

Senate Bill No. 191

(By Senators Kessler (Mr. President), Stollings, Unger, Laird and
Jenkins)

[Introduced January 16, 2012; referred to the Committee on the
Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new article, designated §62-10A-1, §62-10A-2,
§62-10A-3, §62-10A-4, §62-10A-5, §62-10A-6, §62-10A-7, §62-
10A-8, §62-10A-9, §62-10A-10, §62-10A-11, §62-10A-12, §62-10A-
13, §62-10A-14, §62-10A-15, §62-10A-16, §62-10A-17, §62-10A-
18, §62-10A-19, §62-10A-20, §62-10A-21, §62-10A-22, §62-10A-
23, §62-10A-24, §62-10A-25, §62-10A-26, §62-10A-27 and §62-
10A-28, all relating to criminal procedure; providing for the
protection of nonfamily or nonhousehold members; setting forth
the purpose of the article; defining terms; establishing
jurisdiction of magistrate and circuit courts; establishing
venue for actions; establishing procedures for filing
petitions, hearings, entry of orders and contents of orders;

1 declaring orders effective statewide; establishing means of
2 service of process; making proceedings confidential; making
3 rules of evidence applicable to proceedings; establishing time
4 periods for orders; prohibiting mutual orders; establishing
5 procedures for appeals and pursuing of records; requiring
6 orders be filed in domestic violence database; limiting use of
7 information obtained during proceedings; allowing for civil
8 contempt for violations of orders; creating criminal offenses
9 for violations of protection orders; directing Supreme Court
10 of Appeals to create forms; granting immunity to persons
11 seeking orders; orders in good faith; and establishing
12 misdemeanor and felony criminal penalties.

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

14 That the Code of West Virginia, 1931, as amended, be amended
15 by adding thereto a new article, designated §62-10A-1, §62-10A-2,
16 §62-10A-3, §62-10A-4, §62-10A-5, §62-10A-6, §62-10A-7, §62-10A-8,
17 §62-10A-9, §62-10A-10, §62-10A-11, §62-10A-12, §62-10A-13, §62-10A-
18 14, §62-10A-15, §62-10A-16, §62-10A-17, §62-10A-18, §62-10A-19,
19 §62-10A-20, §62-10A-21, §62-10A-22, §62-10A-23, §62-10A-24, §62-
20 10A-25, §62-10A-26, §62-10A-27 and §62-10-28, all to read as
21 follows:

22 **ARTICLE 10A. PERSONAL SAFETY PROTECTION ORDERS.**

23 **§62-10A-1. Purpose.**

1 The Legislature finds that:

2 (1) It is the intent of the Legislature that the protection
3 order created by this article be a remedy for people who do not
4 qualify for a domestic violence order of protection.

5 (2) The Legislature of this state hereby finds that the
6 issuance and enforcement of protection orders to persons against
7 whom crimes of violence have been committed or threatened by
8 nonfamily or nonhousehold members are necessary in the State of
9 West Virginia because such protection orders can promote safety,
10 reduce violence and prevent serious harm and death.

11 **§62-10A-2. Definitions**

12 (a) "Crime of violence against the person" means offenses set
13 forth in article two, eight-b or eight-d of chapter sixty-one of
14 this code.

15 (b) "Emergency hearing" under this article means the hearing
16 before a magistrate upon the filing of a petition for a personal
17 safety civil protection order. An emergency hearing may be held ex
18 parte.

19 (c) "Final hearing" under this article means the hearing
20 before a circuit court judge following the entry of a personal
21 safety civil protection order by a magistrate as a result of the
22 emergency hearing.

23 (d) "Incapacitated adult" means any person who by reason of

1 physical, mental or other infirmity is unable to physically carry
2 on the daily activities of life necessary to sustaining life and
3 reasonable health.

4 (e) "Law-enforcement agency" means any duly authorized state,
5 county or municipal organization employing one or more persons
6 whose responsibility is the enforcement of laws of the state or any
7 county or municipality thereof: *Provided*, That the Hatfield-McCoy
8 Regional Recreation Authority, the Public Service Commission or any
9 state institution of higher education is not a law-enforcement
10 agency.

11 (f) "Law enforcement officer" means any duly authorized member
12 of a law-enforcement agency who is authorized to maintain public
13 peace and order, prevent and detect crime, make arrests and enforce
14 the laws of the state or any county or municipality thereof, other
15 than parking ordinances.

16 (g) "Personal safety protection order" under this article is
17 an emergency civil protection order entered by a magistrate as a
18 result of the emergency hearing or personal safety civil protection
19 order entered by a circuit court upon final hearing that affords
20 protection to persons who do not meet the definition of family or
21 household member under section two hundred four, article twenty-
22 seven, chapter forty-eight of this code.

23 **§62-10A-3. Jurisdiction and venue.**

1 (a) Magistrate courts and circuit courts have jurisdiction
2 over actions conducted pursuant to this article.

3 (b) The petition may be filed in the county in which any crime
4 of violence against the person occurred, in the county in which the
5 respondent is living or in the county in which the petitioner is
6 living, either temporarily or permanently.

7 **§62-10A-4. Commencement of proceeding.**

8 (a) An action under this article is commenced by the filing of
9 a verified petition in the magistrate court.

10 (b) A person may not be refused the right to file a petition
11 under the provisions of this article. A person may not be denied
12 relief under the provisions of this article if she or he presents
13 facts sufficient under the provisions of this article for the
14 relief sought.

15 (c) It is not a consideration in the proceedings that:

16 (1) The respondent was voluntarily intoxicated;

17 (2) The petitioner acted in self-defense or defense of
18 another; or

19 (3) The petitioner did not act in self-defense or defense of
20 another.

21 (d) A petitioner is eligible for an order of protection
22 whether or not:

23 (1) The petitioner reports the abuse to law enforcement;

1 (2) Charges are filed; or

2 (3) The petitioner participates in a criminal prosecution.

3 (e) Nothing in this section prevents lawful assembly and
4 petition for the lawful redress of grievances, including, but not
5 limited to:

6 (1) Any labor or employment relations issue;

7 (2) Demonstration at the seat of federal, state, county or
8 municipal government; and

9 (3) Activities protected by the West Virginia Constitution or
10 the United States Constitution or any statute of this state or the
11 United States.

12 (f) Withdrawal or dismissal of a petition for a personal
13 safety protection order prior to adjudication operates as a
14 dismissal without prejudice. An action for a personal safety
15 protection order may not be dismissed because the respondent is
16 being prosecuted for a crime against the petitioner. For any action
17 commenced under this article, dismissal of a case or a finding of
18 not guilty, does not require dismissal of the action for a civil
19 protection order.

20 **§62-10A-5. Persons who may file petition; persons accompanying**
21 **petitioner.**

22 (a) A petition for a personal safety protection order may be
23 filed by:

1 (1) A person seeking relief under this article for herself or
2 himself;

3 (2) A parent or guardian on behalf of a minor child or an
4 incapacitated adult; or

5 (3) A person who reported or was a witness to the crime of
6 violence against the person and who, as a result, has been abused,
7 threatened, harassed or who has been the subject of other actions
8 intended to intimidate the person.

9 (b) Any person accompanying a person who is seeking to file a
10 petition under the provisions of this article is not precluded from
11 being present if his or her presence is desired by the person
12 seeking a petition unless the person's behavior is disruptive to
13 the proceeding.

14 **§62-10A-6. Charging of fees prohibited.**

15 Regardless of whether a personal safety protection order is
16 issued, filing fees, court costs, bond or other costs for services
17 may not be assessed to the petitioner in an action commenced
18 pursuant, provided by or associated with any proceedings under this
19 article.

20 **§62-10A-7. Statewide applicability.**

21 Any personal safety protection order issued pursuant to this
22 article is effective throughout the state in every county. Any
23 other comparable protection order issued by any other state of the

1 United States, the District of Columbia, Puerto Rico, the United
2 States Virgin Islands or a territory or insular possession subject
3 to the jurisdiction of the United States or an Indian tribe or band
4 that has jurisdiction to issue protection orders shall be accorded
5 full faith and credit.

6 **§62-10A-8. Service of process.**

7 (a) A personal safety protection order may be served on the
8 respondent by means of a Class I legal advertisement published
9 notice, with the publication area being the county in which the
10 respondent resides, published in accordance with the provisions of
11 section two, article three, chapter fifty-nine of this code if:

12 (1) The petitioner files proof with the court showing that two
13 attempts at personal service pursuant to Rule 4 of the West
14 Virginia Rules of Civil Procedure has been unsuccessful or evidence
15 is adduced at the hearing for the personal safety protection order
16 that the respondent has left the State of West Virginia; and

17 (2) A copy of the order is mailed by certified or registered
18 mail to the respondent at the respondent's last known residence and
19 returned undelivered.

20 (b) Any personal safety protection order issued by the court
21 of this state which is served in compliance with the provisions of
22 Rule 4(f) of the West Virginia Rules of Civil Procedure served
23 outside the boundaries of this state shall carry the same force and

1 effect as if it had been personally served within this state's
2 boundaries.

3 **§62-10A-9. Confidentiality; identifying information; proceedings**
4 **closed to public.**

5 (a) Proceedings pursuant to this article are not open to the
6 public and documents filed and other court records shall be
7 confidential absent on order of the circuit court.

8 (b) If a party alleges in an affidavit or a pleading under
9 oath that the safety of a party or child would be jeopardized by
10 disclosure of identifying information, the identifying information
11 must be sealed by the clerk and not disclosed to the other party or
12 to the public unless the court orders the disclosure to be made
13 after a hearing in which the court takes into consideration the
14 safety of the party or child and determines that the disclosure is
15 in the interest of justice.

16 (c) All orders are public records.

17 **§62-10A-10. Evidence presented in hearing.**

18 (a) The rules of evidence are applicable to proceedings under
19 this article including the provisions of Rule 404A(a)(2) and (3).

20 (b) Copies of medical reports or records may be admitted into
21 evidence to the same extent as though the original thereof. The
22 custodian of such records is not required to be present to
23 authenticate such records for any proceeding held pursuant to this

1 subsection.

2 **§62-10A-11. Personal safety protection orders; hearings; persons**
3 **present.**

4 (a) Upon the filing of a verified petition under this article,
5 the magistrate court may enter an emergency personal safety
6 protection order as it may deem necessary to protect the petitioner
7 and, upon good cause shown, may do so ex parte without the
8 necessity of bond being given by the petitioner. Clear and
9 convincing evidence of immediate and present danger of bodily
10 injury to the petitioner constitutes good cause for the issuance of
11 an emergency personal safety protection order pursuant to this
12 section. If the respondent is not present at the proceeding, the
13 petitioner or the petitioner's legal representative shall certify
14 to the court, in writing, the efforts which have been made to give
15 notice to the respondent or just cause why notice should not be
16 required.

17 (b) Following the proceeding, the magistrate court shall order
18 a copy of the petition to be served immediately upon the
19 respondent, together with a copy of any emergency personal safety
20 protection order entered pursuant to the proceedings, a notice of
21 the final hearing before the circuit court and a statement of the
22 right of the respondent to appear and participate in the final
23 hearing, as provided in subsection (d) of this section. Copies of

1 any order entered under the provisions of this section, a notice of
2 the final hearing before the circuit court and a statement of the
3 right of the petitioner to appear and participate in the final
4 hearing, as provided in subsection (d) of this section, shall also
5 be delivered to the petitioner. Copies of any order entered shall
6 also be delivered to any law-enforcement agency having jurisdiction
7 to enforce the order, including, but not limited to, municipal
8 police, the county sheriff's office and local office of the State
9 Police, within twenty-four hours of the entry of the order. An
10 emergency personal safety protection order is effective until
11 modified by order of the circuit court upon hearing as provided in
12 subsection (d) of this section.

13 (c) Subsequent to the entry of the emergency personal safety
14 protection order, service on the respondent and the delivery to the
15 petitioner and law-enforcement officers, the court file shall be
16 transferred to the office of the clerk of the circuit court for use
17 by the circuit court.

18 (d) The circuit court shall schedule a final hearing on each
19 petition in which an emergency personal safety protection order has
20 been entered by a magistrate. The hearing shall be scheduled not
21 later than thirty days following the entry of the order by the
22 magistrate. The notice of the final hearing shall be served on the
23 respondent and delivered to the petitioner, as provided in

1 subsection (b) of this section and must set forth the hearing date,
2 time and place and include a statement of the right of the parties
3 to appear and participate in the final hearing. The notice must
4 also provide that the petitioner's failure to appear may result in
5 a dismissal of the petition and that the respondent's failure to
6 appear may result in the entry of a final personal safety
7 protection order against him or her for a period of eighteen
8 months. The notice must also include the name, mailing address,
9 physical location and telephone number of the circuit court having
10 jurisdiction over the proceedings. To facilitate the preparation
11 of the notice of final hearing required by the provisions of this
12 subsection, the circuit court must provide the magistrate court
13 with a day and time in which final hearings or status conferences
14 may be scheduled before the circuit court within the time required
15 by law.

16 (e) Upon final hearing, the petitioner must prove, by a
17 preponderance of the evidence, the allegation of a crime of
18 violence against the person or the making of credible threats to do
19 so and that such conduct is likely to reoccur or that respondent
20 persists in contacting or attempting to contact petitioner or that
21 he or she reported or witnessed a crime of violence against the
22 person the making of credible threats against another to do so and
23 has, as a result, been abused, threatened, harassed or has been the

1 subject of other actions to attempt to intimidate him or her, or
2 the petition shall be dismissed by the circuit court. If the
3 respondent has not been served with notice of the emergency
4 personal safety protection order, the hearing may be continued to
5 permit service to be effected. The failure to obtain service upon
6 the respondent does not constitute a basis for dismissal of the
7 petition.

8 (f) Any person requested by a party to be present during a
9 hearing held under the provisions of this article may not be
10 precluded from being present unless that person is to be a witness
11 in the proceeding and a motion for sequestration has been made and
12 the motion has been granted.

13 (g) Upon hearing, the circuit court may dismiss the petition
14 or enter a personal safety protection order for a period of
15 eighteen months. The hearing may be continued on motion of the
16 respondent in the discretion of the court. Otherwise, the hearing
17 may be continued by the court no more than seven days. If a hearing
18 is continued, the circuit court may modify the emergency personal
19 safety protection order as it deems necessary.

20 **§62-10A-12. Issuance of personal safety protection order;**
21 **modification of final order.**

22 (a) Upon final hearing, the court shall enter a personal
23 safety protection order if it finds, after hearing the evidence,

1 that the petitioner has proven the allegations in the petition. If
2 the respondent is present at the hearing and elects not to contest
3 the allegations or does not contest the relief sought, the
4 petitioner is not required to produce evidence and prove the
5 allegations and the court may directly address the issues of the
6 relief requested.

7 (b) The court may modify the terms of a personal safety
8 protection order at any time upon subsequent motion filed by any
9 party.

10 **§62-10A-13. Mandatory provisions in personal safety protection**
11 **orders.**

12 A personal safety protection order shall order the respondent
13 to refrain from any direct or indirect contact with the petitioner
14 or engaging in other conduct that would place the petitioner in
15 reasonable fear of bodily injury.

16 **§62-10A-14. Permissive provisions in personal safety protection**
17 **order.**

18 The terms of a personal safety protection order may:

19 (1) Order the respondent to refrain from contacting or
20 attempting to contact, the petitioner by any means including
21 through third parties regardless of whether those third parties
22 know of the order.

23 (2) Order the respondent to refrain from entering or remaining

1 present in the immediate environs of the petitioner's residence,
2 school, place of employment or other specified places at times when
3 the petitioner is present.

4 (3) The court, in its discretion, may prohibit a respondent
5 from possessing a firearm as defined in section seven, article
6 seven, chapter sixty-one of this code if:

7 (A) A weapon was used or threatened to be used in the
8 commission of the offense predicated the petitioning for the
9 personal safety protection order; or

10 (B) The respondent has violated any prior order entered under
11 this article.

12 (4) Order other relief deemed necessary and appropriate by the
13 court.

14 **§62-10A-15. Provisions in personal safety protection order for**
15 **person witnessing a crime of violence against the**
16 **person.**

17 When the person to be protected is a person who reported or
18 was a witness to the crime of violence against the person, the
19 terms of the order may direct:

20 (1) The respondent to refrain from abusing, contacting,
21 telephoning, communicating, harassing, verbally abusing or
22 otherwise intimidating the person to be protected;

23 (2) The respondent to refrain from entering the school,

1 business or place of employment of the person to be protected for
2 the purpose of violating the personal safety protection order; and

3 (3) The respondent to refrain from entering or being present
4 in the immediate environs of the residence of the petitioner.

5 **§62-10A-16. Time period a protective order is in effect;**
6 **extension of order; notice of order or extension.**

7 (a) A personal safety protection order, entered by the circuit
8 court pursuant to this article, is effective for eighteen months.
9 Upon receipt of a written request for renewal from the petitioner
10 prior to the expiration of the original order, the circuit court
11 shall extend its order for another six months.

12 (b) The court may extend a protective order entered pursuant
13 to subsection (a) of this section for whatever period the court
14 considers necessary to protect the physical safety of the
15 petitioner or those persons for whom a petition may be filed as
16 provided in section five of this article, if the court finds by a
17 preponderance of evidence, after a hearing of which respondent has
18 been given notice, that:

19 (1) A material violation of the existing protective order has
20 occurred; or

21 (2) The totality of the circumstances presented to the court
22 require the extension to protect the physical safety of the
23 petitioner or those persons for whom a petition may be filed in

1 section five of this article.

2 (c) To be effective, a written request for extension must be
3 submitted to the court prior to the expiration of the original
4 order period. A notice of the extension shall be sent by the clerk
5 of the court to the respondent by first-class mail, addressed to
6 the last known address of the respondent as indicated by the court
7 file. The extension of time is effective upon mailing of the
8 notice.

9 (d) Certified copies of any order entered or extension notice
10 made under the provisions of this section shall be served upon the
11 respondent by first class mail, addressed to the last known address
12 of the respondent as indicated by the court file, and delivered to
13 the petitioner and any law-enforcement agency having jurisdiction
14 to enforce the order, including the city police, the county
15 sheriff's office or local office of the West Virginia State Police,
16 within twenty-four hours of the entry of the order.

17 (e) The circuit court may modify the terms of personal safety
18 protection order upon motion of either party.

19 (f) The clerk of the circuit court shall cause a copy of any
20 personal safety protection order entered by the circuit court
21 pursuant to the provisions of this article to be forwarded to the
22 magistrate or magistrate court clerk and the magistrate or
23 magistrate court clerk shall forward a copy of the protective order

1 to the appropriate state agencies for registration.

2 **§62-10A-17. Mutual personal safety protection orders prohibited.**

3 Mutual personal safety protection orders are prohibited unless
4 both parties have filed a petition under this article and have
5 proven the allegations contained therein by a preponderance of the
6 evidence. This does not prevent other persons, including the
7 respondent, from filing a separate petition. The court may
8 consolidate two or more petitions if he or she determines that
9 consolidation will further the interest of justice and judicial
10 economy. The court shall enter a separate order for each petition
11 filed.

12 **§62-10A-18. Appeals.**

13 (a) A petitioner who has been denied an emergency personal
14 safety protection order, may file a petition for appeal of the
15 denial, within five days of the denial, to the circuit court.

16 (b) Appeals from adverse decisions of the circuit court must be
17 filed within ten days of the entry of the final order.

18 (c) The standard of review of the action below by the circuit
19 court is de novo.

20 **§62-10A-19. Purging of protection order files.**

21 Six months after the expiration of a final personal safety
22 protection order, the circuit court may, upon motion, order that
23 personal safety protection order and all references to the order be

1 purged from the files maintained by any law-enforcement agency and
2 may further order that the file maintained by the court be sealed
3 and not opened except upon order of the court when such is in the
4 interest of justice.

5 **§62-10A-20. Filing of orders with law-enforcement agency.**

6 (a) Upon entry of any order pursuant to this article and
7 granting relief provided by this article, a copy of the order
8 shall, no later than the close of the next business day, be
9 transmitted by the court or the clerk of the court to a local
10 office of the municipal police, the county sheriff, the West
11 Virginia State Police and any other appropriate law-enforcement
12 agency where it shall be placed in a confidential file with access
13 provided only to law enforcement, the petitioner and the respondent
14 named on the order.

15 (b) Orders shall be promptly served upon the respondent.
16 Failure to serve a personal safety protection order on the
17 respondent does not stay the effect of a valid order if the
18 respondent has actual notice of the existence and contents of the
19 order.

20 **§62-10A-21. Service of pleadings and orders by law-enforcement**
21 **officers.**

22 Notwithstanding any other provision of this code to the
23 contrary, all law-enforcement officers are hereby authorized to

1 serve all pleadings and orders filed or entered pursuant to this
2 article on Sundays and legal holidays. A law-enforcement officer
3 may not refuse to serve any pleadings or orders entered pursuant to
4 this article.

5 **§62-10A-22. Registry of protection orders.**

6 (a) A court which enters a personal safety protection order
7 pursuant to this article shall immediately register such order in
8 the domestic violence database established pursuant to the
9 provisions of section twenty-one, article one, chapter fifty-one of
10 this code. A protected individual who obtains a protection order
11 from a jurisdiction outside of this state pursuant to its law, or
12 his or her representative as provided in section five, article
13 twenty-eight of this chapter, may register that order with the West
14 Virginia Supreme Court of Appeals for entry in the domestic
15 violence database established pursuant to the provisions of section
16 twenty-one, article one, chapter fifty-one of this code.

17 (b) Failure to register an order as provided in this section
18 does not affect its enforceability in any county or jurisdiction.

19 **§62-10A-23. Limitation on use of information.**

20 Nothing in this article authorizes the inclusion of
21 information contained in a report of an incident of abuse in any
22 local, state, interstate, national or international systems of
23 criminal identification pursuant to section twenty-four, article

1 two, chapter fifteen of this code. Nothing in this section
2 prohibits the West Virginia State Police from processing
3 information through its criminal identification bureau with respect
4 to any actual charge or conviction of a crime.

5 **§62-10A-24. Civil contempt; violation of personal safety**
6 **protection orders; order to show cause.**

7 (a) Any party to a personal safety protection order or a legal
8 guardian or guardian ad litem may file a petition for civil
9 contempt alleging a violation of an order issued pursuant to the
10 provisions of this article. The petition shall be filed in the
11 magistrate court, if a magistrate court entered an order, or in the
12 circuit court, if a circuit court entered the order, in the county
13 in which the violation occurred or the county in which the order
14 was issued.

15 (b) When a petition for an order to show cause is filed, a
16 hearing on the petition shall be held within ten days from the
17 filing of the petition. Any order to show cause which is issued
18 shall be served upon the alleged violator.

19 (c) Upon a finding of contempt, the court may order the
20 violator to comply with specific provisions of the personal safety
21 protection order and post a bond as surety for faithful compliance
22 with such order. The bond may not be a personal recognizance bond,
23 shall be in an amount that does not exceed the ability of the

1 violator to post and may not be waived by a fee waiver pursuant to
2 section one, article two, chapter fifty-nine of this code.

3 **§62-10A-25. Offenses for violation of personal safety protection**
4 **order, repeat offenses, penalties.**

5 (a) A respondent who knowingly and willfully violates the
6 terms of: (1) An emergency or final personal safety protection
7 order issued under the provisions of this article granting relief
8 pursuant to the provisions of this article; or (2) a condition of
9 bail, probation or parole which has the express intent or effect of
10 protecting the personal safety of a particular person or persons is
11 guilty of a misdemeanor and, upon conviction thereof, shall be
12 confined in jail for a period of not less than one day nor more
13 than one year, which jail term shall include actual confinement of
14 not less than twenty-four hours, and shall be fined not less than
15 \$250 nor more than \$2000.

16 (b) A respondent who is convicted of a third or subsequent
17 offense under subsection (a) of this section is guilty of a felony
18 and, upon conviction thereof, shall, in the discretion of the
19 court, be confined in a correctional facility not less than one nor
20 more than five years, or be confined in jail not exceeding twelve
21 months and fined not exceeding \$500.

22 **§62-10A-26. Arrest for violations of personal safety protection**
23 **orders.**

1 When a civil law-enforcement officer observes any respondent
2 abuse the petitioner or the respondent's physical presence at any
3 location in knowing and willful violation of the terms of an
4 emergency or final personal safety civil protection order issued
5 under the provisions of this article, he or she shall immediately
6 arrest the respondent if:

7 (1) The law-enforcement officer has observed credible
8 corroborative evidence that the offense has occurred; and

9 (2) The law-enforcement officer has received, from the victim
10 or a witness, a verbal or written allegation of the facts
11 constituting a violation of section nine hundred three of this
12 article; or

13 (3) The law-enforcement officer has observed credible
14 evidence that the accused committed the offense.

15 **§62-10A-27. Forms to be provided.**

16 The West Virginia Supreme Court of Appeals shall prescribe
17 forms which are necessary and convenient for proceedings pursuant
18 to this article and the court shall distribute such forms to the
19 clerk of the circuit court, the secretary-clerk of the circuit
20 court and the clerk of the magistrate court of each county within
21 the state.

22 **§62-10A-28. Immunity from liability for filing a report or**
23 **complaint or participating in a judicial**

1 **proceeding concerning alleged harassment or**
2 **stalking; rebuttable presumption of good faith.**

3 A person who seeks relief pursuant to the article who is
4 acting in good faith is immune from criminal and civil liability
5 for those actions.

NOTE: The purpose of this bill is to provide for the protection of nonfamily or nonhousehold members who do not otherwise qualify for protection under the domestic abuse statute. It establishes jurisdiction of magistrate and circuit courts, venue for actions and procedures for filing petitions. The bill provides for hearings, entry of orders and contents of orders; it declares orders effective statewide, establishes means of service of process, makes proceedings confidential and makes rules of evidence applicable to proceedings. The bill allows for civil contempt for violations of orders, creates criminal offenses for violations of protection orders with misdemeanor and, felony criminal penalties.

This article is new; therefore, strike-throughs and underscoring have been omitted.