WEST VIRGINIA CODE: §53-8-5

§53-8-5. Temporary personal safety orders.

(a) Authorized; forms of relief available. —

(1) If after a hearing on a petition, whether ex parte or otherwise, a magistrate finds that there is reasonable cause to believe that the respondent has committed an act specified in §53-8-4(a) of this code, against the petitioner, the magistrate shall issue a temporary personal safety order to protect the petitioner.

(2) The temporary personal safety order may include any or all of the following relief:

(A) Order the respondent to refrain from committing or threatening to commit an act specified in §53-8-4(a) of this code against the petitioner;

(B) Order the respondent to refrain from contacting, attempting to contact or harassing the petitioner directly, indirectly or through third parties regardless of whether those third parties know of the order;

(C) Order the respondent to refrain from entering the residence of the petitioner;

(D) Order the respondent to remain away from the place of employment, school or residence of the petitioner: *Provided*, That when the respondent is alleged to have committed an act specified in §53-8-4(a)(2) of this code, the magistrate may not prohibit the respondent from entering the respondent's place of employment;

(E) Order the respondent not to visit, assault, molest or otherwise interfere with the petitioner and, if the petitioner is a child, the petitioner's siblings and minors residing in the household of the petitioner;

(F) The court, in its discretion, may prohibit a respondent from possessing a firearm as defined in §61-7-7 of this code if:

(i) A weapon was used or threatened to be used in the commission of the offense predicating the petitioning for the personal safety order;

(ii) The respondent has violated any prior order as specified under this article; or

(iii) The respondent has been convicted of an offense involving the use of a firearm;

(G) Order either party to pay filing fees and costs of a proceeding pursuant to section thirteen of this article.

(3) If the magistrate issues an order under this section, the order shall contain only the relief

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necessary to protect the petitioner.

(4) For purposes of issuing a temporary personal safety order under this section, a magistrate may treat a military protective order as reasonable cause to believe that the respondent has committed an act specified in §53-8-4(a) of this code against the petitioner if the military protective order:

(A) Is still in effect and has not been terminated; and

(B) Was issued against the respondent because the respondent committed an act specified in §53-8-4(a) of this code against the petitioner.

(b) Immediate. -– The temporary personal safety order shall be immediately served on the respondent by law enforcement, or at the option of the petitioner, pursuant to rules promulgated pursuant to section fifteen of this article.

(c) Length of effectiveness. —

(1) The temporary personal safety order shall be effective for not more than 10 days after service of the order.

(2) The magistrate may extend the temporary personal safety order to effectuate service of the order or for other good cause. The failure to obtain service upon the respondent does not constitute a basis to dismiss the petition.

(d) Final personal safety order hearing. — The magistrate may proceed with a final personal safety order hearing instead of a temporary personal safety order hearing if:

(1) (A) The respondent appears at the hearing; or

(B) The court otherwise has personal jurisdiction over the respondent; and

(2) The petitioner and the respondent expressly consent to waive the temporary personal safety order hearing.

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