

APPROVED AND SIGNED BY THE GOVERNOR

Date 4-29-81

Time \_\_\_\_\_

**WEST VIRGINIA LEGISLATURE**  
**REGULAR SESSION, 1981**

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**ENROLLED**  
*Committee Substitute for*  
**SENATE BILL NO. 317**

(By Mr. Battiste)

—•—

PASSED April 10, 1981

In Effect ninty days from Passage

OFFICE  
SECY. OF STATE

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No. 317

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**Senate Bill No. 317**  
(MR. BOETTNER, *original sponsor*)

[Passed April 10, 1981; in effect ninety days from passage.]

AN ACT to amend article two-a, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section nine, relating to the enforcement procedure for temporary and protective orders of a court to protect against abuse; arrest for violation of such orders; contempt proceedings; and limiting the remedies to certain violations.

*Be it enacted by the Legislature of West Virginia:*

That article two-a, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section nine, to read as follows:

**ARTICLE 2A. PREVENTION OF DOMESTIC VIOLENCE.**

**§48-2A-9. Enforcement procedure for temporary and protective order; arrests; contempt proceedings; limiting the remedies to certain violations.**

1     (1) Upon issuance of a temporary order as provided in  
2     section five of this article, and service thereof upon the  
3     defendant, or under relief granted in a protective order as  
4     provided in subsections (a) and (b), section six of this article  
5     of which the defendant has notice, a copy of such order shall,  
6     no later than the close of the next business day, be delivered  
7     to a local office of the city police, the county sheriff, and the  
8     West Virginia department of public safety, where it shall be  
9     placed in a confidential file, with access provided only to the

10 law-enforcement agency and the respondent named on said  
11 order: *Provided*, That upon the expiration of any order issued  
12 pursuant to sections five or six of this article, any such  
13 law-enforcement agency which has any such order on file,  
14 shall immediately expunge its confidential file of any  
15 reference thereto and destroy all copies of such order in its  
16 possession, custody or control. A sworn affidavit may be  
17 executed by the party awarded exclusive possession of the  
18 residence or household, pursuant to an order entered under  
19 subsection (b) of section six of this article, and delivered to  
20 such law-enforcement agency simultaneously with any such  
21 order, giving his consent for a law-enforcement officer to  
22 enter such residence or household, without a warrant, to  
23 enforce such protective order or temporary order.

24 Any person who observes a violation of such order or the  
25 violated party may call a local law-enforcement agency,  
26 which shall verify the existence of a current order, and shall  
27 direct a law-enforcement officer to immediately investigate  
28 the alleged violation.

29 Where a law-enforcement officer observes a violation of a  
30 valid order he may immediately arrest the subject of the  
31 order. In cases of violation of such orders occurring outside  
32 the presence of the investigating officer, the complainant may  
33 apply to a court in session for a warrant of arrest. If the court  
34 finds probable cause to believe that a valid order has been  
35 violated, the court shall issue such warrant for the arrest of  
36 the subject of the order wherever he may be found.

37 Where there is an arrest, the officer shall take the arrested  
38 person before a court or the magistrate assigned to be  
39 available at such time and upon a finding of probable cause to  
40 believe a violation of an order has taken place, the court or  
41 magistrate shall set a time and place for a hearing, to take  
42 place within five days, and serve forthwith upon the alleged  
43 violator an order to show cause why he or she should not be  
44 held in contempt for violation of the prior order, which unless  
45 waived by the defendant shall be by trial by a jury of six  
46 persons. The remedies provided by this section shall be  
47 limited to violations of a temporary order or protective order  
48 entered pursuant to subsection (a) or (b) of section six of this  
49 article.

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

*R. P. Bayler*  
Chairman Senate Committee

*Tony E. Whitlow*  
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

*Todd C. Willis*  
Clerk of the Senate

*D. A. Blankenship*  
Clerk of the House of Delegates

*Wm. R. Horn*  
President of the Senate

*Walter H. Lee, Jr.*  
Speaker House of Delegates

The within *is approved* this the *29*  
day of *April*, 1981.

*John. J. [Signature]*  
Governor



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