

1 ENROLLED

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 430**

5 (Senator Trump, *original sponsor*)

6 _____
7 [Passed March 13, 2015; in effect from passage.]
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10
11 AN ACT to amend and reenact §48-27-507 of the Code of West Virginia, 1931, as amended; and
12 to amend said code by adding thereto a new section, designated §51-2A-2a, all relating to
13 exempting orders enjoining certain contact between parties to a domestic relations action
14 from the prohibition against mutual protective orders; authorizing family courts of the state
15 to enter standing orders enjoining certain contact between parties to a domestic relations
16 action; providing for certain terms and effective length of such orders; authorizing family
17 courts of the state to enter orders enjoining certain contact between parties to a domestic
18 relations action when there has been a finding of misconduct by a party; authorizing family
19 court to enforce its order through an order of contempt; and expressing intent of the
20 Legislature.

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

22 That §48-27-507 of the Code of West Virginia, 1931, as amended, be amended and

1 reenacted; and that said code be amended by adding thereto a new section, designated §51-2A-2a,
2 all to read as follows:

3 **CHAPTER 48. DOMESTIC RELATIONS.**

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

5 **§ 48-27-507. Mutual protective orders prohibited.**

6 Mutual protective orders are prohibited unless both parties have filed a petition under part
7 three of this article and have proven the allegations of domestic violence by a preponderance of the
8 evidence. This shall not prevent other persons, including the respondent, from filing a separate
9 petition. The court may consolidate two or more petitions if he or she determines that consolidation
10 will further the interest of justice and judicial economy. The court shall enter a separate order for
11 each petition filed: *Provided*, That nothing in this section shall preclude the court from entering an
12 order restricting contact pursuant to section two-a, article two-a, chapter fifty-one of this code.

13 **CHAPTER 51. COURTS IN GENERAL.**

14 **ARTICLE 2A. FAMILY COURTS.**

15 **§51-2A-2a. Family court jurisdiction to restrict contact between parties.**

16 (a) A family court in its discretion may, at any time during the pendency of any action
17 prosecuted under chapter forty-eight of this code, restrict contact between the parties thereto without
18 a finding of domestic violence under article twenty-seven of said chapter. This order shall not be
19 considered a protective order for purposes of section five hundred seven, article twenty-seven,
20 chapter forty-eight of this code. A court may enter a standing order regarding the conduct expected
21 of the parties during the proceeding. Any standing order may restrict the parties from:

22 (1) Entering the home, school, business or place of employment of the other for the purpose

1 of bothering or annoying the other;

2 (2) Contacting the other, in person, in writing, electronically or by telephone, for purposes
3 not clearly necessary for the prosecution of the underlying action or any obligation related thereto
4 or resulting therefrom.

5 (b) Upon a finding of misconduct by a party, the court shall enter an order against the
6 offending party enjoining the conduct which disturbs or interferes with the peace or liberty of the
7 other party so long as such conduct does not rise to the level of or constitute domestic violence as
8 defined in article twenty-seven, chapter forty-eight of this code. The court shall not issue orders
9 under this section in cases where the conduct of either party has previously risen to the level of
10 domestic violence.

11 (c) Nothing in this section shall preclude the court from entering an emergency protective
12 order, or final protective order, as provided in article twenty-seven, chapter forty-eight of this code.

13 (d) Notwithstanding the provisions of section five hundred five, article twenty-seven, chapter
14 forty-eight of this code, an order entered pursuant to the provisions of this section shall remain in
15 effect for a period of time as specified in the order.

16 (e) The court may enforce orders under this section against the offending party through its
17 powers of contempt, pursuant to section nine of this article.

18 (f) It is the express intent of the Legislature that orders issued pursuant to this section are to
19 restrict behavior which is not of sufficient severity to implicate the provisions of article twenty-
20 seven, chapter forty-eight of this code and 18 U. S. C. §922(g)(8).