

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 386**

5 (SENATORS COOKMAN, PLYMALE AND PALUMBO, *original sponsors*)

6 _____
7 [Passed April 13, 2013; in effect ninety days from passage.]
8 _____
9

10 AN ACT to amend and reenact §53-8-4 of the Code of West Virginia,
11 1931, as amended, relating generally to personal safety
12 orders; amending the grounds for issuance of a personal safety
13 order; and establishing venue for issuance of a personal
14 safety order.

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

16 That §53-8-4 of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted to read as follows:

18 **ARTICLE 8. PERSONAL SAFETY ORDERS.**

19 **§53-8-4. Petition seeking relief.**

20 (a) *Underlying acts.* - A petitioner may seek relief under this
21 article by filing with a magistrate court a petition that alleges
22 the commission of any of the following acts against the petitioner
23 by the respondent:

24 (1) A sexual offense or attempted sexual offense as defined in
25 section one of this article;

1 (2) A violation of subsection (a), section nine-a, article
2 two, chapter sixty-one of this code; or

3 (3) repeated credible threats of bodily injury when the person
4 making the threats knows or has reason to know that the threats
5 cause another person to reasonably fear for his or her safety.

6 (b) *Contents.* -

7 The petition shall:

8 (1) Be verified and provide notice to the petitioner that an
9 individual who knowingly provides false information in the petition
10 is guilty of a misdemeanor and, on conviction, is subject to the
11 penalties specified in subsection (d) of this section;

12 (2) Subject to the provisions of subsection (c) of this
13 section, contain the address of the petitioner; and

14 (3) Include all information known to the petitioner of:

15 (A) The nature and extent of the act specified in subsection
16 (a) of this section for which the relief is being sought, including
17 information known to the petitioner concerning previous harm or
18 injury resulting from an act specified in subsection (a) of this
19 section by the respondent;

20 (B) Each previous and pending action between the parties in
21 any court; and

22 (C) The whereabouts of the respondent.

23 (c) *Address may be stricken.* - If, in a proceeding under this
24 article, a petitioner alleges, and the court finds, that the
25 disclosure of the address of the petitioner would risk further harm
26 to the petitioner or a member of the petitioner's household, that

1 address may be stricken from the petition and omitted from all
2 other documents filed with, or transferred to, a court.

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

8 (e) *Withdrawal or dismissal of a petition prior to*
9 *adjudication operates as a dismissal without prejudice.* - No action
10 for a personal safety order may be dismissed because the respondent
11 is being prosecuted for a crime against the petitioner. For any
12 action commenced under this article, dismissal of a case or a
13 finding of not guilty, does not require dismissal of the action for
14 a civil protection order.

15 (f) *Venue.* - The action may be heard in the county in which
16 any underlying act occurred for which relief is sought in the
17 petition, in the county in which the respondent is living, or in
18 the county in which the petitioner is living, either temporarily or
19 permanently.