

Regular Session, 2012

SENATE BILL NO. 308

BY SENATOR MURRAY

CIVIL PROCEDURE. Provides relative to service of citation and process upon the state and state agencies. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 13:5107(A), relative to service of citation and process; to  
3 provide relative to service of citation and process upon the state and state agencies;  
4 to provide certain procedures, terms, conditions, and effects; and to provide for  
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 13:5107(A) is hereby amended and reenacted to read as follows:

8 §5107. Service of citation and process

9 A. (1) In all suits filed against the state of Louisiana or a state agency,  
10 citation and service may be obtained by citation and service on the attorney general  
11 of Louisiana, or on any employee in his office above the age of sixteen years, or any  
12 other proper officer or person, depending upon the identity of the named defendant  
13 and in accordance with the laws of this state, and on the department, board,  
14 commission, or agency head or person, depending upon the identity of the named  
15 defendant and in accordance with the laws of this state, and on the department,  
16 board, commission, or agency head or person, depending upon the identity of the  
17 named defendant and the identity of the named board, commission, department,

1 agency, or officer through which or through whom suit is to be filed against.

2 **(2) Service must be requested upon the attorney general within ninety**  
 3 **days of filing suit. This shall be sufficient to comply with the requirements of**  
 4 **Subsection D of this Section and also Code of Civil Procedure Article 1201(C).**  
 5 **However, the duty of the defendant served through the attorney general to**  
 6 **answer the suit or file other responsive pleadings does not commence to run**  
 7 **until the additional service required upon the department, board, commission,**  
 8 **or agency head has been made.**

9 \* \* \*

10 Section 2. This Act shall become effective upon signature by the governor or, if not  
 11 signed by the governor, upon expiration of the time for bills to become law without signature  
 12 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 13 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 14 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Jerry G. Jones.

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#### DIGEST

Murray (SB 308)

Present law provides that in all suits filed against the state of Louisiana or a state agency, citation and service may be obtained by citation and service on the attorney general of Louisiana, or on any employee in his office above the age of sixteen years, or any other proper officer or person, depending upon the identity of the named defendant and in accordance with state law, and on the department, board, commission, or agency head or person, depending upon the identity of the named defendant and in accordance with state law, and on the department, board, commission, or agency head or person, depending upon the identity of the named defendant and the identity of the named board, commission, department, agency, or officer through which or through whom suit is to be filed against.

Proposed law retains present law and adds that service must be requested upon the attorney general within ninety days of filing suit. This shall be sufficient to comply with the requirements of present law concerning timely request for service and failure to make such timely request. However, the duty of the defendant served through the attorney general to answer the suit or file other responsive pleadings does not commence to run until the additional service required upon the department, board, commission, or agency head has been made.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 13:5107(A))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill.

1. Revised language to provide relative to effect of requests for service upon the attorney general.

Senate Floor Amendments to engrossed bill.

1. Adds department, board, and commission to the list of those to be included in the additional service required before the duty to answer commences to run.