

SENATE BILL 2628

By Faulk

AN ACT to amend Tennessee Code Annotated, Title 16;
Title 20; Title 21 and Title 29, relative to service
of process.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 16, Chapter 1, Part 1, is amended by adding the following language as a new section:

§ 16-1-118.

(a) Notwithstanding any other provision of law to the contrary, when proof is made by affidavit that a defendant has acted to evade service, the court may order that proper service be made by:

(1) Delivering a copy of the warrant, writ, and all other papers filed with the court in which the action is pending to a person of suitable age and discretion at the place of business of the defendant; or

(2) Posting a copy of the warrant, writ, and all other papers filed with the court at the defendant's last known residence.

(b) When service is made pursuant to (a)(2), the person having made such service shall:

(1) Sign an affidavit setting forth personal compliance with this section;

and

(2) File such affidavit with the clerk of the court in which the action is pending.

(c) There shall be a presumption of evasion by the defendant if the plaintiff provides evidence of having attempted, unsuccessfully, to serve the defendant by all means of service or constructive service as designated by applicable statute.

(d) When service is made pursuant to (a)(2) at the address filed by the defendant with the department of safety, then the defendant will be estopped from arguing that such address is not the defendant's last known residence.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared to be severable.

SECTION 3. The commissioner of the department of safety is authorized to promulgate rules and regulations to effectuate the provisions of § 16-1-118(d). All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 4. This act shall take effect July 1, 2010, the public welfare requiring it.