

By Senator Crist

12-280-04

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.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
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, shall ~~is to~~ be
20 made as provided in subsection (1). However, service of a
21 subpoena on a witness in a criminal traffic case, a
22 misdemeanor case, or a second degree or third degree felony
23 may be made by ~~certified~~ United States mail directed to the
24 witness at the last known address, and the ~~such~~ service must
25 be mailed at least 7 days prior to the date of the witness's
26 required appearance.

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

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 who 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, 2004.

20

21

SENATE SUMMARY

22

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.

27

28

29

30

31