

2 State of Arkansas
3 90th General Assembly
4 Regular Session, 2015

A Bill

HOUSE BILL 1684

5
6 By: Representative C. Douglas

7 Filed with: Arkansas Legislative Council
8 pursuant to A.C.A. §10-3-217.

9 For An Act To Be Entitled

10 AN ACT TO ESTABLISH A PUBLIC DATABASE FOR PERSONS
11 CONVICTED OF A SERIOUS DOMESTIC OFFENSE; TO CREATE A
12 CRIMINAL OFFENSE FOR NONCOMPLIANCE WITH CERTAIN
13 REQUIREMENTS; AND FOR OTHER PURPOSES.

16 Subtitle

17 TO ESTABLISH A PUBLIC DATABASE FOR
18 PERSONS CONVICTED OF A SERIOUS DOMESTIC
19 OFFENSE; AND TO CREATE A CRIMINAL OFFENSE
20 FOR NONCOMPLIANCE WITH CERTAIN
21 REQUIREMENTS.

22
23
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25
26 SECTION 1. Arkansas Code Title 5, Chapter 25, Subchapter 1, is amended
27 to add a new section to read as follows:

28 5-25-102. Failure to update information in the Serious Domestic
29 Offense Public Database.

30 (a) A person commits the offense of failure to update information in
31 the Serious Domestic Offense Public Database if he or she knowingly fails to
32 update his or her address as required by § 12-12-1904(c)(1).

33 (b) Failure to update information in the Serious Domestic Offense
34 Public Database is a Class A misdemeanor.

1 SECTION 2. Arkansas Code Title 12, Chapter 12, is amended to add a new
2 subchapter to read as follows:

3
4 Subchapter 19 – Serious Domestic Offense Public Database Act

5
6 12-12-1901. Title.

7 This subchapter shall be known as the "Serious Domestic Offense Public
8 Database Act".

9
10 12-12-1902. Definitions.

11 As used in this section:

12 (1) "Cohabited" means a living arrangement in which two (2)
13 individuals who are not married to each other live together in an intimate
14 relationship on a long-term or permanent basis;

15 (2) "Court" means a sentencing district court or sentencing circuit
16 court;

17 (3) "Dating relationship" means a romantic or intimate social
18 relationship between two (2) individuals that is determined by the following
19 factors:

20 (A) The length of the relationship;

21 (B) The type of the relationship; and

22 (C) The frequency of interaction between the two (2) individuals
23 involved in the relationship;

24 (4) "Eligible offense" means:

25 (A) A serious domestic offense that is a misdemeanor; or

26 (B) A serious domestic offense that is a felony;

27 (5) "Family or household member" means:

28 (A) A spouse;

29 (B) A former spouse;

30 (C) A parent;

31 (D) A child, including any minor residing in the household;

32 (E) A person related by blood within the fourth degree of
33 consanguinity, as computed under § 28-9-212;

34 (F) A person with whom another person in the present or past has
35 resided or cohabited;

1 (G) A person with whom another person had or has a child in
2 common; or

3 (H) A person with whom another person in the present or past has
4 been in a dating relationship;

5 (6) "Intimate relationship" means a relationship that is emotional,
6 sexual, or both;

7 (7) "Minor" means any person under eighteen (18) years of age; and

8 (8) "Serious domestic offense" means one (1) of the following criminal
9 offenses:

10 (A) Capital murder, § 5-10-101, and the offender is a family or
11 household member in relation to the victim;

12 (B) Murder in the first degree, § 5-10-102, and the offender is
13 a family or household member in relation to the victim;

14 (C) Murder in the second degree, § 5-10-103, and the offender is
15 a family or household member in relation to the victim;

16 (D) Manslaughter, § 5-10-104, and the offender is a family or
17 household member in relation to the victim;

18 (E) Kidnapping, § 5-11-102, and the offender is a family or
19 household member in relation to the victim;

20 (F) False imprisonment in the first degree, § 5-11-103, and the
21 offender is a family or household member in relation to the victim;

22 (G) False imprisonment in the second degree, § 5-11-104, and the
23 offender is a family or household member in relation to the victim;

24 (H) Permanent detention or restraint, § 5-11-106, and the
25 offender is a family or household member in relation to the victim;

26 (I) Battery in the first degree, § 5-13-201, and the offender is
27 a family or household member in relation to the victim;

28 (J) Battery in the second degree, § 5-13-202, and the offender
29 is a family or household member in relation to the victim;

30 (K) Battery in the third degree, § 5-13-203, and the offender is
31 a family or household member in relation to the victim;

32 (L) Aggravated assault, § 5-13-204, and the offender is a family
33 or household member in relation to the victim;

34 (M) Assault in the first degree, § 5-13-205, and the offender is
35 a family or household member in relation to the victim;

1 (N) Terroristic threatening, § 5-13-301, and the offender is a
2 family or household member in relation to the victim;

3 (O) Terroristic act, § 5-13-310, and the offender is a family or
4 household member in relation to the victim;

5 (P) Trafficking of persons, § 5-18-103;

6 (Q) Domestic battering in the first degree, § 5-26-303;

7 (R) Domestic battering in the second degree, § 5-26-304;

8 (S) Domestic battering in the third degree, § 5-26-305;

9 (T) Aggravated assault on a family or household member, § 5-26-
10 306;

11 (U) First degree assault on a family or household member, § 5-
12 26-307;

13 (V) Endangering the welfare of an incompetent person in the
14 first degree, § 5-27-201;

15 (W) Endangering the welfare of a minor in the first degree, § 5-
16 27-205;

17 (X) Permitting abuse of a minor, § 5-27-221;

18 (Y) Promoting prostitution in the first degree, § 5-70-104, and
19 the offender is a family or household member in relation to the victim;

20 (Z) Stalking, § 5-71-229;

21 (AA) Abuse of an endangered or impaired person, § 5-28-103, if
22 the offender is a caregiver as defined under § 5-28-101; and

23 (BB) Any offense for which the offender is required to register
24 as a sex offender under the Sex Offender Registration Act of 1997, § 12-12-
25 901 et seq., and he or she is a parent, guardian, or person legally charged
26 with care or custody of the victim who was a minor at the time of the
27 offense.

28
29 12-12-1903. Database established.

30 (a) There is created the Serious Domestic Offense Public Database.

31 (b) The Arkansas Crime Information Center shall maintain the database.

32 (c) The database shall be computerized, searchable, and available on
33 the Internet and shall contain information listing persons who:

34 (1) Have been convicted on more than two (2) occasions of an
35 eligible serious domestic offense; or

1 (2) Have been convicted of a serious domestic offense and the
2 serious domestic offense:

3 (A) Was committed with the use of a deadly weapon; or

4 (B) Contained an element that was sexual in nature.

5 (d) A person listed in the database shall be cross-referenced by the
6 center for any prior convictions for a felony involving violence as that term
7 is defined under § 5-4-501(d)(2), and any felony involving violence
8 conviction shall be listed as additional information in the database.

9 (e) The information contained in the database is public information,
10 with the exception of the following:

11 (1) Information regarding a person's Social Security number,
12 driver's license number, or telephone number; and

13 (2) Information that identifies the victim of the offense for
14 which the person committing the offense is included in the database.

15 (f) To the extent the information is available, the database shall
16 contain the following with respect to a person included in the database:

17 (1) The person's full name, each alias used by the person, and
18 the person's date of birth;

19 (2) The person's last known address;

20 (3) A physical description and recent photograph of the person;

21 (4) A list of eligible offenses for which the person was
22 convicted, the date of conviction for each eligible offense, and the
23 punishment prescribed for each eligible offense;

24 (5) Whether the person was discharged, placed on probation or
25 community supervision, or released on parole or to mandatory supervision
26 following the conviction for each eligible offense; and

27 (6) A list of any other:

28 (A) Felony conviction;

29 (B) Misdemeanor conviction involving violence; or

30 (C) Misdemeanor conviction requiring registration under
31 the Sex Offender Registration Act of 1997, § 12-12-901 et seq.

32
33 12-12-1904. Inclusion in and removal from database.

34 (a)(1) A court shall make a finding after a person is convicted of a
35 serious domestic offense as to whether the person was convicted of an

1 eligible offense and shall be included in the Serious Domestic Offense Public
2 Database.

3 (2) If the court finds that the offense is an eligible offense,
4 the court shall order that the person be included in the database and shall
5 also order that the person submit himself or herself immediately to the
6 arresting law enforcement agency to provide the information required under §
7 12-12-1903(f).

8 (3) When the information required by § 12-12-1903(f) is
9 compiled, the arresting law enforcement agency shall submit the information
10 to the Arkansas Crime Information Center, along with a copy of the court
11 order that the person be included in the database.

12 (4)(A) When the information is received by the center from the
13 arresting law enforcement agency, within two (2) business days the center
14 shall include that person and his or her information in the database.

15 (B)(i) If the person is already listed in the database,
16 his or her profile shall be updated with the new information.

17 (ii) Otherwise, a new profile shall be created.

18 (b) On a biannual basis the center shall update the database by
19 searching for any subsequent criminal offenses that may have been committed
20 by a person listed in the database and that would require disclosure and
21 posting in the database under § 12-12-1903(f)(6).

22 (c)(1) A person listed in the database is required to notify the
23 center within five (5) days of establishing a new address if the person
24 changes his or her address.

25 (2) The center shall create a uniform change-of-address form and
26 shall have the form available on the database website.

27 (3) A person listed in the database who is on probation or
28 parole for the offense for which he or she is listed in the database is
29 required to update his or her address as a condition of his or her probation
30 or parole.

31 (d)(1) A person may petition the court to have himself or herself
32 removed from the database if:

33 (A) He or she is later found not guilty of the serious
34 domestic offense on appeal;

1 (B) He or she offers a good faith argument that the
2 serious domestic offense that mandates his or her inclusion in the database
3 is not an eligible offense;

4 (C) The serious domestic offense that mandates his or her
5 inclusion in the database has been sealed under the Comprehensive Criminal
6 Record Sealing Act of 2013, § 16-90-1401 et seq.; or

7 (D) He or she is included in the database because of a
8 serious domestic offense that was a misdemeanor and it has been five (5)
9 years since the date of conviction for the serious domestic offense that was
10 a misdemeanor.

11 (2)(A) The prosecuting attorney having jurisdiction shall be a
12 party to a petition under this subsection entitled to notice and shall be
13 given a chance to object to the allegations contained in the petition.

14 (B) A hearing on the petition shall be granted if the
15 prosecuting attorney requests a hearing within thirty (30) days of being
16 served with a copy of the petition.

17 (3)(A) If the court determines by clear and convincing evidence
18 that the petition has merit and the person should no longer be included in
19 the database, the court shall immediately issue an order to remove the person
20 from the database and rescind the requirement that the person continually
21 update his or her address.

22 (B) The prosecuting attorney shall be allowed to appeal
23 the ruling by the court and the person shall remain in the database until all
24 available appeals are exhausted.

25
26 12-12-1905. Immunity from civil liability.

27 (a) A public official, public employee, or public agency is immune
28 from civil liability for good faith conduct under this subchapter.

29 (b) A person or organization assisting a public official, public
30 employee, or public agency in performing official duties upon a written
31 request for assistance from a public official, public employee, or public
32 agency is immune from civil liability for good faith conduct under this
33 subchapter.

34
35 12-12-1906. Release of motor vehicle records by the Department of
36 Finance and Administration.

1 (a) The Department of Finance and Administration may release to a law
2 enforcement agency or the Arkansas Crime Information Center information
3 contained in a person's motor vehicle record if the information is required
4 to be included in the Serious Domestic Offense Public Database and the law
5 enforcement agency or the center needs the information to comply with this
6 subchapter.

7 (b) When a law enforcement agency or the center obtains information
8 from the department as provided in subsection (a) of this section, the center
9 may include the information in the database if the disclosure of the
10 information is required by this subchapter.

11 (c) This section does not authorize a law enforcement agency or the
12 center to publicly disclose the following information obtained from a motor
13 vehicle record:

14 (1) A person's Social Security number; or

15 (2) A person's medical or disability information.

16
17 12-12-1907. Rulemaking authority.

18 The Arkansas Crime Information Center may promulgate rules for the
19 administration of this subchapter.

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22 Referral requested by: Representative Charlotte V. Douglas

23 Prepared by: VJF