

Access to Protective Orders

In West Virginia, minors can obtain Protective Orders (POs),¹ but the law does not specify whether POs can be granted against minor abusers. West Virginia also allows people in dating relationships to seek POs against their abusers.²

Procedure

State law does not specify whether minors can petition for POs on their own behalf. An adult family/household member may petition for a PO on the minor's behalf.³ If a minor is able to file on their own behalf, West Virginia law does not specify whether the parent or guardian of the minor will be notified about the PO.

Definition of Abuse

A judge may issue a PO if the respondent has physically abused, threatened to physically abuse or sexually abused the petitioner.⁴ The statute fails to explicitly recognize stalking and harassment as qualifications for relief. The statute may recognize other forms of abuse not specifically listed here.

Relief Available

The court may order⁵ the respondent to:

- stay away from the petitioner (including petitioner's school);
- vacate the petitioner's residence;
- provide petitioner exclusive use/possession of property;
- comply with a custody/visitation schedule;
- pay child support;
- pay spousal support;
- participate in a counseling or batterers' intervention program;
- not possess a gun; and/or
- pay restitution for other harm.

The statute may allow other forms of relief not specifically listed here and may cover individuals other than the petitioner. The Protective Order is modifiable.⁶

Minors' Access to Sensitive Services^{7,8}

All minors can consent to:

- STI testing and treatment
- Adoption

Some minors can access contraceptive services and prenatal care.

Minors can access abortion services, but their parents will be notified.

School Response to Dating Violence

West Virginia law does not provide for a school response to dating violence.

Recommendations for Immediate Policy Change

In order to improve West Virginia's response to teen dating violence, the following changes are recommended:

- Allow minors to petition for POs on their own behalf and explicitly describe the procedure for doing so.
- Allow victims of intimate partner stalking and harassment to access POs.
- Allow all minors to access all sensitive services, including HIV services, prenatal care and medical care for a minor child, without parental involvement.

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State Law Report Card



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References

¹ W. VA. CODE § 48-27-305(2) (2009).

² *Id.* § 48-27-204.

³ *Id.* § 48-27-305(2).

⁴ *Id.* § 48-27-202.

⁵ *Id.* §§ 48-27-502; 48-27-503.

⁶ *Id.* § 48-27-501(b).

⁷ Guttmacher Institute, An overview of minors' consent law, *State Policies in Brief*, New York: Guttmacher Institute, 2009, http://www.guttmacher.org/statecenter/spibs/spib_OMCL.pdf, accessed December 1, 2009.

⁸ Guttmacher Institute, Minors' Access to STI Services, *State Policies in Brief*, New York: Guttmacher Institute, 2009, http://www.guttmacher.org/statecenter/spibs/spib_MASS.pdf, accessed December 1, 2009.

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