BILL ANALYSIS

Senate Research Center   S.B. 1200
By: Lucio
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DIGEST

Currently, the law does not regulate private process servers. This bill will provide regulations for private process servers and penalties.

PURPOSE

As proposed, S.B. 1200 provides regulations for private process servers and penalties.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the commissioner of licensing and regulation in SECTION 1 (Section 8, Article 9035, V.T.C.S.) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 20, Title 132, V.T.C.S., by adding Article 9035, as follows:

Art. 9035. PRIVATE PROCESS SERVERS

Sec. 1. DEFINITIONS. Defines "civil court," "civil process," "commission," "commissioner," "constable," "department," "license holder," "person," "registered agent," and "sheriff."

Sec. 2. LICENSE OR REGISTRATION REQUIRED. Prohibits a person from serving civil process in this state unless the person is licensed or registered under this article. Authorizes certain persons to serve outside this state a civil process issued by a civil court of this state, but must have the return of service acknowledged by an officer authorized to administer oaths in the jurisdiction in which the civil process was served.

Sec. 3. EXEMPTION. Sets forth exemptions to this article.

Sec. 4. LICENSE APPLICATION. Requires an applicant for an initial process server license under this article to submit a sworn application on a form prescribed by the Texas Department of Licensing and Regulation (department). Sets forth eligibility for a license under this section.

Sec. 5. AGENT REGISTRATION. Authorizes a person registered as the agent of a license holder to execute civil process under this article on behalf of the license holder. Sets forth procedures for registering as the agent of a license holder.

Sec. 6. CRIMINAL HISTORY RECORD CHECK. Requires each applicant for a process server license or an agent registration to disclose to the department in the manner prescribed by the Texas Commission of Licensing and Regulation (commission) any conviction of the applicant for a misdemeanor involving moral turpitude or a felony conviction. Requires the Department of Public Safety, on the request of the department, to provide a criminal history record check on each applicant for an initial or renewal license or agent registration.

Sec. 7. ISSUANCE OF LICENSES AND REGISTRATIONS. Sets forth regulations

regarding the issuance of licenses and registrations.

Sec. 8. INSURANCE REQUIREMENT. Requires the commissioner of licensing and regulation, by rule, to prescribe the insurance coverage that a process server license holder must maintain to be eligible for a license.

Sec. 9. POWERS AND DUTIES OF LICENSE HOLDERS AND REGISTERED AGENTS. Sets forth the powers and duties of license holders and registered agents.

Sec. 10. COSTS. Authorizes a fee charged or collected by a license holder or registered agent for service of process to be charged as costs in a judicial proceeding.

Sec. 11. OFFICER OF THE COURT. Requires each license holder and registered agent to be considered an officer of the civil courts of this state, but may not be considered a peace officer based on that license or registration. Requires an assault on a license holder or registered agent to be treated as if the assault were committed on a public servant.

Sec. 12. IDENTIFICATION NUMBER. Requires the department to issue to each license holder or registered agent a unique number. Requires the license holder or registered agent to list that unique number on each return of service made by that person that is filed with the clerk of the appropriate court.

Sec. 13. TERM OF LICENSES AND REGISTRATION; RENEWAL. Sets forth the terms of licenses and registrations and provides procedures for renewal of the licenses and registrations.

Sec. 14. DISCIPLINARY ACTIONS. Sets forth regulations regarding disciplinary actions against a license holder or registered agent.

Sec. 15. CRIMINAL PENALTIES. Provides that a person commits a Class A misdemeanor if the person practices as a process server or registered agent in violation of this article or a rule adopted under this article. Provides that a person commits a felony of the third degree if the person knowingly or intentionally falsifies a return of civil process.

SECTION 2. Amends Section 411.093(a), Government Code, to make conforming changes.

SECTION 3. Provides that, notwithstanding Section 4, Article 9035, V.T.C.S., as added by this Act, certain persons are entitled to a license without complying with the educational requirement if the person meets all other requirements under that section.

SECTION 4. (a) Effective date: September 1, 1997, except as provided by Subsection (b).

(b) Effective date for Sections 2 and 15, Article 9035, V.T.C.S.: March 1, 1998.

SECTION 5. Emergency clause.