

BILL ANALYSIS

H.B. 461
By: Dale
Juvenile Justice & Family Issues
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties observe that it is sometimes difficult to locate and serve a respondent to a family violence protective order and that under these circumstances a victim can remain vulnerable for too long waiting for the respondent to be located and the order to take effect. H.B. 461 seeks to address this issue by establishing certain requirements for local law enforcement to follow when serving protective orders.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 461 amends the Family Code to require a constable's office or law enforcement agency with responsibility for serving a notice of an application for a family violence protective order together with an associated temporary ex parte order to make the initial attempt to serve the notice and order, and two additional attempts if necessary, within the 48-hour period immediately following receipt of the notice and order by the office or agency and to make at least one of the subsequent two attempts at a different location than the location of the initial attempt if the initial attempt is unsuccessful, unless a different location is unknown and cannot be identified through a background check of the respondent conducted by the constable's office or law enforcement agency. The bill requires such a constable's office or law enforcement agency to send a copy of the notice and order to the respondent by first class mail to the respondent's last known mailing address within the 24-hour period immediately following receipt of the notice and order by the office or agency, unless personal service is completed during that period or a mailing address for the respondent is unknown.

H.B. 461 requires a constable's office or law enforcement agency that is unable to personally serve the notice and associated temporary ex parte order within the required 48-hour period after at least three attempts made in compliance with the bill's provisions to seek a court order authorizing the office or agency to serve the respondent by affixing the notice and order to the front door of the respondent's last known residence. The bill requires the office or agency to provide the court with a sworn statement that describes the efforts made to personally serve the respondent, including the times and locations of each attempt to provide personal service. The bill establishes that this alternate method of service ordered by a court is sufficient to subject the respondent to being taken into custody for a violation of the temporary ex parte order that occurs after service of the order.

EFFECTIVE DATE

September 1, 2017.