

Regular Session, 2010

SENATE BILL NO. 3

BY SENATOR MARTINY

CIVIL PROCEDURE. Provides for service of citation and process. (8/15/10)

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AN ACT

To amend and reenact R.S. 13:5107(D)(2), relative to service of citation and process; to clarify dismissal of a suit for failure to request service; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 13:5107(D)(2) is hereby amended and reenacted to read as follows:

§5107. Service of citation and process

* * *

D.(1) In all suits in which the state, a state agency, or political subdivision, or any officer or employee thereof is named as a party, service of citation shall be requested within ninety days of the commencement of the action or the filing of a supplemental or amended petition which initially names the state, a state agency, or political subdivision or any officer or employee thereof as a party. This requirement may be expressly waived by the defendant in such action by any written waiver.

(2) If service is not requested by the party filing the action within ~~that period~~ **the period required in Paragraph (1) of this Subsection**, the action shall be dismissed without prejudice, after contradictory motion as provided in Code of Civil

1 Procedure Article 1672(C), as to the state, state agency, or political subdivision, or
2 any officer or employee thereof, who has not been served.

3 (3) When the state, a state agency, or a political subdivision, or any officer
4 or employee thereof, is dismissed as a party pursuant to this Section, the filing of the
5 action, even as against other defendants, shall not interrupt or suspend the running
6 of prescription as to the state, state agency, or political subdivision, or any officer or
7 employee thereof; however, the effect of interruption of prescription as to other
8 persons shall continue.

The original instrument was prepared by Michelle Ducharme. The following
digest, which does not constitute a part of the legislative instrument, was
prepared by Camille Sebastien Perry.

DIGEST

Martiny (SB 3)

Present law provides that in all suits in which the state, a state agency, or a political subdivision, or any officer or employee thereof is named as a party if service of citation is not requested by the party filing the action within 90 days, the action shall be dismissed without prejudice, after contradictory motion as to the state, state agency, or political subdivision, or any officer or employee thereof, who has not been served.

Proposed law specifies that if service is not requested within 90 days of the commencement of the action or the filing of a supplemental or amended petition which initially names the state, a state agency, or political subdivision or any officer or employee thereof as a party, the action shall be dismissed without prejudice, after contradictory motion as to the state, state agency, or political subdivision, or any officer or employee thereof, who has not been served.

Effective August 15, 2010.

(Amends R.S. 13:5107(D)(2))

Summary of Amendments Adopted by Senate

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

1. Returns deleted present law provision to the bill.