

COMMITTEE SUBSTITUTE

FOR

**H. B. 2521**

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(BY DELEGATE FRAZIER)

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(Originating in the Committee on the Judiciary)  
[January 13, 2012]

A BILL to amend and reenact §48-27-311 and §48-27-701 of the Code of West Virginia, 1931, as amended, relating to prevention and treatment of domestic violence generally; eliminating the requirement of serving domestic violence orders by certified mail where personal service fails; authorizing fee to law enforcement for service of process; and clarifying that personal service must be attempted at every address for respondent provided by petitioner.

*Be it enacted by the Legislature of West Virginia:*

That §48-27-311 and §48-27-701 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.**

1 A protective order may be served on the respondent by  
2 means of a Class I legal advertisement published notice, with  
3 the publication area being the most current known county in  
4 which the respondent resides, published in accordance with  
5 the provisions of section two, article three, chapter fifty-nine  
6 of this code if: ~~(1) The petitioner files an affidavit with the~~  
7 ~~court stating that an attempt at personal service pursuant to~~  
8 ~~Rule 4 of the West Virginia Rules of Civil Procedure has~~  
9 ~~been unsuccessful or evidence is adduced at the hearing for~~  
10 ~~the protective order that the respondent has left the State of~~  
11 ~~West Virginia; and (2) a copy of the order is mailed by~~  
12 ~~certified or registered mail to the respondent at the~~  
13 ~~respondent's last known residence and returned undelivered~~  
14 if personal service by law enforcement has been  
15 unsuccessful. Simultaneously with the publication, the  
16 respondent shall be served with the protective order and the

17 order of publication by first class mail to the respondent's  
18 most current known residential address.

19 Any protective order issued by the court of this state  
20 which is served in compliance with the provisions of Rule  
21 4(f) of the West Virginia Rules of Civil Procedure served  
22 outside the boundaries of this state shall carry the same force  
23 and effect as if it had been personally served within this  
24 state's boundaries.

**§48-27-701. Service of pleadings and orders by law-enforcement officers.**

1 Notwithstanding any other provision of this code to the  
2 contrary, all law-enforcement officers are hereby authorized  
3 to serve all pleadings and orders filed or entered pursuant to  
4 this article on Sundays and legal holidays. No law-  
5 enforcement officer shall refuse to serve any pleadings or  
6 orders entered pursuant to this article. Law enforcement shall  
7 attempt to serve all protective orders without delay:  
8 *Provided*, That service of process shall be attempted within  
9 seventy-two hours of law enforcement's receipt of the order:

10 to every address provided by petitioner. Any law-  
11 enforcement agency that serves pleadings or orders pursuant  
12 to this section may receive the fee authorized therefor by  
13 Rule 4 of the Rules of Practice and Procedure for Domestic  
14 Violence Civil Proceedings. If service is not made, law  
15 enforcement shall continue to attempt service on the  
16 respondent until proper service is made.