

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 204 of the Regular Session

As Engrossed: H1/31/07 S2/22/07

A Bill

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007

HOUSE BILL 1310

4
5 By: Representatives D. Creekmore, *Adcock*

6 By: Senator Salmon
7
8

9 **For An Act To Be Entitled**

10 AN ACT TO PROVIDE GUIDELINES FOR LAW ENFORCEMENT
11 OFFICERS TO USE IN DETERMINING THE PREDOMINANT
12 AGGRESSOR IN CASES OF DOMESTIC ABUSE FOR THE
13 PURPOSE OF ARREST; AND FOR OTHER PURPOSES.
14

15 **Subtitle**

16 TO PROVIDE GUIDELINES FOR LAW
17 ENFORCEMENT OFFICERS TO USE IN
18 DETERMINING THE PREDOMINANT AGGRESSOR IN
19 CASES OF DOMESTIC ABUSE FOR THE PURPOSE
20 OF ARREST.
21
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code § 16-81-113(a), pertaining to the warrantless
26 arrest of a person for domestic abuse, is amended to read as follows:

27 (a)(1)(A) ~~When~~ Except as provided in subdivision (a)(3) of this
28 section, when a law enforcement officer has probable cause to believe a
29 person has committed acts which constitute a crime under the laws of this
30 state and which constitute domestic abuse as defined in subdivision (b)(1) of
31 this section against a family or household member, the officer may arrest the
32 person without a warrant if the law enforcement officer has probable cause to
33 believe the person has committed those acts within the preceding four (4)
34 hours, or within the preceding twelve (12) hours for cases involving physical
35 injury as defined in § 5-1-102(14), even if the incident did not take place



1 in the presence of the law enforcement officer.

2 ~~(2)(B)~~ The arrest of the person shall be considered the
3 preferred action by the law enforcement officer when evidence indicates that
4 domestic abuse has occurred in addition to a violation of the Arkansas
5 Criminal Code, § 5-1-101 et seq.

6 ~~(3)(2)(A)~~ ~~Any law enforcement officer acting in good faith and~~
7 ~~exercising due care in making an arrest for domestic abuse shall have~~
8 ~~immunity from civil liability~~ When a law enforcement officer receives
9 conflicting accounts of an act of domestic abuse involving family or
10 household members, the law enforcement officer shall evaluate each account
11 separately to determine if one (1) party to the act of domestic abuse was the
12 predominant aggressor.

13 (B)(i) When determining if one (1) party to an act of
14 domestic abuse is the predominant aggressor, a law enforcement officer shall
15 consider the following factors based upon his or her observation:

16 (a) Statements from parties to the act of
17 domestic abuse and other witnesses;

18 (b) The extent of personal injuries received
19 by parties to the act of domestic abuse;

20 (c) Evidence that a party to the act of
21 domestic abuse acted in self-defense; or

22 (d) Prior complaints of domestic abuse if the
23 history of prior complaints of domestic abuse can be reasonably ascertained
24 by the law enforcement officer.

25 (ii) A law enforcement officer may consider any
26 other relevant factors when determining if one (1) party to an act of
27 domestic abuse is the predominant aggressor.

28 (3)(A) When a law enforcement officer has probable cause to
29 believe a person that is a party to an act of domestic abuse is the
30 predominant aggressor and the act of domestic abuse would constitute a felony
31 under the laws of this state, the law enforcement officer shall arrest the
32 person who was the predominant aggressor with or without a warrant if the law
33 enforcement officer has probable cause to believe the person has committed
34 the act of domestic abuse within the preceding four (4) hours, or within the
35 preceding twelve (12) hours for cases involving physical injury as defined in
36 § 5-1-102, even if the incident did not take place in the presence of the law

1 enforcement officer.

2 (B)(i) When a law enforcement officer has probable cause
3 to believe a person who is a party to an act of domestic abuse is the
4 predominant aggressor and the act of domestic abuse would constitute a
5 misdemeanor under the laws of this state, the arrest with or without a
6 warrant of the person who was the predominant aggressor shall be considered
7 the preferred action by the law enforcement officer if there is reason to
8 believe that there is an imminent threat of further injury to any party to
9 the act of domestic abuse and the law enforcement officer has probable cause
10 to believe the person has committed the act of domestic abuse within the
11 preceding four (4) hours, or within the preceding twelve (12) hours for cases
12 involving physical injury as defined in § 5-1-102, even if the incident did
13 not take place in the presence of the law enforcement officer.

14 (ii) When a law enforcement officer has probable
15 cause to believe a person who is a party to an act of domestic abuse is the
16 predominant aggressor and the act of domestic abuse would constitute a
17 misdemeanor under the laws of this state, the law enforcement officer may
18 arrest the person without a warrant if the law enforcement officer has
19 probable cause to believe the person has committed those acts within the
20 preceding four (4) hours, or within the preceding twelve (12) hours for cases
21 involving physical injury as defined in § 5-1-102, even if the incident did
22 not take place in the presence of the law enforcement officer.

23 (4) Any law enforcement officer acting in good faith and
24 exercising due care in making an arrest for domestic abuse shall have
25 immunity from civil liability.

26
27 */s/ D. Creekmore*

28
29 *APPROVED: 3/5/2007*