

ENGROSSED

H. B. 2521

(By Delegate Frazier)
[Introduced January 17, 2011; referred to the
Committee on the Judiciary.]

A BILL to amend and reenact §48-27-311 of the Code of West Virginia, 1931, as amended, relating to prevention and treatment of domestic violence; and eliminating the requirement of serving domestic violence orders by certified mail to expedite service and eliminating delays in conducting final hearings.

Be it enacted by the Legislature of West Virginia:

That §48-27-311 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 27. PREVENTION AND TREATMENT OF DOMESTIC VIOLENCE.

§48-27-311. Service of process.

A protective order may be served on the respondent by means of a Class I legal advertisement published notice, with the publication area being the most current known county in which the respondent resides, published in accordance with the provisions of section two, article three, chapter fifty-nine of this code ~~if:~~

1 ~~(1) The petitioner files an affidavit with the court stating that~~
2 ~~an attempt at personal service pursuant to Rule 4 of the West~~
3 ~~Virginia Rules of Civil Procedure has been unsuccessful or evidence~~
4 ~~is adduced at the hearing for the protective order that the~~
5 ~~respondent has left the State of West Virginia; and (2) a copy of~~
6 ~~the order is mailed by certified or registered mail to the~~
7 ~~respondent at the respondent's last known residence and returned~~
8 ~~undelivered if personal service by law enforcement has been~~
9 ~~unsuccessful. Simultaneously with the publication, the respondent~~
10 ~~shall be served with the protective order and the order of~~
11 ~~publication by first class mail to the most current known residence~~
12 ~~of the respondent.~~

13 Any protective order issued by the court of this state which
14 is served in compliance with the provisions of Rule 4(f) of the
15 West Virginia Rules of Civil Procedure served outside the
16 boundaries of this state shall carry the same force and effect as
17 if it had been personally served within this state's boundaries.

NOTE: The purpose of this bill is to remove language requiring service by certified mail. This will provide for immediate publication if personal service by law enforcement has been unsuccessful and will expedite service and eliminate delays in conducting final hearings.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.