

By Senator Crist

12-1659-03

1                                   A bill to be entitled  
2           An act relating to service of process; amending  
3           s. 48.031, F.S.; deleting the requirement to  
4           use certified mail in service of a subpoena on  
5           a witness in specified types of cases; allowing  
6           the posting of a criminal witness subpoena  
7           under specified conditions; amending s. 83.13,  
8           F.S.; allowing the party who had a distress  
9           writ issued to deliver the writ to a sheriff in  
10          another county; providing an effective date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14           Section 1. Subsection (3) of section 48.031, Florida  
15 Statutes, is amended to read:

16           48.031 Service of process generally; service of  
17 witness subpoenas.--

18           (3)(a) The service of process of witness subpoenas,  
19 whether in criminal cases or civil actions, is to be made as  
20 provided in subsection (1). However, service of a subpoena on  
21 a witness in a criminal traffic case, a misdemeanor case, or a  
22 second degree or third degree felony may be made by ~~certified~~  
23 United States mail directed to the witness at the last known  
24 address, and such service must be mailed at least 7 days prior  
25 to the date of the witness's required appearance.

26           (b) After three attempts have been made at different  
27 times of the day or night to serve a criminal witness subpoena  
28 at the witness's residence, a criminal witness subpoena may be  
29 posted. Such posting must be done at least 5 days before the  
30 date of the witness's required appearance.

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1 Section 2. Section 83.13, Florida Statutes, is amended  
2 to read:

3 83.13 Levy of writ.--The sheriff shall execute the  
4 writ by service on defendant and, upon the order of the court,  
5 by levy on property distrainable for rent or advances, if  
6 found in the sheriff's jurisdiction. If the property is not so  
7 found but is in another jurisdiction, the party that had the  
8 writ issued ~~sheriff~~ shall deliver the writ to the proper  
9 sheriff in the other jurisdiction; and the other sheriff shall  
10 execute the writ, upon order of the court, by levying on the  
11 property and delivering it to the sheriff of the county in  
12 which the action is pending, to be disposed of according to  
13 law, unless he or she is ordered by the court from which the  
14 writ emanated to hold the property and dispose of it in his or  
15 her jurisdiction according to law. If the plaintiff shows by a  
16 sworn statement that the defendant cannot be found within the  
17 state, the levy on the property suffices as service on the  
18 defendant.

19 Section 3. This act shall take effect July 1, 2003.

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22 SENATE SUMMARY

23 Allows the use of regular, not certified, mail in the  
24 service of a subpoena on a witness in a criminal traffic  
25 case, a misdemeanor case, or a second-degree or  
26 third-degree felony. Allows a criminal witness subpoena  
27 to be posted after specified attempts at delivery have  
28 failed. Allows a party who has a distress writ issued to  
29 deliver the writ to a sheriff in another county, rather  
30 than requiring delivery to be made by a sheriff.  
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