Stricken language would be deleted from and underlined language would be added to present law. Act 515 of the Regular Session

1		As Engrossed:	A Bill		
2	91st General Assembly		ΠDΠ	HOUSE DU L 1070	
3	Regular Session, 2017			HOUSE BILL 1059	
4 5	By: Representatives House	Rurch			
6	By. Representatives House	, Durch			
7		For An Act	To Be Entitled		
8	AN ACT TO AMEND THE LAW CONCERNING THE OFFENSE OF				
9	VIOLATION OF AN ORDER OF PROTECTION; TO CRIMINALIZE				
10			RY ORDER OF PROTECTI		
11	FOR OTHER PURPOSES.				
12					
13					
14	Subtitle				
15	TO AMEND THE LAW CONCERNING THE OFFENSE				
16	OF VIOLATION OF AN ORDER OF PROTECTION;				
17	AND TO CRIMINALIZE THE VIOLATION OF A				
18	MII	ITARY ORDER OF PI	ROTECTION.		
19					
20					
21	BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:				
22					
23	SECTION 1. Arkansas Code § 5-53-134(a), concerning the violation of an				
24	order of protection, is amended to add an additional subdivision to read as				
25	follows:				
26	(3)(A) A service member commits the offense of violation of a				
27	<u>military order of pr</u>				
28			anding general, a mi		
29	special courts-martial convening authority as authorized by § 12-64-406(b)				
30	<u>issues a military or</u>	-	-		
31			vice member receives		
32	other lawful notice of the military order of protection as authorized under				
33 24	United States Department of Defense Instruction 6400.06, as it existed on				
34 35	January 1, 2017; and		rvice member knowing	ly violates a	
36	condition of the mil		-	<u>, y vioiales a</u>	
50	Condition of the mill	reary orace or pr	000001011.		



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1	(B) A prosecution against a service member for the offense		
2	of violation of a military order of protection does not prohibit the		
3	commanding general or military commander who issued the military order of		
4	protection from pursuing appropriate disciplinary action against the service		
5	member under the Military Code of Arkansas.		
6			
7	SECTION 2. Arkansas Code § 5-53-134(c), concerning the violation of an		
8	order of protection, is amended to read as follows:		
9	(c)(l) A law enforcement officer may arrest and take into custody		
10	without a warrant any <u>a</u> person who whom the law enforcement officer has		
11	probable cause to believe:		
12	(A) Is subject to an order of protection issued pursuant		
13	to <u>under</u> the laws of this state; and		
14	(B) Has violated the terms of the order of protection,		
15	even if the violation did not take place in the presence of the law		
16	enforcement officer.		
17	(2) Under § 9-15-302, a law enforcement officer or law		
18	enforcement agency may arrest and take into custody without a warrant any <u>a</u>		
19	person who <u>whom</u> the law enforcement officer or law enforcement agency has		
20	probable cause to believe:		
21	(A) Is subject to <u>:</u>		
22	<u>(i)</u> an <u>An</u> order of protection issued pursuant to		
23	under the laws or rules of another state, a federally recognized Indian		
24	tribe, or a territory; <u>or</u>		
25	(ii) A military order of protection; and		
26	(B) Has violated the terms of the out-of-state order of		
27	protection issued under the laws or rules of the other state, federally		
28	recognized Indian tribe, or territory, or the military order of protection,		
29	even if the violation did not take place in the presence of the law		
30	enforcement officer.		
31	(3)(A) If a service member is in the custody of a law		
32	enforcement agency as authorized in subdivision (c)(2) of this section, the		
33	law enforcement agency shall notify the office of the Adjutant General of the		
34	Arkansas National Guard within twenty-four (24) hours from the time the		
35	service member was placed in the custody of the law enforcement agency.		
36	(B)(i) The Arkansas National Guard shall take custody of		

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1	the service member within forty-eight (48) hours from the time the service		
2	member was placed in the custody of the law enforcement agency.		
3	(ii) However, if the Arkansas National Guard does		
4	not take custody of the service member as required by subdivision		
5	(c)(3)(B)(i) of this section, the law enforcement agency shall release the		
6	service member.		
7			
8	SECTION 3. Arkansas Code § 5-53-134, concerning a violation of an		
9	order of protection, is amended to add an additional subsection to read as		
10	follows:		
11	(f) As used in this section:		
12	(1) "Military order of protection" means an official command		
13	directed at a service member for the purpose of preventing violent and		
14	threatening acts against a person who:		
15	(A) Is the current or former spouse of the service member;		
16	(B) Is or was a child, step-child, parent, step-parent,		
17	sibling, guardian, or ward of the service member;		
18	(C) Is residing or cohabitating or in the past has resided		
19	or cohabitated with the service member;		
20	(D) Has or had a child in common with the service member;		
21	(E) Is or has been in a dating relationship with the		
22	service member as defined by § 9-15-103;		
23	(F) Has had an intimate sexual relationship with the		
24	service member; or		
25	(G) Has made allegations against the service member of		
26	violations of the punitive article of sexual misconduct as defined by § 12-		
27	<u>64-845; and</u>		
28	(2) "Service member" means a person serving in:		
29	(A) Any branch or reserve component of the United States		
30	Armed Forces; or		
31	(B) The National Guard of any state.		
32			
33	SECTION 4. The title of Arkansas Code Title 9, Chapter 15, Subchapter		
34	3 is amended to read as follows:		
35	Subchapter 3 — Out-of-State Orders of Protection <u>From Other Jurisdictions</u>		
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1	SECTION 5. Arkansas Code § 9-15-302(a), concerning full faith and			
2	credit by Arkansas courts of an order of protection, is amended to read as			
3	follows:			
4	(a) Any order of protection that meets the requirements of subsection			
5	(b) or subsection (c) of this section issued by a court of another state, a			
6	federally recognized Indian tribe, or a territory shall be afforded full			
7	faith and credit by the courts of this state and shall be enforced by law			
8	enforcement as if it were issued in this state.			
9	An order of protection shall be afforded full faith and credit by the			
10	courts of this state and shall be enforced by law enforcement as if it were			
11	issued in this state if the order of protection:			
12	(1) Meets the requirements of subsection (b) or subsection (c)			
13	of this section and is issued by a court of another state, a federally			
14	recognized Indian tribe, or a territory; or			
15	(2) Is a military order of protection as defined under § 5-53-			
16	<u>134(f)(1).</u>			
17				
18	SECTION 6. Arkansas Code § 9-15-303 is amended to read as follows:			
19	9-15-303. Immunity from liability.			
20	(a) Law enforcement officers and law enforcement agencies shall be			
21	immune from civil or criminal liability if acting in good faith in an effort			
22	to comply with this subchapter.			
23	(b) A military order of protection as defined under § 5-53-134(f)(1)			
24	shall be enforced by law enforcement of this state according to the			
25	provisions of § 9-15-101 et seq.			
26				
27	/s/House			
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30	APPROVED: 03/16/2017			
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