

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2012



ENROLLED

COMMITTEE SUBSTITUTE

FOR

House Bill No. 4307

(By Delegates Miley, Frazier, Longstreth, Barill and Jones)
[By Request of the Supreme Court of Appeals]



Passed March 8, 2012

To Take Effect Ninety Days From Passage

E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

H. B. 4307

(BY DELEGATES MILEY, FRAZIER, LONGSTRETH,
BARILL AND JONES)
[BY THE REQUEST OF THE SUPREME COURT OF APPEALS]

[Passed March 8, 2012; to take effect ninety days from passage.]

AN ACT 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; providing that a prohibition against possessing firearms and ammunition is a mandatory provision for domestic violence protective orders; and, providing that a domestic violence protective order state that possession of firearms and ammunition while subject to domestic violence protective order is a criminal violation of state and federal law.

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.

1 (a) A protective order must order the respondent to
2 refrain from abusing, harassing, stalking, threatening or
3 otherwise intimidating the petitioner or the minor children, or
4 engaging in other conduct that would place the petitioner or
5 the minor children in reasonable fear of bodily injury.

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

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

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

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

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

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

1 (a) Pleadings, practice and procedure in domestic
2 violence matters before the court are governed by the rules of
3 practice and procedure for domestic violence civil
4 proceedings promulgated by the West Virginia Supreme
5 Court of Appeals.

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

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

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

To take effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within _____ this the _____
day of _____, 2012.

Governor