

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.

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

15 Any protective order issued by the court of this state
16 which is served in compliance with the provisions of Rule
17 4(f) of the West Virginia Rules of Civil Procedure served
18 outside the boundaries of this state shall carry the same force
19 and effect as if it had been personally served within this
20 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.