

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

# A Bill

HOUSE BILL 1631

5 By: Representative Tucker  
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## For An Act To Be Entitled

8 AN ACT CONCERNING A WARRANTLESS ARREST FOR DOMESTIC  
9 ABUSE; AND FOR OTHER PURPOSES.

### Subtitle

12 CONCERNING A WARRANTLESS ARREST FOR  
13 DOMESTIC ABUSE.  
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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19 SECTION 1. Arkansas Code § 16-81-113(a), concerning a warrantless  
20 arrest for domestic abuse, is amended to read as follows:

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

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

35 (2)(A) When a law enforcement officer receives conflicting  
36 accounts of an act of domestic abuse involving a family or household ~~members~~



1 member, the law enforcement officer shall evaluate each account separately to  
 2 determine if one (1) party to the act of domestic abuse was the predominant  
 3 aggressor.

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

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

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

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

13 (d) Prior complaints of domestic abuse if the  
 14 history of prior complaints of domestic abuse can be reasonably ascertained  
 15 by the law enforcement officer.

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

19 ~~(3)(A) When a law enforcement officer has probable cause to~~  
 20 ~~believe a person that is a party to an act of domestic abuse is the~~  
 21 ~~predominant aggressor and the act of domestic abuse would constitute a felony~~  
 22 ~~under the laws of this state, the law enforcement officer shall arrest the~~  
 23 ~~person who was the predominant aggressor with or without a warrant if the law~~  
 24 ~~enforcement officer has probable cause to believe the person has committed~~  
 25 ~~the act of domestic abuse within the preceding four (4) hours, or within the~~  
 26 ~~preceding twelve (12) hours for cases involving physical injury as defined in~~  
 27 ~~§ 5-1-102, even if the incident did not take place in the presence of the law~~  
 28 ~~enforcement officer.~~

29 ~~(B)(i) When a law enforcement officer has probable cause~~  
 30 ~~to believe a person who is a party to an act of domestic abuse is the~~  
 31 ~~predominant aggressor and the act of domestic abuse would constitute a~~  
 32 ~~misdemeanor under the laws of this state, the arrest with or without a~~  
 33 ~~warrant of the person who was the predominant aggressor shall be considered~~  
 34 ~~the preferred action by the law enforcement officer if there is reason to~~  
 35 ~~believe that there is an imminent threat of further injury to any party to~~  
 36 ~~the act of domestic abuse and the law enforcement officer has probable cause~~

1 ~~to believe the person has committed the act of domestic abuse within the~~  
2 ~~preceding four (4) hours or within the preceding twelve (12) hours for cases~~  
3 ~~involving physical injury as defined in § 5-1-102, even if the incident did~~  
4 ~~not take place in the presence of the law enforcement officer.~~

5 ~~(ii) When a law enforcement officer has probable~~  
6 ~~cause to believe a person who is a party to an act of domestic abuse is the~~  
7 ~~predominant aggressor and the act of domestic abuse would constitute a~~  
8 ~~misdemeanor under the laws of this state, the law enforcement officer may~~  
9 ~~arrest the person without a warrant if the law enforcement officer has~~  
10 ~~probable cause to believe the person has committed those acts 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 ~~(4)(3)~~ Any law enforcement officer acting in good faith and  
15 exercising due care in making an arrest for domestic abuse ~~shall have~~ has  
16 immunity from civil liability.

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