

BILL ANALYSIS

Senate Research Center

H.B. 518
By: Menendez (Whitmire)
Jurisprudence
5/20/2003
Committee Report (Amended)

DIGEST AND PURPOSE

Generally, in civil cases, courts may order citation by publication, by posting a notice at the courthouse door, provided that the court finds that this method would give the defendant actual notice of the proceeding. However, under the current version of Section 102.010 of the Family Code, courts have disagreed as to whether a court may order substituted service of citation by publication, which includes publication by posting at a courthouse door. H.B. 518 allows, at the court's discretion, citation by publication by posting at the courthouse door in suits filed by the Texas Department of Protective and Regulatory Services that affect children.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 102.010, Family Code, by adding Subsections (d) and (e), as follows:

(d) Requires a statement of the evidence of service, approved and signed by the court, in any suit in which service of citation is by publication, to be filed with the papers of the suit as a part of the record.

(e) Authorizes the court, in a suit filed under Chapter 161 or 262 in which the first or last name of the respondent is unknown, to order substituted service of citation by publication, including publication by posting the citation at the courthouse door for a specified time, if the court finds and states in its order that the method of substituted service is as likely as citation by publication in a newspaper in the manner described by Subsection (b) to give the respondent actual notice of the suit. Requires service to be completed on, and the answer date computed from, the expiration date of the posting period, if the court orders that citation by publication shall be completed by posting the citation at the courthouse door for a specified time. Requires service, if the court orders another method of substituted service of citation by publication, to be completed as directed by the court.

SECTION 2. Effective date: September 1, 2003.
Makes application of this Act prospective.

LIST OF COMMITTEE AMENDMENTS

Committee Amendment No. 1:

On page 1, line 12, strike "first or".