

FILED

2001 MAY -2 P 4: 28

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE



ENROLLED

SENATE BILL NO. 730

(By Senator Wootton, et al)



PASSED April 12, 2001

In Effect 90 days from ~~Passage~~

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Senate Bill No. 730

(BY SENATORS WOOTON, BURNETTE, DEEM, FACEMYER,
KESSLER, ROSS, ROWE AND SNYDER)

[Passed April 12, 2001; in effect ninety days from passage.]

AN ACT to amend and reenact section six hundred one, article twenty-seven, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to requiring law-enforcement agencies to open an official investigation when a person is reported missing who had earlier been awarded a protective order or was otherwise protected by the protective provisions of a domestic violence protective order or where an affidavit is filed alleging domestic violence; requiring law-enforcement agencies to open an official investigation when a person submits an affidavit that a missing person had previously been threatened or abused by another person; and providing for a criminal penalty for submitting a false affidavit.

Be it enacted by the Legislature of West Virginia:

That section six hundred one, article twenty-seven, chapter forty-eight of the code of West Virginia, one thousand nine

hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 2A. PREVENTION AND TREATMENT OF DOMESTIC VIOLENCE.

PART 6. DISPOSITION OF DOMESTIC VIOLENCE ORDERS.

§48-27-601. Filing of orders with law-enforcement agency; affidavit as to award of possession of real property; service of order on respondent.

1 (a) Upon entry of an order pursuant to section 27-403 or
2 part 27-501, et seq., or an order entered pursuant to part
3 5-501, et seq., granting relief provided for by this article,
4 a copy of the order shall, no later than the close of the next
5 business day, be transmitted by the court or the clerk of
6 the court to a local office of the municipal police, the
7 county sheriff and the West Virginia state police, where it
8 shall be placed in a confidential file, with access provided
9 only to the law-enforcement agency and the respondent
10 named on the order.

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

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

23 (d) Any law-enforcement agency in this state in posses-
24 sion of or with notice of the existence of an order issued
25 pursuant to the provisions of sections 27-403 or 27-501 of
26 this article or the provisions of section 5-509 of this
27 chapter which is in effect or has been expired for thirty

28 days or less that receives a report that a person protected
29 by such an order has been reported to be missing shall
30 immediately follow its procedures for investigating
31 missing persons. No agency or department policy delaying
32 the beginning of an investigation shall have any force or
33 effect.

34 (e) The provisions of subsection (d) of this section shall
35 be applied where a report of a missing person is made
36 which is accompanied by a sworn affidavit that the person
37 alleged to be missing was, at the time of his or her alleged
38 disappearance, being subjected to treatment which meets
39 the definition of domestic battery or assault set forth in
40 section twenty-eight, article two, chapter sixty-one of this
41 code.

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

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this the *30th*
Day of *April*, 2001.

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 4/24/01

Time 11:20am