

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 538

(By Senators Palumbo, Laird, Miller and Fitzsimmons)

[Originating in the Committee on the Judiciary;
reported March 21, 2013.]

A BILL to amend and reenact §48-27-601 of the Code of West Virginia, 1931, as amended, relating to disposition of domestic violence orders; and filing orders with the domestic violence database rather than law enforcement maintaining a confidential file.

Be it enacted by the Legislature of West Virginia:

That §48-27-601 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 27. PREVENTION AND TREATMENT OF
DOMESTIC VIOLENCE.**

PART 6. DISPOSITION OF DOMESTIC VIOLENCE ORDERS.

**§48-27-601. Transmitting orders to domestic violence database;
affidavit as to award of possession of real
property; service of order on respondent.**

1 (a) Upon entry of an order pursuant to section 27-403 or
2 part 27-501, et seq., or an order entered pursuant to part
3 5-501, et seq., granting relief provided for by this article, a
4 copy of the order shall ~~no later than the close of the next~~
5 ~~business day~~, be immediately transmitted electronically to the
6 domestic violence database established pursuant to the
7 provisions of section twenty-one, article one, chapter
8 fifty-one of this code by the court or the clerk of the court to
9 a local office of the municipal police, the county sheriff and
10 the West Virginia State Police ~~where it shall be placed in a~~
11 ~~confidential file, with access provided only to the~~
12 ~~law-enforcement agency and the respondent named on the~~
13 ~~order.~~ for service upon the respondent named in the order.
14 The law- enforcement agency or agencies to which a copy of
15 the order is supplied do not have to maintain a copy of the
16 order after the respondent is served.

17 (b) A sworn affidavit may be executed by a party who
18 has been awarded exclusive possession of the residence or
19 household, pursuant to an order entered pursuant to section
20 27-503, and shall be delivered to ~~such~~ law-enforcement
21 agencies simultaneously with any order giving the party's
22 consent for a law-enforcement officer to enter the residence
23 or household, without a warrant, to enforce the protective
24 order or temporary order.

25 (c) Orders shall be promptly served upon the respondent.
26 Failure to serve a protective order on the respondent does not
27 stay the effect of a valid order if the respondent has actual
28 notice of the existence and contents of the order.

29 (d) Any law-enforcement agency in this state in
30 possession of or with notice of the existence of an order
31 issued pursuant to the provisions of sections 27-403 or
32 27-501 of this article or the provisions of section 5-509 of
33 this chapter which is in effect or has been expired for thirty
34 days or less that receives a report that a person protected by
35 ~~such~~ an order has been reported to be missing shall
36 immediately follow its procedures for investigating missing

37 persons. No agency or department policy delaying the
38 beginning of an investigation ~~shall have~~ has any force or
39 effect.

40 (e) The provisions of subsection (d) of this section shall
41 be applied where a report of a missing person is made which
42 is accompanied by a sworn affidavit that the person alleged
43 to be missing was, at the time of his or her alleged
44 disappearance, being subjected to treatment which meets the
45 definition of domestic battery or assault set forth in section
46 twenty-eight, article two, chapter sixty-one of this code.