

.As Engrossed: 1/23/91, 1/24/91

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**

A BILL ACT 268 OF 1991
SENATE BILL 155

4 **By: Senators Bradford, Harriman, *Howell, Luelf***

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For An Act To Be Entitled

8 "AN ACT TO AUTHORIZE A WARRANTLESS ARREST FOR DOMESTIC
9 ABUSE; TO ESTABLISH GUIDELINES FOR RELEASE; AND FOR OTHER
10 PURPOSES."

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12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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14 SECTION 1. (a) When a law enforcement officer has probable cause to
15 believe a person has committed acts which constitutes a crime under the laws
16 of this State and which constitutes domestic abuse as defined herein against a
17 family or household member, the officer may arrest the person without a
18 warrant if the law enforcement officer has probable cause to believe the
19 person, within the preceding four (4) hours, has committed such acts even if
20 the incident did not take place in the presence of the law enforcement
21 officer.

22 (b) The arrest of the person shall be considered the preferred action by
23 the law enforcement officer when evidence indicates that domestic abuse has
24 occurred in addition to a violation of the Arkansas Criminal Code.

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

28 (d) As used in this act, "domestic abuse" means

29 (1) physical harm, bodily injury, assault, or the infliction of
30 fear of imminent physical harm, bodily injury or assault between family or
31 household members; or

32 (2) any sexual conduct between family or household members
33 whether minors or adults which constitutes a crime under the laws of this
34 state.

35 (e) As used in this act, "family or household member" means spouses,
36 former spouses, parents and children, persons related by blood within the

1 fourth degree of consanguinity, persons who are presently or in the past
2 resided or cohabitated together.

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4 SECTION 2. (a) Any person arrested under the provisions of this act
5 shall be taken before a judicial officer without unnecessary delay.

6 (b) The judicial officer shall conduct a pretrial release inquiry of
7 the person.

8 (c) The inquiry should take the form of an assessment of factors
9 relevant to the release decision, such as:

10 (1) the person's employment status, history and financial
11 condition;

12 (2) the nature and extent of his family relationships;

13 (3) his past and present residence;

14 (4) his character and reputation;

15 (5) persons who agree to assist him in attending court at the
16 proper times;

17 (6) the nature of the charge and any mitigating or aggravating
18 factors that may bear on the likelihood of conviction and the possible
19 penalty;

20 (7) the person's prior criminal record, if any, and if he
21 previously has been released pending trial, whether he appears as required;

22 (8) any facts indicating the possibility of violations of law if
23 the person is released without restrictions; and

24 (9) any other facts tending to indicate that the person has
25 strong ties to the community and is not likely to flee the jurisdiction of the
26 court.

27 (d) The judicial officer may impose one or more of the following
28 conditions of release:

29 (1) place the person under the care of a qualified person or
30 organization agreeing to supervise the person and assist him in appearing in
31 court;

32 (2) impose reasonable restrictions on the activities, movements,
33 associations, and residences of the person;

34 (3) impose any other reasonable restrictions to ensure the
35 appearance of the person at future judicial hearings.

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1 SECTION 3. All provisions of this act of a general and permanent nature
2 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
3 Revision Commission shall incorporate the same in the Code.

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5 SECTION 4. If any provision of this act or the application thereof to
6 any person or circumstance is held invalid, such invalidity shall not affect
7 other provisions or applications of the act which can be given effect without
8 the invalid provision or application, and to this end the provisions of this
9 act are declared to be severable.

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11 SECTION 5. All laws and parts of laws in conflict with this act are
12 hereby repealed.

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14 SECTION 6. EMERGENCY. It is hereby found and determined by the
15 Seventy-Eighth General Assembly that since the recent court decision in Bates
16 v. Bates, this state has lacked adequate remedies for dealing with domestic
17 violence and abuse; that the problem of domestic violence and abuse in our
18 society is so complex that proper judicial remedies for victims and potential
19 victims transcend the traditional jurisdictions of circuit and municipal
20 court; that every potential remedy should be made available to members of
21 households who have been subjected to abuse or are likely to be subjected to
22 abuse such as to authorize warrantless arrests for domestic abuse. Therefore,
23 an emergency is hereby declared to exist and this act being necessary for the
24 immediate preservation of the public peace, health and safety shall be in full
25 force upon its passage and approval.

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27 */s/Bradford, et al*

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29 APPROVED: 2-28-91

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