

Adopted by House 4-11-2013 SB538 H JUD AM 4-9 #1

The Committee on the Judiciary moves to amend the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

1 **"ARTICLE 27. PREVENTION AND TREATMENT OF DOMESTIC VIOLENCE.**

2 PART 6. DISPOSITION OF DOMESTIC VIOLENCE ORDERS.

3 **§48-27-601. Transmitting orders to domestic violence database;**  
4 **affidavit as to award of possession of real**  
5 **property; service of order on respondent.**

6 (a) Upon entry of an order pursuant to section 27-403 or part  
7 27-501, et seq., or an order entered pursuant to part 5-501, et  
8 seq., granting relief provided for by this article, a copy of the  
9 order shall ~~no later than the close of the next business day,~~ be  
10 immediately transmitted electronically by the court or the clerk of  
11 the court electronically to the domestic violence database  
12 established pursuant to the provisions of section twenty-one,  
13 article one, chapter fifty-one of this code. ~~by the court or the~~  
14 ~~clerk of the court~~ No later than the close of the next business day  
15 ~~by the court or the clerk of the court~~ shall transmit the order to  
16 a local office of the municipal police, the county sheriff and the  
17 West Virginia State Police ~~where it shall be placed in a~~  
18 ~~confidential file, with access provided only to the law enforcement~~  
19 ~~agency and the respondent named on the order.~~ for service upon the  
20 respondent named in the order. The law-enforcement agency or

1 agencies to which a copy of the order is supplied are not required  
2 do not have to maintain a copy of the order after the respondent is  
3 served.

4 (b) A sworn affidavit may be executed by a party who has been  
5 awarded exclusive possession of the residence or household,  
6 pursuant to an order entered pursuant to section 27-503, and shall  
7 be delivered to ~~such~~ law-enforcement agencies simultaneously with  
8 any order giving the party's consent for a law-enforcement officer  
9 to enter the residence or household, without a warrant, to enforce  
10 the protective order or temporary order.

11 (c) Orders shall be promptly served upon the respondent.  
12 Failure to serve a protective order on the respondent does not stay  
13 the effect of a valid order if the respondent has actual notice of  
14 the existence and contents of the order.

15 (d) Any law-enforcement agency in this state in possession of  
16 or with notice of the existence of an order issued pursuant to the  
17 provisions of sections 27-403 or 27-501 of this article or the  
18 provisions of section 5-509 of this chapter which is in effect or  
19 has been expired for thirty days or less that receives a report  
20 that a person protected by ~~such~~ an order has been reported to be  
21 missing shall immediately follow its procedures for investigating  
22 missing persons. No agency or department policy delaying the  
23 beginning of an investigation ~~shall have~~ has any force or effect.

24 (e) The provisions of subsection (d) of this section shall be  
25 applied where a report of a missing person is made which is  
26 accompanied by a sworn affidavit that the person alleged to be

1 missing was, at the time of his or her alleged disappearance, being  
2 subjected to treatment which meets the definition of domestic  
3 battery or assault set forth in section twenty-eight, article two,  
4 chapter sixty-one of this code."