

**WEST VIRGINIA LEGISLATURE**  
**EIGHTY-FIRST LEGISLATURE**  
**REGULAR SESSION, 2013**



**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 386**

(SENATORS COOKMAN, PLYMALE AND PALUMBO,  
*ORIGINAL SPONSORS*)

[PASSED APRIL 13, 2013; IN EFFECT NINETY DAYS FROM PASSAGE.]

**E N R O L L E D**  
COMMITTEE SUBSTITUTE  
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[Passed April 13, 2013; in effect ninety days from passage.]

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

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

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

**ARTICLE 8. PERSONAL SAFETY ORDERS.**

**§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 sexual offense or attempted sexual offense as  
6 defined in section one of this article;

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

9 (3) Repeated credible threats of bodily injury when the  
10 person making the threats knows or has reason to know that  
11 the threats cause another person to reasonably fear for his or  
12 her safety.

13 (b) *Contents.* –

14 The petition shall:

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

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

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

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

28 (B) Each previous and pending action between the parties  
29 in any court; and

30 (C) The whereabouts of the respondent.

31 (c) *Address may be stricken.* – If, in a proceeding under  
32 this article, a petitioner alleges, and the court finds, that the  
33 disclosure of the address of the petitioner would risk further  
34 harm to the petitioner or a member of the petitioner’s  
35 household, that address may be stricken from the petition and  
36 omitted from all other documents filed with, or transferred to,  
37 a court.

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

43 (e) *Withdrawal or dismissal of a petition prior to*  
44 *adjudication operates as a dismissal without prejudice.* – No  
45 action for a personal safety order may be dismissed because  
46 the respondent is being prosecuted for a crime against the  
47 petitioner. For any action commenced under this article,  
48 dismissal of a case or a finding of not guilty, does not require  
49 dismissal of the action for a civil protection order.

50 (f) *Venue.* – The action may be heard in the county in  
51 which any underlying act occurred for which relief is sought  
52 in the petition, in the county in which the respondent is  
53 living, or in the county in which the petitioner is living, either  
54 temporarily or permanently.



The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman Senate Committee*

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*Chairman House Committee*

Originated in the Senate.

In effect ninety days from passage.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this the .....

Day of ....., 2013.

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*Governor*