

- SUBJECT:** Waiver of personal service of summons in juvenile court proceedings
- COMMITTEE:** Juvenile Justice and Family Issues Committee — committee substitute recommended
- VOTE:** 5 ayes — Goodman, De La Garza, Naishtat, Puente, Van de Putte
0 nays
4 absent — Cook, Brady, H. Cuellar, Williamson
- SENATE VOTE:** On final passage, April 5, 1995 — voice vote
- WITNESSES:** None
- BACKGROUND:** Before a pre-judicial juvenile proceeding, juvenile courts are required to issue a summons to a child named in a petition, the child's parent, guardian or custodian, the child's guardian *ad litem* and any other person who appears to the court to be a proper or necessary party to the proceeding. A party, other than the child, may waive this personal service of a summons by written stipulation or by voluntary appearance at the hearing.
- Since these juvenile proceedings are considered civil, current law allows the court to authorize payment from the general funds of the county for the costs of service and of necessary travel expenses incurred by persons summoned or otherwise required to appear at a hearing.
- DIGEST:** CSSB 188 would give a child named in a petition to appear before a court in a pre-judicial proceeding the same authority as other parties to waive personal service of a summons by written stipulation or by voluntary appearance at the hearing. A written stipulation waiving personal service would be valid if the waiver was signed by the child and the child's parent, guardian or custodian.
- The personal appearance of the child before the court or a referee at a hearing, other than a detention hearing, would be considered a waiver of the personal service of a summons and would constitute submission to the jurisdiction of the court. Jurisdiction would attach to the child and the case

when the summons was served on the child, service of the summons was waived by written stipulation or the child was taken into immediate detention, regardless of whether a summons has been served on the child.

CSSB 188 would authorize a court to allow payment from the general funds of a county for necessary travel expenses incurred by persons summoned or required to appear at a hearing.

CSSB 188 would prohibit the charging of a fee to the prosecutor for the issuance or service of process or a summons, subpoena, or other document in a juvenile pre-judicial proceeding. For the purposes of assessing these costs or fees, the issuance or service would be treated the same as in criminal proceedings, where there is no charge.

CSSB 188 would take effect September 1, 1995.

**SUPPORTERS
SAY:**

CSSB 188 would allow juveniles to waive personal service in proceedings if they personally appear or sign a written stipulation waiving service. This would give juveniles the same options as other persons being summoned, could make it easier for a juvenile to appear at a hearing and would reduce paperwork and bureaucracy for the counties, promote judicial efficiency in cases where juveniles voluntarily appear. Often it is difficult to serve children personally in a highly mobile society in which children do not necessarily live with their parents. The current provision that requires children to be served personally dates back many years and may not be appropriate today. Many other states already similar laws to the one proposed in CSSB 188.

Many counties have been faced with attempting to serve an issuance or service of process, summons or subpoena in other counties where their sheriffs or constables demand a fee up front. This can cause serious delays in the justice system, especially in the instances when juveniles have committed serious crimes and the county treasurer must pay the fee before the other county will serve the document. CSSB 188 would treat these services in the same manner as criminal proceedings, where there is no charge to the county for the service. This makes sense because juveniles who are being summoned are accused of crimes.

**OPPONENTS
SAY:**

County sheriffs and constables could lose an important source of revenue if they can no longer charge for service to juveniles in their county. Since juveniles are often hard to locate, county sheriffs and constables could spend time and money to find the individuals and receive no compensation.

The current system provides a safeguard to help ensure that courts actually have jurisdiction over a child, and CSSB 188 could possibly allow a child to submit to a court not having proper jurisdiction.

NOTES:

The committee substitute made changes in the Senate version's Family Code citations.