

COMMITTEE SUBSTITUTE

FOR

## **Senate Bill No. 191**

(By Senators Kessler (Mr. President),  
Stollings, Unger, Laird and Jenkins)

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[Originating in the Committee on the Judiciary;  
reported February 2, 2012.]

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A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §53-8-1, §53-8-2, §53-8-3, §53-8-4, §53-8-5, §53-8-6, §53-8-7, §53-8-8, §53-8-9, §53-8-10, §53-8-11, §53-8-12, §53-8-13, §53-8-14, §53-8-15, §53-8-16, §53-8-17 and §53-8-18, all relating to personal safety orders; confidentiality of proceedings; who may file a petition; contents of petition; temporary hearing and relief available; contents of temporary order; respondent's opportunity to be heard; notice to respondent; final hearing and forms of relief; modification and rescission; appeals; criminal penalties;

priority of petitions; fees and costs; service by law enforcement; rules and forms; limitation on use of information; immunity from liability; and the sealing of records.

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §53-8-1, §53-8-2, §53-8-3, §53-8-4, §53-8-5, §53-8-6, §53-8-7, §53-8-8, §53-8-9, §53-8-10, §53-8-11, §53-8-12, §53-8-13, §53-8-14, §53-8-15, §53-8-16, §53-8-17 and §53-8-18, all to read as follows:

**ARTICLE 8. PERSONAL SAFETY ORDERS.**

**§53-8-1. Definitions.**

1        In this article the following words have the meanings  
2 indicated.

3        (1) *Final personal safety order.* — “Final personal safety  
4 order” means a personal safety order issued by a magistrate  
5 under section seven of this article.

6        (2) *Incapacitated adult.* — “Incapacitated adult” means  
7 any person who by reason of physical, mental or other  
8 infirmity is unable to physically carry on the daily activities  
9 of life necessary to sustaining life and reasonable health.

10       (3) *Law-enforcement officer.* — “Law-enforcement  
11 officer” means any duly authorized member of a law-

12 enforcement agency who is authorized to maintain public  
13 personal safety and order, prevent and detect crime, make  
14 arrests and enforce the laws of the state or any county or  
15 municipality thereof, other than parking ordinances.

16 (4) *Petitioner*. — “Petitioner” means an individual who  
17 files a petition under section four of this article.

18 (5) *Place of employment*. — “Place of employment”  
19 includes the grounds, parking areas, outbuildings and  
20 common or public areas in or surrounding the place of  
21 employment.

22 (6) *Residence*. — “Residence” includes the yard, grounds,  
23 outbuildings and common or public areas in or surrounding  
24 the residence.

25 (7) *Respondent*. — “Respondent” means an individual  
26 alleged in a petition to have committed an act specified in  
27 subsection (a), section four of this article against a petitioner.

28 (8) *School*. — “School” means an educational facility  
29 comprised of one or more buildings, including school  
30 grounds, a school bus or any school-sponsored function or  
31 extracurricular activities. For the purpose of this subdivi-  
32 sion, “school grounds” includes the land on which a school  
33 is built together with such other land used by students for

34 play, recreation or athletic events while attending school.  
35 “Extracurricular activities” means voluntary activities  
36 sponsored by a school, a county board or an organization  
37 sanctioned by a county board or the State Board of Educa-  
38 tion and include, but are not limited to, preparation for and  
39 involvement in public performances, contests, athletic  
40 competitions, demonstrations, displays, organizations and  
41 clubs.

42 (9) *Sexual offense*. — “Sexual offense” means the  
43 commission of any of the following sections:

44 (A) Section nine, article eight, chapter sixty-one of this  
45 code;

46 (B) Section twelve, article eight, chapter sixty-one of this  
47 code;

48 (C) Section two, article eight-a, chapter sixty-one of this  
49 code;

50 (D) Section four, article eight-a, chapter sixty-one of this  
51 code;

52 (E) Section five, article eight-a, chapter sixty-one of this  
53 code;

54 (F) Section three, article eight-b, chapter sixty-one of  
55 this code;

56 (G) Section four, article eight-b, chapter sixty-one of this  
57 code;

58 (H) Section five, article eight-b, chapter sixty-one of this  
59 code;

60 (I) Section seven, article eight-b, chapter sixty-one of  
61 this code;

62 (J) Section eight, article eight-b, chapter sixty-one of this  
63 code;

64 (K) Section nine, article eight-b, chapter sixty-one of this  
65 code;

66 (L) Section two, article eight-c, chapter sixty-one of this  
67 code;

68 (M) Section three, article eight-c, chapter sixty-one of  
69 this code;

70 (N) Section three-a, article eight-d, chapter sixty-one of  
71 this code;

72 (O) Section five, article eight-d, chapter sixty-one of this  
73 code; and

74 (P) Section six, article eight-d, chapter sixty-one of this  
75 code.

76 (10) *Temporary personal safety order.* – “Temporary  
77 personal safety order” means a personal safety order issued  
78 by a magistrate under section five of this article.

**§53-8-2. Confidentially of proceedings.**

1 (a) *General Provisions.* — All orders, findings, pleadings,  
2 recordings, exhibits, transcripts or other documents con-  
3 tained in a court file are confidential and are not available  
4 for public inspection: *Provided*, That unless the file is sealed  
5 pursuant to section eighteen of this article or access is  
6 otherwise prohibited by order, any document in the file shall  
7 be available for inspection and copying by the parties,  
8 attorneys of record, guardians ad litem, designees authorized  
9 by a party in writing and law enforcement. A magistrate or  
10 circuit judge may open and inspect the entire contents of the  
11 court file in any case pending before the magistrate's or  
12 judge's court. When sensitive information has been disclosed  
13 in a hearing, pleading or document filing, the court may  
14 order such information sealed in the court file. Sealed court  
15 files shall be opened only pursuant to section eighteen of this  
16 article.

17 (b) (1) *Proceedings are not open to the public.* — Hear-  
18 ings conducted pursuant to this article are closed to the  
19 general public except that persons whom the court deter-  
20 mines have a legitimate interest in the proceedings may  
21 attend.

22 (2) A person accompanying the petitioner may not be  
23 excluded from being present if his or her presence is desired  
24 by the person seeking a petition unless the person's behavior  
25 is disruptive to the proceeding.

26 (c) *Orders permitting examination or copying of file*  
27 *contents.* — Upon written motion, for good cause shown, the  
28 court may enter an order permitting a person who is not  
29 permitted access to a court file under subsection (a) to  
30 examine and/or copy documents in a file. Such orders shall  
31 set forth specific findings which demonstrate why the  
32 interests of justice necessitate the examination, copying, or  
33 both, and shall specify the particular documents to be  
34 examined and/or copied and the arrangements under which  
35 such examination, copying, or both, may take place.

36 (d) *Obtaining confidential records.* — Unless both the  
37 petitioner and the respondent waive confidentiality in  
38 writing, records contained in the court file may not be  
39 obtained by subpoena but only by court order and upon full  
40 compliance with statutory and case law requirements.

**§53-8-3. Who may file; exclusivity; applicability of article.**

1 (a) *Who may file a petition.* — A petition for relief under  
2 this article may be filed by:

3 (1) A person seeking relief under this article for herself  
4 or himself; or

5 (2) A parent, guardian or custodian on the behalf of a  
6 minor child or an incapacitated adult.

7 (b) *Other remedies generally not precluded.* — By  
8 proceeding under this article, a petitioner is not limited to or  
9 precluded from pursuing any other legal remedy.

10 (c) *Circumstances where article is inapplicable.* — This  
11 article does not apply to a petitioner who is a person eligible  
12 for relief under article twenty-seven, chapter forty-eight of  
13 this code.

14 (d) *Right to file.* — No person may be refused the right to  
15 file a petition under the provisions of this article. No person  
16 may be denied relief under the provisions of this article if she  
17 or he presents facts sufficient under the provisions of this  
18 article for the relief sought.

**§53-8-4. Petition seeking relief.**

1 (a) *Underlying acts.* — A petitioner may seek relief under  
2 this article by filing with a magistrate court a petition that  
3 alleges the commission of any of the following acts against  
4 the petitioner by the respondent:

5 (1) A willful act that causes serious bodily injury; or a  
6 willful act that places the petitioner in reasonable apprehen-



7 sion of imminent serious bodily injury as serious bodily  
8 injury is defined in section one, article eight-b, chapter  
9 sixty-one of this code;

10 (2) A sexual offense or attempted sexual offense as  
11 defined in section one of this article;

12 (3) Kidnaping in violation of section fourteen-a, article  
13 two, chapter sixty-one of this code;

14 (4) Unlawful restraint in violation of section fourteen-g,  
15 article two, chapter sixty-one of this code;

16 (5) A violation of section nine-a, article two, chapter  
17 sixty-one of this code; or

18 (6) Felony destruction of property as defined prohibiting  
19 by the provisions of section thirty, article three, chapter  
20 sixty-one of this code.

21 (b) *Contents.* —

22 (1) The petition shall:

23 (A) Be verified and provide notice to the petitioner that  
24 an individual who knowingly provides false information in  
25 the petition is guilty of a misdemeanor and on conviction is  
26 subject to the penalties specified in subsection (e) of this  
27 section;

28 (B) Subject to the provisions of subsection (c) of this  
29 section, contain the address of the petitioner; and

30 (C) Include all information known to the petitioner of:

31 (i) The nature and extent of the act specified in subsec-  
32 tion (a) of this section for which the relief is being sought,  
33 including information known to the petitioner concerning  
34 previous harm or injury resulting from an act specified in  
35 subsection (a) of this section by the respondent;

36 (ii) Each previous and pending action between the  
37 parties in any court; and

38 (iii) The whereabouts of the respondent.

39 (c) *Address may be stricken.* — If, in a proceeding under  
40 this article, a petitioner alleges, and the court finds, that the  
41 disclosure of the address of the petitioner would risk further  
42 harm to the petitioner or a member of the petitioner's  
43 household, that address may be stricken from the petition  
44 and omitted from all other documents filed with, or trans-  
45 ferred to, a court.

46 (d) *Providing false information.* — An individual who  
47 knowingly provides false information in a petition filed  
48 under this section is guilty of a misdemeanor and, upon  
49 conviction thereof, shall be fined not less than \$50 nor more  
50 than \$1,000 or confined in jail not more than ninety days, or  
51 both.

52 (e) *Withdrawal or dismissal of a petition prior to adjudi-*  
53 *cation operates as a dismissal without prejudice.* — No  
54 action for a personal safety order may be dismissed because  
55 the respondent is being prosecuted for a crime against the  
56 petitioner. For any action commenced under this article,  
57 dismissal of a case or a finding of not guilty, does not require  
58 dismissal of the action for a civil protection order.

**§53-8-5. Temporary personal safety orders.**

1 (a) *Authorized; forms of relief available.* —

2 (1) If after a hearing on a petition, whether ex parte or  
3 otherwise, a magistrate finds that there is reasonable cause  
4 to believe that the respondent has committed an act specified  
5 in subsection (a), section four of this article, against the  
6 petitioner, the magistrate shall issue a temporary personal  
7 safety order to protect the petitioner.

8 (2) The temporary personal safety order may include any  
9 or all of the following relief:

10 (A) Order the respondent to refrain from committing or  
11 threatening to commit an act specified in subsection (a),  
12 section four of this article against the petitioner;

13 (B) Order the respondent to refrain from contacting,  
14 attempting to contact or harassing the petitioner directly,

15 indirectly or through third parties regardless of whether  
16 those third parties know of the order;

17 (C) Order the respondent to refrain from entering the  
18 residence of the petitioner;

19 (D) Order the respondent to remain away from the place  
20 of employment, school or residence of the petitioner;

21 (E) Order the respondent not to visit, assault, molest or  
22 otherwise interfere with the petitioner and, if the petitioner  
23 is a child, the petitioner's siblings and minors residing in the  
24 household of the petitioner;

25 (F) The court, in its discretion, may prohibit a respondent  
26 from possessing a firearm as defined in section seven, article  
27 seven, chapter sixty-one of this code if:

28 (i) A weapon was used or threatened to be used in the  
29 commission of the offense predicated the petitioning for the  
30 personal safety order;

31 (ii) The respondent has violated any prior order as  
32 specified under this article; or

33 (iii) The respondent has been convicted of an offense  
34 involving the use of a firearm;

35 (G) Direct the respondent to participate in professionally  
36 supervised counseling or, if the parties are amenable,  
37 mediation; and

38 (H) Order either party to pay filing fees and costs of a  
39 proceeding pursuant to section thirteen of this article.

40 (3) If the magistrate issues an order under this section,  
41 the order shall contain only the relief necessary to protect  
42 the petitioner.

43 (b) *Immediate.* — The temporary personal safety order  
44 shall be immediately served on the respondent by law  
45 enforcement, or at the option of the petitioner, pursuant to  
46 rules promulgated pursuant to section fifteen of this article.

47 (c) *Length of effectiveness.* —

48 (1) The temporary personal safety order shall be effective  
49 for not more than thirty days after service of the order.

50 (2) The magistrate may extend the temporary personal  
51 safety order as needed but not to exceed an additional thirty  
52 days and to effectuate service of the order where necessary  
53 to provide protection or for other good cause.

54 (d) *Final personal safety order hearing.* — The magistrate  
55 may proceed with a final personal safety order hearing  
56 instead of a temporary personal safety order hearing if:

57 (1) (A) The respondent appears at the hearing; or

58 (B) The court otherwise has personal jurisdiction over the  
59 respondent; and

60 (2) The petitioner and the respondent expressly consent  
61 to waive the temporary personal safety order hearing.

**§53-8-6. Respondent's opportunity to be heard; notice to respon-  
dent.**

1 (a) *Respondent's opportunity to be heard.* — A respon-  
2 dent shall have an opportunity to be heard on the question of  
3 whether the magistrate should issue a final personal safety  
4 order subject to the provisions of this section.

5 (b) *Personal safety order hearing.* — Date and time;  
6 notice.

7 (1) (A) The temporary personal safety order shall state  
8 the date and time of the final personal safety order hearing.

9 (B) Unless continued for good cause, the final personal  
10 safety order hearing shall be held no later than thirty days  
11 after the temporary personal safety order is served on the  
12 respondent.

13 (2) The temporary personal safety order shall include  
14 notice to the respondent:

15 (A) In at least ten-point bold type, that if the respondent  
16 fails to appear at the final personal safety order hearing, the  
17 respondent may be served by first-class mail at the respon-  
18 dent's last known address with the final personal safety

19 order and all other notices concerning the final personal  
20 safety order;

21 (B) Specifying all the possible forms of relief under  
22 subsection (d) of section seven, that the final personal safety  
23 order may contain;

24 (C) That the final personal safety order shall be effective  
25 for the period stated in the order, not to exceed two years;  
26 and

27 (D) In at least ten-point bold type, that the respondent  
28 must notify the court in writing of any change of address.

**§53-8-7. Personal safety hearing; forms of relief.**

1 (a) *Final personal safety order hearing.* —

2 *Proceeding; issuance of order.* — If the respondent  
3 appears for the final personal safety order hearing, has been  
4 served with a temporary personal safety order or the respon-  
5 dent waives personal service, the magistrate:

6 (1) May proceed with the final personal safety order  
7 hearing; and

8 (2) May issue a final personal safety order to protect the  
9 petitioner if the court finds by a preponderance of the  
10 evidence that:

11 (A) (i) The respondent has committed an act specified in  
12 subsection (a), section four of this article against the peti-  
13 tioner; and

14 (ii) The petitioner has a reasonable apprehension of  
15 continued unwanted or unwelcome contacts by the respon-  
16 dent; or

17 (B) The respondent consents to the entry of a personal  
18 safety order.

19 (b) A final personal safety order may be issued only to an  
20 individual who has filed a petition or on whose behalf a  
21 petition was filed under section three of this article.

22 (c) In cases where both parties file a petition under  
23 section three of this article, the court may issue mutual  
24 personal safety orders if the court finds by a preponderance  
25 of the evidence that:

26 (1) Each party has committed an act specified in subsec-  
27 tion (a), section four of this article against the other party;  
28 and

29 (2) Each party has a reasonable apprehension of contin-  
30 ued unwanted or unwelcome contacts by the other party.

31 (d) *Personal safety order - Forms of relief.* —



32 (1) The final personal safety order may include any or all  
33 of the following relief:

34 (A) Order the respondent to refrain from committing or  
35 threatening to commit an act specified in subsection (a),  
36 section four of this article against the petitioner;

37 (B) Order the respondent to refrain from contacting,  
38 attempting to contact or harassing the petitioner directly,  
39 indirectly, or through third parties regardless of whether  
40 those third parties know of the order;

41 (C) Order the respondent to refrain from entering the  
42 residence of the petitioner;

43 (D) Order the respondent to remain away from the place  
44 of employment, school or residence of the petitioner;

45 (E) Order the respondent not to visit, assault, molest or  
46 otherwise interfere with the petitioner and, if the petitioner  
47 is a child, the petitioner's siblings and minors residing in the  
48 household of the petitioner.

49 (F) The court, in its discretion, may prohibit a respondent  
50 from possessing a firearm as defined in section seven, article  
51 seven, chapter sixty-one of this code if:

52 (i) A weapon was used or threatened to be used in the  
53 commission of the offense predicated the petitioning for the  
54 personal safety order;

55 (ii) The respondent has violated any prior order as  
56 specified under this article; or

57 (iii) The respondent has been convicted of an offense  
58 involving the use of a firearm.

59 (G) Direct the respondent to participate in professionally  
60 supervised counseling or, if the parties are amenable,  
61 mediation; and

62 (H) Order either party to pay filing fees and costs of a  
63 proceeding pursuant to section thirteen of this article.

64 (2) If the magistrate issues an order under this section,  
65 the order shall contain only the relief necessary to protect  
66 the petitioner.

67 (e) *Personal safety order - Service.* —

68 (1) A copy of the final personal safety order shall be  
69 served on the petitioner, the respondent, the appropriate  
70 law-enforcement agency and any other person the court  
71 determines is appropriate, including a county board of  
72 education, in open court or, if the person is not present at the  
73 final personal safety order hearing, by first-class mail to the  
74 person's last known address or by other means in the  
75 discretion of the court.

76 (2) (A) A copy of the final personal safety order served on  
77 the respondent in accordance with subdivision (1) of this

78 subsection or the hearing the announcement of the court's  
79 ruling in court, constitutes actual notice to the respondent of  
80 the contents of the final personal safety order.

81 (B) Service is complete upon mailing.

82 (f) *Length of effectiveness.* — All relief granted in a final  
83 personal safety order shall be effective for the period stated  
84 in the order, not to exceed two years.

**§53-8-8. Modification and rescission.**

1 (a) A personal safety order may be modified or rescinded  
2 during the term of the personal safety order after:

3 (1) Giving notice to the petitioner and the respondent;  
4 and

5 (2) A hearing.

6 (b) Modification may include extending the term of the  
7 personal safety order if the order was previously issued for  
8 a term of less than the two-year maximum term set forth in  
9 section six of this article.

**§53-8-9. Appeals.**

1 (a) If a magistrate grants or denies relief under a petition  
2 filed under this article, a respondent or a petitioner may  
3 appeal to the circuit court for the county where the magis-  
4 trate court is located.

5 (b) An appeal taken under this section shall be heard de  
6 novo in the circuit court.

7 (c) (1) If an appeal is filed under this section, the magis-  
8 trate court judgment shall remain in effect until superseded  
9 by a judgment of the circuit court; and

10 (2) Unless the circuit court orders otherwise, modifica-  
11 tion or enforcement of the magistrate court order shall be by  
12 the magistrate court.

**§53-8-10. Statement concerning violations.**

1 A temporary personal safety order and final personal  
2 safety order issued under this article shall state that a  
3 violation of the order may result in:

4 (1) Criminal prosecution; and

5 (2) Incarceration, fine or both.

**§53-8-11. Penalties.**

1 (a) *Fines or incarceration.* — An individual who fails to  
2 comply with the relief granted in a temporary personal safety  
3 order or a final personal safety order entered pursuant to this  
4 article is guilty of a misdemeanor and, upon conviction  
5 thereof, shall:

6 (1) For a first offense, be fined not more than \$1,000 or  
7 confined in jail not more than ninety days, or both; and

8 (2) For a second or subsequent offense, be fined not more  
9 than \$2,500 or confined in jail not more than one year, or  
10 both.

11 (b) *Arrest.* — A law-enforcement officer shall arrest with  
12 or without a warrant and take into custody an individual  
13 who the officer has probable cause to believe is in violation  
14 of a temporary or final personal safety order in effect at the  
15 time of the violation.

**§53-8-12. Priority of petitions.**

1 Any petition filed in magistrate court under the provi-  
2 sions of this article shall be given priority over any other  
3 civil action before the court, except actions pursuant to  
4 article twenty-seven, chapter forty-eight of this code and  
5 those in which trial is in progress, and shall be docketed  
6 immediately upon filing.

**§53-8-13. Fees and costs.**

1 (a) *Charges for fees and costs postponed.* — No fees may  
2 be charged for the filing of petitions or other papers, service  
3 of petitions or orders, copies of orders or other costs for  
4 services provided by, or associated with, any proceedings  
5 under this article until the matter is brought before the court  
6 for final resolution.

7       (b) *Assessment of court costs and fees when temporary*  
8 *order is denied.* — If the petition is denied, court costs and  
9 fees shall be assessed by the magistrate against the petitioner  
10 at the conclusion of the temporary hearing, unless a fee  
11 waiver affidavit reflecting inability to pay has been filed or  
12 prohibited by federal law.

13       (c) Costs and fees may not be assessed against a prevail-  
14 ing party.

15       (d) *Assessment of court costs and fees when personal*  
16 *safety order is granted.* — Except as in subsection (c), court  
17 costs and fees shall be assessed by the court at the conclusion  
18 of a proceeding, unless a fee waiver affidavit reflecting  
19 inability to pay has been filed.

20       (e) *Assessment of court costs and fees when petitioner*  
21 *moves to terminate order.* — No court costs or fees shall be  
22 assessed against a petitioner who moves to terminate an  
23 order, whether the court grants or denies the motion.

24       (f) A person seeking waiver of fees, costs or security  
25 pursuant to section one, article two, chapter fifty-nine of this  
26 code shall execute before the clerk where the matter is  
27 pending a fee waiver affidavit which shall be kept confiden-  
28 tial. An additional fee waiver affidavit shall be filed when-

29 ever the financial condition of the person no longer conforms  
30 to the financial condition established by the Supreme Court  
31 of Appeals for determining inability to pay fees or whenever  
32 an order has been entered directing the filing of a new  
33 affidavit.

**§53-8-14. Service by law enforcement.**

1 Notwithstanding any other provision of this code to the  
2 contrary, all law-enforcement officers are hereby authorized  
3 and required to serve all pleadings and orders filed or  
4 entered pursuant to this article on Sundays and legal  
5 holidays. No law-enforcement officer may refuse to serve any  
6 pleadings or orders entered pursuant to this article. Law  
7 enforcement shall attempt to serve all orders without delay:  
8 *Provided*, That service of process shall be attempted within  
9 seventy-two hours of law enforcement's receipt of the order.  
10 If service is not made, law enforcement shall continue to  
11 attempt service on the respondent until proper service is  
12 made.

**§53-8-15. Rules and forms.**

1 (a) *Authorized.* — The Supreme Court of Appeals may  
2 adopt rules and forms to implement the provisions of this  
3 article.

4 (b) *Petition form.* —

5 (1) The Supreme Court of Appeals is requested to adopt  
6 a form for a petition under this article.

7 (2) A petition form shall contain notice to a petitioner  
8 that an individual who knowingly provides false information  
9 in a petition filed under this subtitle is guilty of a misde-  
10 meanor and, on conviction, is subject to the penalties  
11 specified in section four of this article.

**§53-8-16. Limitation on use of information.**

1 Nothing in this article authorizes the inclusion of  
2 information contained in petition, pleadings or orders  
3 provided for by this article to be submitted to any local,  
4 state, interstate, national or international systems of crimi-  
5 nal identification pursuant to section twenty-four, article  
6 two, chapter fifteen of this code. Nothing in this section  
7 prohibits the West Virginia State Police from processing  
8 information through its criminal identification bureau with  
9 respect to any actual charge or conviction of a crime.

**§53-8-17. Immunity from liability.**

1 A person who seeks relief pursuant to the article who is  
2 acting in good faith is immune from criminal and civil  
3 liability for those actions.



**§53-8-18. Sealing of records.**

1 (a) *Definitions.* —

2 (1) In this section the following words have the meanings  
3 indicated.

4 (2) “Court record” means an official record of a court  
5 about a proceeding that the clerk of a court or other court  
6 personnel keeps. “Court record” includes an index, a docket  
7 entry, a petition or other pleading, a memorandum, a  
8 transcription of proceedings, an electronic recording, an  
9 order and a judgment.

10 (3) “Seal” means to remove information from public  
11 inspection in accordance with this section.

12 (4) “Sealing” means:

13 (A) With respect to a record kept in a courthouse,  
14 removing to a separate secure area to which persons who do  
15 not have a legitimate reason for access are denied access;

16 (B) With respect to electronic information about a  
17 proceeding on the website maintained by the magistrate  
18 court, circuit court or the Supreme Court of Appeals,  
19 removing the information from the public website; and

20 (C) With respect to a record maintained by any law-  
21 enforcement agency, by removing to a separate secure area

22 to which persons who do not have a legitimate reason for  
23 access are denied access.

24 (b) *Written request.* — Either party to a petition filed  
25 pursuant to this article may file a written request with the  
26 circuit to seal all court records relating to the proceeding.

27 (c) *Timing.* — A request for sealing under this section  
28 may not be filed within two years after the entry of a final  
29 order, or the denial or dismissal of the petition.

30 (d) *Notice, hearing and findings.* —

31 (1) On the filing of a request for sealing under this  
32 section, the circuit court shall schedule a hearing on the  
33 request.

34 (2) The court shall give notice of the hearing to the  
35 parties.

36 (3) After the hearing, the court shall order the sealing of  
37 all court records relating to the proceeding if the court finds:

38 (A) Good cause to grant the request. In determining  
39 whether there is good cause to grant the request to seal court  
40 records, the court shall balance the privacy and potential  
41 danger of adverse consequences to the parties against the  
42 potential risk of future harm and danger to the petitioner  
43 and the community; and

44 (B) That none of the following are pending at the time of  
45 the hearing:

46 (i) A temporary personal safety order or protective order  
47 issued against the respondent in a proceeding between the  
48 petitioner and the respondent; or

49 (ii) A criminal charge against the respondent arising  
50 from an alleged act described in subsection (a) section four  
51 of this article in which the petitioner is the victim.

52 (e) *Access to a sealed record.* —

53 (1) This section does not preclude the following persons  
54 from accessing a sealed record for a legitimate reason:

55 (A) A law-enforcement officer;

56 (B) An attorney who represents or has represented the  
57 petitioner or the respondent in a proceeding;

58 (C) A prosecuting attorney; or

59 (D) An employee of the Department of Health and  
60 Human Resources.

61 (2) (A) A person not listed in subdivision (1) of this  
62 subsection may subpoena or file a motion for access to a  
63 record sealed under this section.

64 (B) If the circuit court finds that the person has a  
65 legitimate reason for access, the court may grant the person

66 access to the sealed record under the terms and conditions  
67 that the court determines.

68 (C) In ruling on a motion under this subdivision, the  
69 court shall balance the person's need for access to the record  
70 with the respondent's right to privacy and the potential harm  
71 of unwarranted adverse consequences to the respondent that  
72 the disclosure may create.

73 (f) *Compliance with order.* — Within sixty days after  
74 entry of an order under subdivision (3), subsection (d) of this  
75 section, each custodian of court records that are subject to  
76 the order of sealing shall advise in writing the court and the  
77 parties of compliance with the order.