

HB 2738

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2009



ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 2738**

(By Delegates Webster, Miley, Fleishauer,
and Longstreth)



Passed April 8, 2009

In Effect Ninety Days from Passage

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H. B. 2738

(BY DELEGATES WEBSTER, MILEY, FLEISCHAUER AND
LONGSTRETH)

[Passed April 8, 2009; in effect ninety days from passage.]

AN ACT to amend and reenact §48-27-802 of the Code of West Virginia, 1931, as amended; to amend and reenact §48-28-5 of said code; and to amend and reenact §51-1-21 of said code, all relating generally to registering domestic violence protective orders with the West Virginia Supreme Court of Appeals.

Be it enacted by the Legislature of West Virginia:

That §48-27-802 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §48-28-5 of said code be amended and reenacted; and that §51-1-21 of said code be amended and reenacted, all to read as follows:

CHAPTER 48. DOMESTIC RELATIONS.

**ARTICLE 27. PREVENTION AND TREATMENT OF
DOMESTIC VIOLENCE.**

§48-27-802. Maintenance of registry by State Police.

1 (a) The West Virginia State Police shall maintain a
2 registry in which it shall enter certified copies of protective
3 orders entered by courts from every county in this state
4 pursuant to the provisions of this article and of protection
5 orders issued by a jurisdiction outside of this state pursuant
6 to its law: *Provided*, That the provisions of this subsection
7 are not effective until a central automated state law-
8 enforcement information system is developed.

9 (b) Effective January 2, 2010, a court which enters a
10 protective order pursuant to this article shall immediately
11 register such order in the domestic violence database
12 established pursuant to the provisions of section twenty-one,
13 article one, chapter fifty-one of this code. A protected
14 individual who obtains a protection order from a jurisdiction
15 outside of this State pursuant to its law or his or her
16 representative as provided in section five, article twenty-eight
17 of this chapter may register that order with the West Virginia
18 Supreme Court of Appeals for entry in the domestic violence
19 database established pursuant to the provisions of section
20 twenty-one, article one, chapter fifty-one of this code.

21 (c) Failure to register an order as provided in this section
22 shall not affect its enforceability in any county or jurisdiction.

§48-28-5. Registration of order.

1 (a) Any individual may register a foreign protection order
2 in this state by:

3 Presenting a certified copy of the order to the West
4 Virginia Supreme Court of Appeals for registration in
5 accordance with the provisions of section eight hundred two,
6 article twenty-seven of this chapter.

7 (b) An individual registering a foreign protection order
8 shall file an affidavit by the protected individual stating that,
9 to the best of the protected individual's knowledge, the order
10 is currently in effect.

11 (c) Upon receipt of a foreign protection order for
12 registration, the West Virginia Supreme Court of Appeals
13 shall:

14 (1) Register the order in accordance with the provisions
15 of this section and of section eight hundred two, article
16 twenty-seven of this chapter;

17 (2) Furnish to the individual registering the order a copy
18 of the proof of registration of the order.

19 (d) A registered foreign protection order that is shown to
20 be inaccurate or not currently in effect must be corrected or
21 removed from the registry.

22 (e) A foreign protection order registered under this article
23 may be entered in any existing state or federal registry of
24 protection orders in accordance with applicable law.

25 (f) A fee may not be charged for the registration of a
26 foreign protection order.

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 1. SUPREME COURT OF APPEALS.

§51-1-21. Authority to maintain domestic violence database.

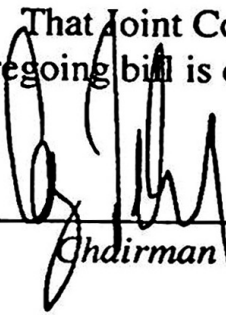
1 (a) The West Virginia Supreme Court of Appeals is
2 hereby authorized to maintain a domestic violence database
3 containing copies of protective orders entered by the courts

4 of this state and granted pursuant to the provisions of article
5 twenty-seven, chapter forty-eight of this code. Further, the
6 domestic violence database shall also include, upon request,
7 protection orders issued by a jurisdiction outside of this state
8 pursuant to its law.

9 (b) Only a protected individual who obtains a protection
10 order from a jurisdiction other than this state pursuant to its
11 law or his or her representative as provided in section five,
12 article twenty-eight of this chapter may register that order
13 with the West Virginia Supreme Court of Appeals.

14 (c) Failure to register an order as provided in this section
15 shall not affect its enforceability in any county or jurisdiction.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



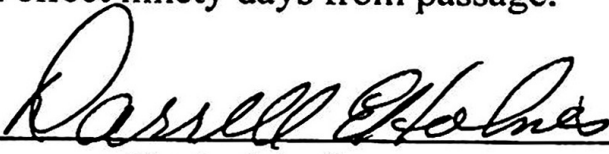
Chairman Senate Committee



Chairman House Committee

Originating in the House.

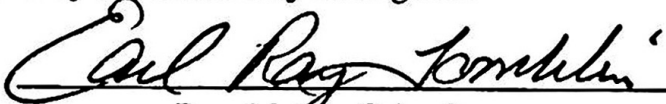
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within is approved this the 20th
day of April 2009.



Governor

PRESENTED TO THE
GOVERNOR

APR 16 2009

Time 2:15p