

By the Committee on Judiciary; and Senator Dean

590-02437-14

2014912c1

1 A bill to be entitled
2 An act relating to service of process; amending s.
3 48.031, F.S.; providing that certain individuals
4 authorized to serve process do not commit the offense
5 of trespass on property other than a structure or
6 conveyance and are not subject to civil liability
7 under certain circumstances; allowing the posting of a
8 criminal witness subpoena under specified
9 circumstances; amending s. 810.09, F.S.; providing
10 that the offense of trespass on property other than a
11 structure or conveyance is not applicable to certain
12 persons who are authorized to serve process under
13 certain circumstances; providing an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Subsections (1) and (3) of section 48.031,
18 Florida Statutes, are amended to read:

19 48.031 Service of process generally; service of witness
20 subpoenas.—

21 (1) (a) Service of original process is made by delivering a
22 copy of it to the person to be served with a copy of the
23 complaint, petition, or other initial pleading or paper or by
24 leaving the copies at his or her usual place of abode with any
25 person residing therein who is 15 years of age or older and
26 informing the person of their contents. A minor ~~Minors~~ who is
27 ~~are~~ or has ~~have~~ been married is ~~shall be~~ served as provided in
28 this section.

29 (b) An individual authorized to serve process pursuant to

590-02437-14

2014912c1

30 this chapter; Rule 3.030, Florida Rules of Criminal Procedure;
31 or Rule 1.070, Florida Rules of Civil Procedure does not commit
32 the offense of trespass on property other than a structure or
33 conveyance under s. 810.09 and is not subject to civil liability
34 if his or her entrance onto such property is necessary to serve
35 process and the process server does not open a closed gate or
36 door or cross over any fences.

37 (c) (b) An employer ~~Employers~~, when contacted by an
38 individual authorized to serve ~~make service of~~ process, shall
39 allow ~~permit~~ the authorized individual to serve an employee ~~make~~
40 ~~service on employees~~ in a private area designated by the
41 employer.

42 (3) (a) The service of process of witness subpoenas, whether
43 in criminal cases or civil actions, shall be made as provided in
44 subsection (1). However, service of a subpoena on a witness in a
45 criminal traffic case, a misdemeanor case, or a second degree or
46 third degree felony may be made by United States mail directed
47 to the witness at the last known address, and the service must
48 be mailed at least 7 days before ~~prior to~~ the date of the
49 witness's required appearance. Failure of a witness to appear in
50 response to a subpoena served by United States mail that is not
51 certified may not be grounds for finding the witness in contempt
52 of court.

53 (b) A criminal witness subpoena commanding the witness to
54 appear for a court appearance may be posted by a person
55 authorized to serve process at the witness's residence if three
56 attempts to serve the subpoena, made at different times of the
57 day or night on different dates, have failed. A criminal witness
58 subpoena commanding the witness to appear for a deposition may

590-02437-14

2014912c1

59 be posted at the witness's residence by a person authorized to
60 serve process if one attempt to serve the subpoena has failed.
61 The subpoena must be posted at least 5 days before ~~prior to~~ the
62 date of the witness's required appearance.

63 Section 2. Subsection (4) is added to section 810.09,
64 Florida Statutes, to read:

65 810.09 Trespass on property other than structure or
66 conveyance.—

67 (4) This section does not apply to a person who is
68 authorized to serve process pursuant to chapter 48; Rule 3.030,
69 Florida Rules of Criminal Procedure; or Rule 1.070, Florida
70 Rules of Civil Procedure if his or her entrance onto such
71 property is necessary to serve process and the process server
72 does not open a closed gate or door or cross over any fences.

73 Section 3. This act shall take effect July 1, 2014.