT IN THAT PERSON  
17 BEING HELD IN CONTEMPT OF COURT."

18 Sec. 112.006. RETURN OF SERVICE. (a) The person who serves  
19 process under this chapter shall document that process was served  
20 by stating on the return of service that the respondent was served  
21 at "the residence address in the clerk's data sheet" or a similar  
22 statement. The above statement satisfies the requirement of Rule  
23 107(b)(6), Texas Rules of Civil Procedure. The return may not state  
24 the physical location where process was served.

25 (b) The person who serves process shall return to the clerk  
26 of the court the copy of the information provided under Section  
27 112.003(a) with the return of service.



1        (c) On receipt of the copy of the information provided under  
2 Section 112.003(a), the clerk of the court shall:

3            (1) notate on the court's docket the return of the  
4 copy; and

5            (2) destroy the copy.

6        Sec. 112.007. WARNING REQUIRED. The clerk of the court  
7 shall attach to a copy of information provided under Section  
8 112.003 the following prominently displayed statement in boldfaced  
9 type, in capital letters, or underlined:

10        "TO ANY PERSON AUTHORIZED TO SERVE PROCESS:

11        "THIS DOCUMENT CONTAINS INFORMATION SUBJECT TO A COURT ORDER  
12 OF NONDISCLOSURE AND IS PROVIDED TO YOU SOLELY FOR THE PURPOSE OF  
13 LOCATING AND EFFECTING SERVICE OF PROCESS ON THE NAMED PERSON. YOU  
14 MAY NOT DISPLAY THIS DOCUMENT OR DISCLOSE ANY OF THE INFORMATION  
15 CONTAINED IN THIS DOCUMENT TO ANY PERSON. YOU MAY NOT COPY OR  
16 OTHERWISE DUPLICATE THIS DOCUMENT OR THE INFORMATION IT CONTAINS.  
17 ON THE RETURN OF SERVICE, YOU SHALL STATE THE PLACE OF SERVICE ONLY  
18 AS "THE RESIDENCE ADDRESS IN CLERK'S DATA SHEET" OR A SIMILAR  
19 STATEMENT. YOU MUST RETURN THIS DOCUMENT TO THE CLERK WITH THE  
20 RETURN OF SERVICE. VIOLATION OF ANY OF THESE DIRECTIVES MAY BE  
21 PUNISHED AS CONTEMPT OF COURT."

22        SECTION 4. Section 234.012, Family Code, is amended to read  
23 as follows:

24        Sec. 234.012. RELEASE OF INFORMATION FROM STATE CASE  
25 REGISTRY. (a) Unless prohibited by a court in accordance with  
26 Section 105.006(c), the state case registry shall, on request and  
27 to the extent permitted by federal law, provide the information

1 required under Sections 105.006 and 105.008 in any case included in  
2 the registry under Section 234.001(b) to:

- 3 (1) any party to the proceeding;
- 4 (2) an amicus attorney;
- 5 (3) an attorney ad litem;
- 6 (4) a friend of the court;
- 7 (5) a guardian ad litem;
- 8 (6) a domestic relations office;
- 9 (7) a prosecuting attorney or juvenile court acting in  
10 a proceeding under Title 3; or
- 11 (8) a governmental entity or court acting in a  
12 proceeding under Chapter 262.

13 (b) Notwithstanding Subsection (a), the state case registry  
14 shall release information that was subject to an order of  
15 nondisclosure under Section 105.006(c) as necessary to respond to a  
16 request of a clerk of court made in accordance with Chapter 112.  
17 The state case registry shall release the information not later  
18 than the 10th day after the date the state case registry receives  
19 the request.

20 SECTION 5. The changes in law made by this Act to Sections  
21 105.006 and 105.007, Family Code, apply to a suit affecting the  
22 parent-child relationship pending in a trial court on or filed on or  
23 after the effective date of this Act.

24 SECTION 6. Chapter 112, Family Code, as added by this Act,  
25 applies only to a suit affecting the parent-child relationship that  
26 is filed on or after the effective date of this Act. A suit filed  
27 before the effective date of this Act is governed by the law in

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1 effect on the date the suit is filed, and the former law is  
2 continued in effect for that purpose.

3 SECTION 7. This Act takes effect September 1, 2021.