

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 461

(By Senators Laird, Snyder, Jenkins, Kessler (Acting President),
Plymale, Miller, Wills, Nohe and Unger)

[Originating in the Committee on the Judiciary;
reported February 23, 2011.]

A BILL to amend and reenact §48-27-903 of the Code of West Virginia, 1931, as amended, relating to criminalizing a violation of a restraining order entered upon a conviction for stalking or harassment; and establishing penalties.

Be it enacted by the Legislature of West Virginia:

That §48-27-903 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 27. PREVENTION AND TREATMENT OF DOMESTIC VIOLENCE.

§48-27-903. Misdemeanor offenses for violation of protective order; repeat offenses; penalties.

1 (a) ~~Any A person and, who is guilty of a misdemeanor if the~~
2 person knowingly and willfully violates:

3 (1) A provision of an emergency or final protective order
4 entered pursuant to:

5 (A) Subsection (a) or (b) of section five hundred two of this
6 article;

7 (B) If the court has ordered such relief; subsection (2), (7),
8 (9), or (14) of section five hundred three of this article;

9 (C) Subsection (b) or (c) of section five hundred nine,
10 article five of this chapter; or (D) subsection (b) or (c) of
11 section six hundred eight, article five of this chapter; ~~or~~

12 (2) A condition of bail, probation or parole which has the
13 express intent or effect of protecting the personal safety of a
14 particular person or persons; ~~is guilty of a misdemeanor and,~~
15 or

16 (3) A restraining order entered pursuant to section nine-a,
17 article two, chapter sixty-one of this code.

18 Upon conviction thereof the person shall be confined in jail
19 for a period of not less than one day nor more than one year,
20 which jail term shall include actual confinement of not less
21 than twenty-four hours, and shall be fined not less than \$250
22 nor more than \$2,000.

23 (b) Any person who is convicted of a second offense under
24 subsection (a) of this section is guilty of a misdemeanor and,
25 upon conviction thereof, shall be confined in jail for not less
26 than three months nor more than one year, which jail term
27 shall include actual confinement of not less than thirty days,
28 and fined not less than \$500 nor more than \$3,000, or both.

29 (c) A respondent who is convicted of a third or subsequent
30 offense under subsection (a) which the violation occurs
31 within ten years of a prior conviction of this offense is guilty
32 of a misdemeanor and, upon conviction thereof, shall be
33 confined in jail not less than six months nor more than one
34 year, which jail term shall include actual confinement of not
35 less than six months, and fined not less than \$500 nor more
36 than \$4,000.

(NOTE: The purpose of this bill is to provide a criminal penalty for a violation of a restraining order entered upon a conviction for stalking or harassment.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)