

1 State of Arkansas *As Engrossed: H1/17/17 H2/27/17*

2 91st General Assembly

# A Bill

3 Regular Session, 2017

HOUSE BILL 1059

4

5 By: Representatives House, *Burch*

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## For An Act To Be Entitled

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AN ACT TO AMEND THE LAW CONCERNING THE OFFENSE OF

9

VIOLATION OF AN ORDER OF PROTECTION; TO CRIMINALIZE

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THE VIOLATION OF A MILITARY ORDER OF PROTECTION; AND

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FOR OTHER PURPOSES.

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## Subtitle

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TO AMEND THE LAW CONCERNING THE OFFENSE

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OF VIOLATION OF AN ORDER OF PROTECTION;

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AND TO CRIMINALIZE THE VIOLATION OF A

18

MILITARY ORDER OF PROTECTION.

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

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SECTION 1. Arkansas Code § 5-53-134(a), concerning the violation of an order of protection, is amended to add an additional subdivision to read as follows:

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(3)(A) A service member commits the offense of violation of a military order of protection if:

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(i) The commanding general, a military judge, or a special courts-martial convening authority as authorized by § 12-64-406(b) issues a military order of protection against the service member;

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(ii) The service member receives actual notice or other lawful notice of the military order of protection as authorized under United States Department of Defense Instruction 6400.06, as it existed on January 1, 2017; and

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(iii) The service member knowingly violates a condition of the military order of protection.

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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.

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 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)(1) A law enforcement officer may arrest and take into custody  
 10 without a warrant ~~any a~~ a 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~~ under 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 a~~  
 19 a person ~~who~~ whom the law enforcement officer or law enforcement agency has  
 20 probable cause to believe:

21                   (A) Is subject to:

22                           (i) ~~an~~ An order of protection issued ~~pursuant to~~  
 23 under the laws or rules of another state, a federally recognized Indian  
 24 tribe, or a territory; or

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

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.

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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 64-845; and

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.

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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 From Other Jurisdictions

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