

BILL ANALYSIS

Senate Research Center
84R15677 KSD-F

C.S.S.B. 814
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State Affairs
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In divorce suits under Title 1 (The Marriage Relationship), Family Code, courts acquire jurisdiction over responding parties through either service of citation and a copy of the pleadings upon the respondent by a neutral process server, or in cases where they voluntarily acknowledge being named a party to a suit, they may file a waiver of citation with contents prescribed by the statute.

Presently, only Title 1 divorce suits contain a specific provision outlining the required contents of the waiver of citation. Those requirements include the address of the respondent and the respondent's notarized signature.

However, Title 2 (The Parent-Child Relationship), cases regarding removal of child disabilities and name change suits, and Title 5 (Suit Affecting the Parent-Child Relationship) cases, which are suits affecting the parent-child relationship, presently lack specified requirements for a waiver of citation.

C.S.S.B. 814 would make the same requirements contained in Title 1 also required in Titles 2 and 5.

C.S.S.B. 814 amends current law relating to waivers of citation in certain family law suits.

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 6.4035, Family Code, by amending Subsection (c) and adding Subsections (e) and (f), as follows:

(c) Requires that a waiver of service (waiver), notwithstanding Section 132.001 (Unsworn Declaration), Civil Practices and Remedies Code, be sworn before a notary public who is not an attorney in the suit. Provides that this subsection does not apply if the party executing the waiver is incarcerated.

(e) Prohibits the party executing the waiver from signing the waiver using a digitized signature.

(f) Defines "digitized signature" for purposes of this section.

SECTION 2. Amends Chapter 31, Family Code, by adding Section 31.008, as follows:

Sec. 31.008. WAIVER OF CITATION. (a) Authorizes a party to a suit under this chapter to waive the issuance or service of citation after the suit is filed by filing with the clerk of the court in which the suit is filed the waiver of the party acknowledging receipt of a copy of the filed petition.

(b) Prohibits the party executing the waiver from signing the waiver using a digitized signature.

(c) Requires that the waiver contain the mailing address of the party executing the waiver.

(d) Requires that the waiver, notwithstanding Section 132.001, Civil Practice and Remedies Code, be sworn before a notary public who is not an attorney in the suit. Provides that this subsection does not apply if the party executing the waiver is incarcerated.

(e) Provides that the Texas Rules of Civil Procedure do not apply to a waiver executed under this section.

(f) Defines "digitized signature" for purposes of this section.

SECTION 3. Amends Subchapter A, Chapter 45, Family Code, by adding Section 45.0031, as follows:

Sec. 45.0031. WAIVER OF CITATION. (a) Authorizes a party to a suit under this subchapter to waive the issuance or service of citation after the suit is filed by filing with the clerk of the court in which the suit is filed the waiver of the party acknowledging receipt of a copy of the filed petition.

(b) Prohibits the party executing the waiver from signing the waiver using a digitized signature.

(c) Requires the waiver to contain the mailing address of the party executing the waiver.

(d) Requires that the waiver, notwithstanding Section 132.001, Civil Practice and Remedies Code, be sworn before a notary public who is not an attorney in the suit. Provides that this subsection does not apply if the party executing the waiver is incarcerated.

(e) Provides that the Texas Rules of Civil Procedure do not apply to a waiver executed under this section.

(f) Defines "digitized signature" for purposes of this section.

SECTION 4. Amends Subchapter B, Chapter 45, Family Code, by adding Section 45.107, as follows:

Sec. 45.107. WAIVER OF CITATION. (a) Authorizes a party to a suit under this subchapter to waive the issuance or service of citation after the suit is filed by filing with the clerk of the court in which the suit is filed the waiver of the party acknowledging receipt of a copy of the filed petition.

(b) Prohibits the party executing the waiver from signing the waiver using a digitized signature.

(c) Requires that the waiver contain the mailing address of the party executing the waiver.

(d) Requires that the waiver, notwithstanding Section 132.001, Civil Practice and Remedies Code, be sworn before a notary public who is not an attorney in the suit. Provides that this subsection does not apply if the party executing the waiver is incarcerated.

(e) Provides that The Texas Rules of Civil Procedure do not apply to a waiver executed under this section.

(f) Defines "digitized signature" for purposes of this section.

SECTION 5. Amends Chapter 102, Family Code, by adding Section 102.0091, as follows:

Sec. 102.0091. WAIVER OF CITATION. (a) Authorizes a party to a suit under this title to waive the issuance or service of citation after the suit is filed by filing with the clerk of the court in which the suit is filed the waiver of the party acknowledging receipt of a copy of the filed petition.

(b) Prohibits the party executing the waiver from signing the waiver using a digitized signature.

(c) Requires that the waiver contain the mailing address of the party executing the waiver.

(d) Requires that the waiver, notwithstanding Section 132.001, Civil Practice and Remedies Code, be sworn before a notary public who is not an attorney in the suit. Provides that this subsection does not apply if the party executing the waiver is incarcerated.

(e) Provides that the Texas Rules of Civil Procedure do not apply to a waiver executed under this section.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Effective date: September 1, 2015.