

FINAL BILL REPORT

SB 5053

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Synopsis as Enacted

Brief Description: Authorizing service by publication in actions to establish or modify parenting plans, for legal separation or invalidity of marriage, and for nonparental custody.

Sponsors: Senators Kline and Johnson.

Senate Committee on Judiciary

House Committee on Juvenile Justice & Family Law

Background: Generally, the rules of practice for civil court actions govern all proceedings for dissolution of marriage, legal separation, and non-parental custody actions. Proceedings are commenced by delivery of a copy of the summons and petition to the respondent. This is called service of process. Personal service, actual delivery of the documents, is the preferred method. Constructive service, however, may be effective when all attempts at personal service have failed in spite of due diligence. Constructive service may be by mail, if specifically authorized by the court, or by publication.

Service by publication is authorized by statute for divorce proceedings when the respondent cannot be located and personally served. It is also available if the respondent conceals himself, or herself, or has moved out of state to avoid service. The summons must be published in a newspaper of general circulation in the county where the action is brought, once a week for six consecutive weeks. These statutes are strictly construed by the court.

Summary: Service by publication is specifically authorized for appropriate cases in: (1) actions for the establishment of a parenting plan or residential schedule; (2) dissolution of marriage; (3) legal separation; (4) declaration of invalidity; or (5) nonparental custody when the child is in the physical custody of the petitioner.

Votes on Final Passage:

Senate	48	0
House	93	1

Effective: July 24, 2005