

By: Naishtat

H.B. No. 3725

A BILL TO BE ENTITLED

AN ACT

relating to the service of a subpoena for the attendance of a law enforcement agency employee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 23, Government Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. SUBPOENAS

Sec. 23.251. SERVICE OF SUBPOENA FOR ATTENDANCE OF LAW ENFORCEMENT EMPLOYEES. (a) In this section, "law enforcement agency" has the meaning assigned by Article 59.01(5), Code of Criminal Procedure.

(b) Each law enforcement agency shall designate an individual within the agency to receive subpoenas for the attendance of a law enforcement agency employee. Service of a subpoena for the attendance of an agency employee on the designated individual is considered service on the employee named in the subpoena.

(c) The designated individual described by Subsection (b) shall receive subpoenas for the attendance of a law enforcement employee at the law enforcement agency's main office during the law enforcement agency's normal business hours. The law enforcement agency shall designate another individual within the agency to accept a subpoena for the attendance of a law enforcement agency employee if the designated individual is unavailable.

1 (d) The designated individual described by Subsection (b)
2 shall provide the subpoena to the employee named in the subpoena as
3 soon as practicable. The court presiding over the case for which
4 the subpoena was issued may require the designated individual and
5 law enforcement agency of the designated individual to pay court
6 costs incurred as a result of a failure to accept a subpoena or to
7 provide the subpoena to the employee named in the subpoena.

8 (e) The law enforcement agency shall post the address,
9 location, and name of the designated individual described by
10 Subsection (b) on the agency's Internet website, if any, and a
11 bulletin board in each courthouse in the county in which the
12 agency's main office is located.

13 SECTION 2. Subchapter A, Chapter 22, Civil Practice and
14 Remedies Code, is amended by adding Section 22.0025 to read as
15 follows:

16 Sec. 22.0025. SUBPOENAS FOR ATTENDANCE OF LAW ENFORCEMENT
17 AGENCY EMPLOYEES. Notwithstanding any other provision of this
18 code, the requirements for a subpoena for the attendance of a law
19 enforcement agency employee in a civil action are governed by
20 Section 23.251, Government Code.

21 SECTION 3. Article 24.04(a), Code of Criminal Procedure, is
22 amended to read as follows:

23 (a) Except as otherwise provided by Section 23.251,
24 Government Code, a [A] subpoena is served by:

25 (1) reading the subpoena in the hearing of the
26 witness;

27 (2) delivering a copy of the subpoena to the witness;

1 (3) electronically transmitting a copy of the
2 subpoena, acknowledgment of receipt requested, to the last known
3 electronic address of the witness; or

4 (4) mailing a copy of the subpoena by certified mail,
5 return receipt requested, to the last known address of the witness
6 unless:

7 (A) the applicant for the subpoena requests in
8 writing that the subpoena not be served by certified mail; or

9 (B) the proceeding for which the witness is being
10 subpoenaed is set to begin within seven business days after the date
11 the subpoena would be mailed.

12 SECTION 4. The change in law made by this Act applies only
13 to a subpoena issued on or after the effective date of this Act. A
14 subpoena issued before the effective date of this Act is governed by
15 the law in effect on the date the subpoena was issued, and that law
16 continues in effect for that purpose.

17 SECTION 5. This Act takes effect September 1, 2013.