

Senate Bill No. 465

(By Senators Palumbo, Laird, Tucker, Edgell, Wills, Jenkins,
Foster and Klempa)

[Introduced January 31, 2012; referred to the Committee on the
Judiciary.]

A BILL to amend and reenact §48-27-502 and §48-27-1101 of the Code
of West Virginia, 1931, as amended, all relating to domestic
violence generally; clarifying that the practice and procedure
for domestic violence civil proceedings are governed by court
rule; and clarifying that a prohibition against possessing
firearms and ammunition is a mandatory provision for domestic
violence protective orders.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 48. DOMESTIC RELATIONS.

ARTICLE 27. PREVENTION AND TREATMENT OF DOMESTIC VIOLENCE.

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

(a) A protective order must order the respondent to refrain
from abusing, harassing, stalking, threatening or otherwise

1 intimidating the petitioner or the minor children, or engaging in
 2 other conduct that would place the petitioner or the minor children
 3 in reasonable fear of bodily injury.

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

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

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

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

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

21 **§48-27-1101. Rules of practice and procedure; forms to be provided;**
 22 **operative date.**

23 (a) Pleadings, practice and procedure in domestic violence
 24 matters before the court are governed by the rules of practice and

1 procedure for domestic violence civil proceedings promulgated by
2 the West Virginia Supreme Court of Appeals.

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

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

NOTE: The purpose of this bill is to clarify that practice and procedure for domestic violence civil proceedings are governed by court rule. This bill also clarifies current code regarding mandatory provisions relating to possession of firearms and ammunition of domestic violence protective orders.

Strike-throughs indicate language that would be stricken from the present law and underscoring indicates language that would be added.