

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.

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

*As Engrossed: H1/31/07*

# A Bill

HOUSE BILL 1310

5 By: Representatives D. Creekmore, *Adcock*  
6 By: Senator Salmon  
7  
8

## 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

### Subtitle

15 TO PROVIDE GUIDELINES FOR LAW  
16 ENFORCEMENT OFFICERS TO USE IN  
17 DETERMINING THE PREDOMINANT AGGRESSOR IN  
18 CASES OF DOMESTIC ABUSE FOR THE PURPOSE  
19 OF ARREST.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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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  
36 in the presence of the law enforcement officer.



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

5                   ~~(3)~~(2)(A) ~~Any law enforcement officer acting in good faith and~~  
6 ~~exercising due care in making an arrest for domestic abuse shall have~~  
7 ~~immunity from civil liability~~ When a law enforcement officer receives  
8 conflicting accounts of an act of domestic abuse involving family or  
9 household members, the law enforcement officer shall evaluate each account  
10 separately to determine if one (1) party to the act of domestic abuse was the  
11 predominant aggressor.

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

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

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

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

21                                   (d) An imminent threat of further injury to  
22 any party to the act of domestic abuse;

23                                   (e) Prior complaints of domestic abuse if the  
24 history of prior complaints of domestic abuse can be reasonably ascertained  
25 by the law enforcement officer; and

26                                   (f) The future welfare of any minors who are  
27 present at the scene of the act of domestic violence.

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

31                   (3)(A) When a law enforcement officer has probable cause to  
32 believe a person that is a party to an act of domestic abuse is the  
33 predominant aggressor and the act of domestic abuse would constitute a felony  
34 under the laws of this state, the law enforcement officer shall arrest the  
35 person who was the predominant aggressor with or without a warrant if the law  
36 enforcement officer has probable cause to believe the person has committed

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

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

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

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

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30 */s/ D. Creekmore, et al*  
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