

By: Dale

H.B. No. 3128

A BILL TO BE ENTITLED

AN ACT

1
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), and (c-3) to read as follows:

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

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

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

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

1 address for the respondent is unknown.

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

6 (c-3) A constable's office or law enforcement agency that is
7 unable to personally serve a notice of an application for a
8 protective order and an associated temporary ex parte order issued
9 under Section 83.001 within the 48-hour period required by
10 Subsection (c-1) after at least three attempts made in compliance
11 with Subsection (c-1) may serve the respondent by affixing the
12 notice and order to the front door of the respondent's last known
13 residence. The method of service authorized by this subsection:

14 (1) does not require a court order directing that
15 method of service, notwithstanding any other provision of law or
16 the Texas Rules of Civil Procedure;

17 (2) is sufficient to subject the respondent to being
18 taken into custody for a violation of the temporary ex parte order
19 that occurs after service of the order, as provided by Section
20 25.07, Penal Code, and Section 11c, Article I, Texas Constitution;
21 and

22 (3) does not affect any other method of service
23 authorized by law or the Texas Rules of Civil Procedure.

24 SECTION 2. Section 82.043, Family Code, as amended by this
25 Act, applies only to a notice of an application for a protective
26 order and associated temporary ex parte order received by a
27 constable's office or law enforcement agency on or after the

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

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