

1 COMMITTEE SUBSTITUTE

2 for

3 **H. B. 4307**

4 (By Delegates Miley, Frazier, Longstreth,
5 Barill and Jones)

6 (By the request of the Supreme Court of Appeals)

7 (Originating in the Committee on the Judiciary)

8 [February 24, 2012]

9
10 A Bill to amend and reenact §48-27-502 and §48-27-1101 of the Code
11 of West Virginia, 1931, as amended, all relating to domestic
12 violence generally; clarifying that the practice and procedure
13 for domestic violence civil proceedings are governed by court
14 rule; providing that a prohibition against possessing firearms
15 and ammunition is a mandatory provision for domestic violence
16 protective orders; and, providing that a domestic violence
17 protective order state that possession of firearms and
18 ammunition while subject to domestic violence protective order
19 is a criminal violation of state and federal law.

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

21 That §48-27-502 and §48-27-1101 of the Code of West Virginia,
22 1931, as amended, be amended and reenacted, all to read as follows:

23 **CHAPTER 48. DOMESTIC RELATIONS.**

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

25 **§48-27-502. Mandatory provisions in protective order.**

26 (a) A protective order must order the respondent to refrain

1 from abusing, harassing, stalking, threatening or otherwise
2 intimidating the petitioner or the minor children, or engaging in
3 other conduct that would place the petitioner or the minor children
4 in reasonable fear of bodily injury.

5 (b) The protective order must prohibit the respondent from
6 possessing any firearm or ammunition.

7 ~~(b)~~ (c) The protective order must inform the respondent that
8 he or she is prohibited from possessing any firearm or ammunition
9 ~~notwithstanding the fact that the respondent may have a valid~~
10 ~~license to possess a firearm,~~ and that possession of a firearm or
11 ammunition while subject to the court's protective order is a
12 criminal offense under ~~federal law~~ state and federal law,
13 notwithstanding the fact that the respondent might otherwise have
14 a right to possess a firearm.

15 ~~(c)~~ (d) The protective order must inform the respondent that
16 the order is in full force ~~and effect~~ in every county of this state.

17 ~~(d)~~ (e) The protective order must contain on its face the
18 following statement, printed in bold-faced type or in capital letters:

19 "VIOLATION OF THIS ORDER MAY BE PUNISHED BY CONFINEMENT IN A
20 REGIONAL JAIL FOR AS LONG AS ONE YEAR AND BY A FINE OF AS MUCH AS
21 \$2,000".

22 **§48-27-1101. Rules of practice and procedure; forms to be provided;**
23 **operative date.**

24 (a) Pleadings, practice and procedure in domestic violence
25 matters before the court are governed by the rules of practice and
26 procedure for domestic violence civil proceedings promulgated by

1 the West Virginia Supreme Court of Appeals.

2 **(b)** The West Virginia Supreme Court of Appeals shall prescribe
3 forms which are necessary and convenient for proceedings pursuant
4 to this article and the court shall distribute such forms to the
5 clerk of the circuit court, the secretary-clerk of the family court
6 and the clerk of magistrate court of each county within the state.

7 ~~(b) The amendment enacted to this article by the passage of~~
8 ~~Engrossed Committee Substitute for Senate Bill No. 652 during the~~
9 ~~regular session of the Legislature in the year two thousand one is~~
10 ~~effective the first day of September, two thousand one.~~