

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2428

By Delegates Anders, White, Ridenour, Kump, T.

Howell, Dean, and Bridges

[Introduced February 17, 2025; referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §48-27-502 of the Code of West Virginia, 1931, as amended,
2 relating to mandatory provisions in protective order; requiring a full adversarial hearing by a
3 court of record before a respondent may be prohibited from possessing any firearm or
4 ammunition, and only then by clear and convincing evidence; and providing for automatic
5 appeal by respondent.

Be it enacted by the Legislature of West Virginia:

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 refrain from abusing, harassing,
2 stalking, threatening or otherwise intimidating the petitioner or the minor children, or engaging in
3 other conduct that would place the petitioner or the minor children in reasonable fear of bodily
4 injury.

5 (b) The protective order must prohibit the respondent from possessing any firearm or
6 ammunition, subject to the provisions of subsection (f) of this section.

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

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

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

15 "VIOLATION OF THIS ORDER MAY BE PUNISHED BY CONFINEMENT IN A
16 REGIONAL JAIL FOR AS LONG AS ONE YEAR AND BY A FINE OF AS MUCH AS \$2,000".

17 (f) Notwithstanding any provision of this code to the contrary, a protective order may not
18 prohibit a respondent from possessing any firearm or ammunition or confiscate any firearm or

19 ammunitions owned by the respondent:

20 (1) Unless there is a full adversarial hearing before a court of record, with the respondent
21 present with legal representation, and

22 (2) There is clear and convincing evidence that the respondent poses an immediate
23 danger to the petitioner, established by documented threats, sworn testimony, or other substantial
24 evidence, and that the confiscation of firearms and ammunition is not used as a punitive or
25 retaliatory measure in domestic violence proceedings.

26 (g) If a protective order is granted containing the mandatory language of this section, the
27 respondent has an automatic appeal from that order which shall be heard by the court within 10
28 days as provided in §48-27-510.

NOTE: The purpose of this bill is to require a full adversarial hearing before a court of record before a respondent may be prohibited from possessing any firearm or ammunition, under mandatory provisions in protective order and then only by clear and convincing evidence. The bill also provides for automatic appeal by respondent.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.