

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.

Act 682 of the Regular Session

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

As Engrossed: H3/19/07

A Bill

HOUSE BILL 2534

5 By: Representative L. Smith
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8 **For An Act To Be Entitled**

9 AN ACT TO ASSIST RESIDENTIAL TENANTS THAT ARE
10 VICTIMS OF DOMESTIC ABUSE, SEX CRIMES, OR
11 STALKING; AND FOR OTHER PURPOSES.
12

13 **Subtitle**

14 TO ASSIST RESIDENTIAL TENANTS THAT ARE
15 VICTIMS OF DOMESTIC ABUSE, SEX CRIMES,
16 OR STALKING.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code Title 18, Chapter 16, Subchapter 1 is amended
22 to add an additional section to read as follows:

23 18-16-112. Protection for victims of domestic abuse.

24 (a) As used in this section:

25 (1) "Documented incident of domestic abuse" means evidence of
26 domestic abuse contained in an order of a court of competent jurisdiction;

27 (2) "Domestic abuse" means:

28 (A) The infliction of physical injury or the creation of a
29 reasonable fear that physical injury or harm will be inflicted upon a member
30 of a household by a member or former member of the household; or

31 (B) The commission of a sex crime or act of stalking upon
32 a member of a household;

33 (3) "Domestic abuse offender" means a person identified in a
34 documented incident of domestic abuse as performing any act of domestic
35 abuse;



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2 (4) "Sex crime" includes without limitation:
3 (A) The following offenses:
4 (i) Rape, § 5-14-103;
5 (ii) Sexual indecency with a child, § 5-14-110;
6 (iii) Sexual assault in the first degree, § 5-14-
7 124;
8 (iv) Sexual assault in the second degree, § 5-14-
9 125;
10 (v) Sexual assault in the third degree, § 5-14-126;
11 (vi) Sexual assault in the fourth degree, § 5-14-
12 127;
13 (vii) Incest, § 5-26-202;
14 (viii) Engaging children in sexually explicit
15 conduct for use in visual or print medium, § 5-27-303;
16 (ix) Transportation of minors for prohibited sexual
17 conduct, § 5-27-305;
18 (x) Employing or consenting to the use of a child in
19 a sexual performance, § 5-27-402;
20 (xi) Pandering or possessing visual or print medium
21 depicting sexually explicit conduct involving a child, § 5-27-304;
22 (xii) Producing, directing, or promoting sexual
23 performance, § 5-27-403;
24 (xiii) Promoting prostitution in the first degree, §
25 5-70-104;
26 (xiv) Indecent exposure, § 5-14-112, if a felony
27 level offense;
28 (xv) Exposing another person to human
29 immunodeficiency virus when a person who has tested positive for human
30 immunodeficiency virus was ordered by the sentencing court to register as a
31 sex offender, § 5-14-123;
32 (xvi) Kidnapping pursuant to § 5-11-102(a) when the
33 victim is a minor and the offender is not the parent of the victim;
34 (xvii) False imprisonment in the first degree and
35 false imprisonment in the second degree, §§ 5-11-103 and 5-11-104, when the
36 victim is a minor and the offender is not the parent of the victim;

1 (xviii) Permitting abuse of a child pursuant to § 5-
2 27-221;

3 (xix) Computer child pornography, § 5-27-603;

4 (xx) Computer exploitation of a child in the first
5 degree, § 5-27-605(a);

6 (xxi) Permanent detention or restraint when the
7 offender is not the parent of the victim, § 5-11-106;

8 (xxii) Distributing, possessing, or viewing matter
9 depicting sexually explicit conduct involving a child, § 5-27-602;

10 (xxiii) Computer child pornography, § 5-27-603; and

11 (xxiv) Computer exploitation of a child, § 5-27-605;

12 (B) An attempt, solicitation, or conspiracy to commit any
13 offense enumerated in subdivision (a)(4)(A) of this section; and

14 (C) An adjudication of guilt for an offense of the law of
15 another state, for a federal offense, for a tribal court offense, or for a
16 military offense:

17 (i) Which is similar to any offense enumerated in
18 subdivision (a)(4)(A) of this section; or

19 (ii) When that adjudication of guilt requires
20 registration under another state's sex offender registration laws;

21 (5) "Stalking" means following or loitering near a person with
22 the purpose of annoying, harassing, or committing an assault or battery
23 against the person; and

24 (6) "Victim of domestic abuse" means a person or a member of the
25 person's household who is identified in a documented incident of domestic
26 abuse within:

27 (A) The immediately preceding sixty (60) days; or

28 (B) Sixty (60) days of the termination of a residential
29 tenancy by the person, a member of the person's household, or landlord
30 because of domestic abuse.

31 (b) If a residential tenant, an applicant for a residential tenancy,
32 or a member of the tenant or applicant's household is a victim of domestic
33 abuse as evidenced by a documented incident of domestic abuse:

34 (1) With respect to the victim of domestic abuse, a landlord
35 shall not terminate or fail to renew a residential tenancy, refuse to enter
36 into a residential tenancy, or otherwise retaliate in the leasing of a

1 residence because of the domestic abuse; and

2 (2)(A) At the residential tenant's expense and with the
3 landlord's prior consent, a landlord or a residential tenant other than a
4 domestic abuse offender may change the locks to the residential tenant's
5 residence.

6 (B) The landlord or residential tenant shall furnish the
7 other a copy of the new key to the residential tenant's residence immediately
8 after changing the locks or as soon after changing the locks as possible if
9 either the landlord or residential tenant is unavailable.

10 (c) Notwithstanding a conflicting provision in a domestic abuse
11 offender's residential tenancy agreement, if a domestic abuse offender is
12 under a court order to stay away from a co-tenant residing in the domestic
13 abuser's offender's residence or the co-tenant's residence:

14 (1) The domestic abuse offender under the court order may access
15 either residence only to the extent permitted by the court order or another
16 court order;

17 (2) A landlord may refuse access by a domestic abuse offender to
18 the residence of a victim of domestic abuse unless the domestic offender is
19 permitted access by court order; and

20 (3) A landlord may pursue all available legal remedies against
21 the domestic abuse offender including, without limitation, an action:

22 (A) To terminate the residential tenancy agreement of the
23 domestic abuse offender;

24 (B) To evict the domestic abuse offender whether or not a
25 residential tenancy agreement between the landlord and domestic abuse
26 offender exists; and

27 (C) For damages against the domestic abuse offender:

28 (i) For any unpaid rent owed by the domestic abuse
29 offender; and

30 (ii) Resulting from a documented incident of
31 domestic abuse.

32 (3) A landlord is entitled to a court order terminating the
33 residential tenancy agreement of a person or evicting a person, or both,
34 under subdivision (c)(2)(A) or (B) of this section upon proof that the person
35 is a domestic abuse offender under this section.

36 (d) A landlord is immune from civil liability if the landlord in good

1 faith:

2 (1) Changes the locks under subdivision (b)(2) of this section;

3 or

4 (2) Acts in accordance with a court order under subsection (c)
5 of this section.

6 (e) A residential tenant may not waive in a residential tenancy the
7 residential tenant's right to request law enforcement assistance or other
8 emergency assistance.

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10 /s/ L. Smith

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12 APPROVED: 3/29/2007

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