

FILED
2013 APR 29 PM 5:11

WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
REGULAR SESSION, 2013

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ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 538

(SENATORS PALUMBO, LAIRD, MILLER AND FITZSIMMONS,
ORIGINAL SPONSORS)

[PASSED APRIL 13, 2013; IN EFFECT NINETY DAYS FROM PASSAGE.]

SB 538

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COMMITTEE SUBSTITUTE

SENATE
DAY OF STATE

FOR

Senate Bill No. 538

(SENATORS PALUMBO, LAIRD, MILLER AND FITZSIMMONS,
original sponsors)

[Passed April 13, 2013; in effect ninety days from passage.]

AN ACT to amend and reenact §48-27-601 of the Code of West Virginia, 1931, as amended, relating generally to disposition of domestic violence orders; requiring the filing of domestic violence orders with the domestic violence database; and modifying law enforcement's record-keeping requirement for domestic violence orders.

Be it enacted by the Legislature of West Virginia:

That §48-27-601 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 27. PREVENTION AND TREATMENT OF DOMESTIC VIOLENCE.

PART 6. DISPOSITION OF DOMESTIC VIOLENCE ORDERS.

§48-27-601. Transmitting orders to domestic violence database; affidavit as to award of possession of real property; service of order on respondent.

1 (a) Upon entry of an order pursuant to section 27-403 or
2 part 27-501, *et seq.*, or an order entered pursuant to part
3 5-501, *et seq.*, granting relief provided for by this article, a
4 copy of the order shall be immediately transmitted
5 electronically by the court or the clerk of the court to the
6 domestic violence database established pursuant to the
7 provisions of section twenty-one, article one, chapter
8 fifty-one of this code. No later than the close of the next
9 business day the court or the clerk of the court shall transmit
10 the order to a local office of the municipal police, the county
11 sheriff and the West Virginia State Police for service upon
12 the respondent named in the order. The law-enforcement
13 agency or agencies to which a copy of the order is supplied
14 are not required to maintain a copy of the order after the
15 respondent is served.

16 (b) A sworn affidavit may be executed by a party who has
17 been awarded exclusive possession of the residence or
18 household, pursuant to an order entered pursuant to section
19 27-503, and shall be delivered to law-enforcement agencies
20 simultaneously with any order giving the party's consent for
21 a law-enforcement officer to enter the residence or
22 household, without a warrant, to enforce the protective order
23 or temporary order.

24 (c) Orders shall be promptly served upon the respondent.
25 Failure to serve a protective order on the respondent does not
26 stay the effect of a valid order if the respondent has actual
27 notice of the existence and contents of the order.

28 (d) Any law-enforcement agency in this state in
29 possession of or with notice of the existence of an order
30 issued pursuant to the provisions of sections 27-403 or
31 27-501 of this article or the provisions of section 5-509 of
32 this chapter which is in effect or has been expired for thirty
33 days or less that receives a report that a person protected by
34 an order has been reported to be missing shall immediately

35 follow its procedures for investigating missing persons. No
36 agency or department policy delaying the beginning of an
37 investigation has any force or effect.

38 (c) The provisions of subsection (d) of this section shall
39 be applied where a report of a missing person is made which
40 is accompanied by a sworn affidavit that the person alleged
41 to be missing was, at the time of his or her alleged
42 disappearance, being subjected to treatment which meets the
43 definition of domestic battery or assault set forth in section
44 twenty-eight, article two, chapter sixty-one of this code.

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

Member *Roby Ferguson*
Chairman Senate Committee

Sammy Wells
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Joseph M. Minard
Clerk of the Senate

Suzanne S. Bay
Clerk of the House of Delegates

Jeddy H.
President of the Senate

Paul
Speaker of the House of Delegates

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CLERK OF STATE

The within *is approved* this the *29th*
Day of *April*, 2013.

Earl Ray Tomblin
Governor

PRESENTED TO THE GOVERNOR

APR 26 2013

Time 10:45 am