

COMMITTEE SUBSTITUTE

FOR

## **Senate Bill No. 386**

(By Senators Cookman, Plymale and Palumbo)

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[Originating in the Committee on the Judiciary;  
reported March 7, 2013.]

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A BILL to amend and reenact §53-8-4 of the Code of West Virginia, 1931, as amended, relating generally to personal safety orders; clarifying the grounds for issuance of a personal safety order for harassment; 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; ~~or~~

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

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

15 (b) *Contents.* –

16 The petition shall:

17 (1) Be verified and provide notice to the petitioner that an  
18 individual who knowingly provides false information in the  
19 petition is guilty of a misdemeanor and, ~~on conviction~~ upon

20 conviction thereof, is subject to the penalties specified in  
21 subsection (d) of this section;

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

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

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

30 (B) Each previous and pending action between the parties  
31 in any court; and

32 (C) The whereabouts of the respondent.

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

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

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

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