

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 386**

4 (By Senators Cookman, Plymale and Palumbo)

5 \_\_\_\_\_  
6 [Originating in the Committee on the Judiciary;  
7 reported March 7, 2013.]  
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10 A BILL to amend and reenact §53-8-4 of the Code of West Virginia,  
11 1931, as amended, relating generally to personal safety  
12 orders; clarifying the grounds for issuance of a personal  
13 safety order for harassment; and establishing venue for  
14 issuance of a personal 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  
21 this article by filing with a magistrate court a petition that  
22 alleges the commission of any of the following acts against the  
23 petitioner by the respondent:

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

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

3 (3) A violation of subsection (b), section nine-a, article  
4 two, chapter sixty-one of this code in which the respondent  
5 repeatedly harasses or repeatedly makes credible threats of bodily  
6 injury knowing or having reason to know that the conduct causes the  
7 person to reasonably fear for his or her safety or suffer  
8 significant emotional distress.

9 (b) *Contents.* --

10 The petition shall:

11 (1) Be verified and provide notice to the petitioner that an  
12 individual who knowingly provides false information in the petition  
13 is guilty of a misdemeanor and, ~~on conviction~~ upon conviction  
14 thereof, is subject to the penalties specified in subsection (d) of  
15 this section;

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

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

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

24 (B) Each previous and pending action between the parties in  
25 any court; and

26 (C) The whereabouts of the respondent.

1 (c) *Address may be stricken.* -- If, in a proceeding under this  
2 article, a petitioner alleges, and the court finds, that the  
3 disclosure of the address of the petitioner would risk further harm  
4 to the petitioner or a member of the petitioner's household, that  
5 address may be stricken from the petition and omitted from all  
6 other documents filed with, or transferred to, a court.

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

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

19 (f) Venue. -- The action may be heard in the county in which  
20 any underlying act occurred for which relief is sought in the  
21 petition, in the county in which the respondent is living, or in  
22 the county in which the petitioner is living, either temporarily or  
23 permanently.