

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 538**

5 (SENATORS PALUMBO, LAIRD, MILLER AND FITZSIMMONS, *original sponsors*)

6 _____
7 [Passed April 13, 2013; in effect ninety days from passage.]
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10 AN ACT to amend and reenact §48-27-601 of the Code of West
11 Virginia, 1931, as amended, relating generally to disposition
12 of domestic violence orders; requiring the filing of domestic
13 violence orders with the domestic violence database; and
14 modifying law enforcement's record-keeping requirement for
15 domestic violence orders.

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

17 That §48-27-601 of the Code of West Virginia, 1931, as
18 amended, be amended and reenacted to read as follows:

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

20 PART 6. DISPOSITION OF DOMESTIC VIOLENCE ORDERS.

21 **§48-27-601. Transmitting orders to domestic violence database;**
22 **affidavit as to award of possession of real**
23 **property; service of order on respondent.**

24 (a) Upon entry of an order pursuant to section 27-403 or part
25 27-501, et seq., or an order entered pursuant to part 5-501, et

1 seq., granting relief provided for by this article, a copy of the
2 order shall be immediately transmitted electronically by the court
3 or the clerk of the court to the domestic violence database
4 established pursuant to the provisions of section twenty-one,
5 article one, chapter fifty-one of this code. No later than the
6 close of the next business day the court or the clerk of the court
7 shall transmit the order to a local office of the municipal police,
8 the county sheriff and the West Virginia State Police for service
9 upon the respondent named in the order. The law-enforcement agency
10 or agencies to which a copy of the order is supplied are not
11 required to maintain a copy of the order after the respondent is
12 served.

13 (b) A sworn affidavit may be executed by a party who has been
14 awarded exclusive possession of the residence or household,
15 pursuant to an order entered pursuant to section 27-503, and shall
16 be delivered to law-enforcement agencies simultaneously with any
17 order giving the party's consent for a law-enforcement officer to
18 enter the residence or household, without a warrant, to enforce the
19 protective order or temporary order.

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

24 (d) Any law-enforcement agency in this state in possession of
25 or with notice of the existence of an order issued pursuant to the
26 provisions of sections 27-403 or 27-501 of this article or the

1 provisions of section 5-509 of this chapter which is in effect or
2 has been expired for thirty days or less that receives a report
3 that a person protected by an order has been reported to be missing
4 shall immediately follow its procedures for investigating missing
5 persons. No agency or department policy delaying the beginning of
6 an investigation has any force or effect.

7 (e) The provisions of subsection (d) of this section shall be
8 applied where a report of a missing person is made which is
9 accompanied by a sworn affidavit that the person alleged to be
10 missing was, at the time of his or her alleged disappearance, being
11 subjected to treatment which meets the definition of domestic
12 battery or assault set forth in section twenty-eight, article two,
13 chapter sixty-one of this code.