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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2007

ENROLLED

Senate Bill No. 205

(BY SENATORS KESSLER, OLIVERIO, CHAFIN, FOSTER, GREEN,
HUNTER, JENKINS, MINARD, STOLLINGS, WELLS, WHITE,
BARNES, CARUTH, DEEM, HALL, MCKENZIE AND YODER)

[Passed February 13, 2007; in effect ninety days from passage.]

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[Passed February 13, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §48-27-902 and §48-27-903 of the Code of West Virginia, 1931, as amended, all relating to clarifying that continuing to threaten or harass a petitioner, by whatever means, is a violation of a domestic violence protective order.

Be it enacted by the Legislature of West Virginia:

That §48-27-902 and §48-27-903 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 27. PREVENTION AND TREATMENT OF DOMESTIC VIOLENCE.

§48-27-902. Violations of protective orders; criminal complaints.

1 (a) When a respondent abuses the petitioner or minor
2 children, or both, or is physically present at any
3 location, or continues to contact, threaten or harass the
4 petitioner, the minor children, or both, by phone, voice
5 mail, e-mail or other means, even if the respondent is
6 not physically present with the petitioner or minor
7 children at the time of the threats or harassment:

8 (1) In knowing and willful violation of the terms of an
9 emergency or final protective order under the provisions
10 of this article or section five hundred nine or six
11 hundred eight, article five of this chapter granting the
12 relief pursuant to the provisions of this article;

13 (2) In knowing and willful violation of the terms of a
14 protection order from another jurisdiction that is
15 required to be enforced pursuant to section three,
16 article twenty-eight of this chapter; or

17 (3) In knowing and willful violation of the terms of a
18 condition of bail, probation or parole imposed in
19 another state which has the express intent or effect of
20 protecting the personal safety of a particular person or
21 persons in violation of subdivision (3), subsection (a),
22 section seven, article twenty-eight of this chapter, then
23 any person authorized to file a petition pursuant to the
24 provisions of section three hundred five of this article or
25 the legal guardian or guardian ad litem may file a
26 petition for civil contempt as set forth in section nine
27 hundred one of this article.

28 (b) When any such violation of a valid order has
29 occurred, the petitioner may file a criminal complaint.
30 If the court finds probable cause upon the complaint,
31 the court shall issue a warrant for arrest of the person
32 charged.

**§48-27-903. Misdemeanor offenses for violation of protective
order, repeat offenses, penalties.**

1 (a) A respondent who abuses the petitioner or minor
2 children or who is physically present at any location, or
3 continues to contact, threaten or harass the petitioner,
4 the minor children, or both, by phone, voice mail, e-mail
5 or other means, even if the respondent is not physically
6 present with the petitioner or minor children at the time
7 of the threats or harassment in knowing and willful
8 violation of the terms of: (1) An emergency or final
9 protective order issued under the provisions of this
10 article or section five hundred nine or six hundred
11 eight, article five of this chapter granting relief
12 pursuant to the provisions of this article; or (2) a
13 condition of bail, probation or parole which has the
14 express intent or effect of protecting the personal safety
15 of a particular person or persons is guilty of a
16 misdemeanor and, upon conviction thereof, shall be
17 confined in the county or regional jail for a period of
18 not less than one day nor more than one year, which jail
19 term shall include actual confinement of not less than
20 twenty-four hours, and shall be fined not less than two
21 hundred fifty dollars nor more than two thousand
22 dollars.

23 (b) A respondent who is convicted of a second or
24 subsequent offense under subsection (a) of this section
25 is guilty of a misdemeanor and, upon conviction thereof,
26 shall be confined in the county or regional jail for not

27 less than three months nor more than one year, which
28 jail term shall include actual confinement of not less
29 than twenty-four hours, and fined not less than five
30 hundred dollars nor more than three thousand dollars,
31 or both.

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

Chandy White
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Darrell Holmes
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this
the *28th* Day of *February* 2007.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNMENT

FEB 23 2007

Time J. Coan