

By: Dale

H.B. No. 3128

A BILL TO BE ENTITLED

1 AN ACT
2 relating to service of a temporary ex parte order issued in response
3 to an application for a protective order in circumstances involving
4 family violence.

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

6 SECTION 1. Section 82.043, Family Code, is amended by
7 adding Subsections (c-1), (c-2), (c-3), and (c-4) to read as
8 follows:

9 (c-1) A constable's office or law enforcement agency with
10 responsibility for serving a notice of an application for a
11 protective order together with an associated temporary ex parte
12 order issued under Section 83.001 shall:

13 (1) make the initial attempt to serve the notice and
14 order, and two additional attempts if necessary, within the 48-hour
15 period immediately following receipt of the notice and order by the
16 office or agency;

17 (2) if the initial attempt to serve the notice and
18 order is unsuccessful, make at least one of the subsequent two
19 attempts at a different location than the location of the initial
20 attempt, except as provided by Subsection (c-2); and

21 (3) send a copy of the notice and order to the
22 respondent by first class mail to the respondent's last known
23 mailing address within the 24-hour period immediately following
24 receipt of the notice and order by the office or agency, unless

1 personal service is completed during that period or a mailing
2 address for the respondent is unknown.

3 (c-2) Subsection (c-1)(2) does not apply if a different
4 location is unknown and cannot be identified through a background
5 check of the respondent conducted by the constable's office or law
6 enforcement agency.

7 (c-3) A constable's office or law enforcement agency that is
8 unable to personally serve a notice of an application for a
9 protective order and an associated temporary ex parte order issued
10 under Section 83.001 within the 48-hour period required by
11 Subsection (c-1) after at least three attempts made in compliance
12 with Subsection (c-1) shall seek a court order authorizing the
13 office or agency to serve the respondent by affixing the notice and
14 order to the front door of the respondent's last known residence.
15 The office or agency shall provide the court with a sworn statement
16 that describes the efforts made to personally serve the respondent,
17 including the times and locations of each attempt to provide
18 personal service.

19 (c-4) If the court orders the alternate method of service
20 described by Subsection (c-3), that method of service is sufficient
21 to subject the respondent to being taken into custody for a
22 violation of the temporary ex parte order that occurs after service
23 of the order, as provided by Section 25.07, Penal Code, and Section
24 11c, Article I, Texas Constitution.

25 SECTION 2. Section 82.043, Family Code, as amended by this
26 Act, applies only to a notice of an application for a protective
27 order and associated temporary ex parte order received by a

1 constable's office or law enforcement agency on or after the
2 effective date of this Act. An application for a protective order
3 and associated temporary ex parte order received by a constable's
4 office or law enforcement agency before the effective date of this
5 Act is governed by the law in effect on the date the application and
6 order are received, and the former law is continued in effect for
7 that purpose.

8 SECTION 3. This Act takes effect September 1, 2015.