

State of Arkansas
76th General Assembly
Regular Session, 1987
By: Senator Jewell

SENATE BILL 431

"THE DOMESTIC ABUSE ACT OF 1987".

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

SECTION 1. This Act shall be known and may be cited as The Domestic Abuse Act of 1987.

SECTION 2. As used in this Act:

(a) "Domestic abuse" means

(1) physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault between family or household members;

(2) any sexual conduct between family or household members whether minors or adults which constitutes a crime under the laws of this State.

(b) "Family or household members" means spouses, former spouses, parents and children, persons related by blood, persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time.

SECTION 3. A petition for relief under this Act may be filed in the chancery court by any family or household member on behalf of the petitioner or on behalf of another family or household member who is a minor. A petition for relief shall allege the existence of domestic abuse and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances of the domestic abuse and the specific relief sought. The petition may be filed regardless of whether there is any pending litigation between the parties.

The clerks of the respective chancery courts shall provide simplified

forms and clerical assistance to help petitioners with the writing and filing of a petition under this Act if the petitioner is not represented by counsel.

SECTION 4. When a petition is filed pursuant to this Act, the court shall order a hearing to be held thereon not later than fourteen days from the date on which the petition is filed. Personal service shall be made upon the respondent at least three (3) days prior to the date of the hearing. If service cannot be made on the respondent, the court may set a new date for the hearing.

SECTION 5. At the hearing on the petition, the court may provide the following relief:

- (a) Restrain any party from committing acts of domestic violence.
- (b) Exclude the abusing party from the dwelling which the parties share or from the residence of the petitioner.
- (c) Award temporary custody or establish temporary visitation rights with regard to minor children of the parties.
- (d) Order temporary support for minor children and/or a spouse, with such support to be enforced in the manner prescribed by law for other child support and alimony awards.
- (e) Order counselling or other social services for the parties, if married, or if there are minor children involved.
- (f) Order the abusing party to participate in treatment or counselling services.
- (g) Order such other relief as the court deems necessary or appropriate for the protection of a family or household member.

Any relief granted by the court for protection under the provisions of this Section shall be for a fixed period of time not to exceed one (1) year.

SECTION 6. When any petition under this Act alleges an immediate and present danger of domestic abuse, the court may grant an ex parte temporary order for protection pending a full hearing, and may grant such relief as the court deems appropriate, including an order:

- (a) restraining any party from committing acts of domestic abuse;
- (b) excluding any party from the dwelling they share or from the residence of the other except by further order of the court.

An ex parte temporary order for protection shall be effective for a fixed period not to exceed fourteen (14) days. When a temporary order is issued as authorized in this Section, a full hearing as provided for in Section 3 hereof shall be set for no later than ten (10) days from the issuance of the temporary order. Upon the issuance of an ex parte temporary order a copy of the order together with a copy of the petition and notice of the date set for the full hearing provided for in Section 3 hereof shall be forthwith served on the respondent.

SECTION 7. Any order issued under the provisions of this Act shall be personally served on the respondent. When an order is issued under this Act upon request of the petitioner, the court may order the sheriff or another law enforcement officer to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence or to otherwise assist in execution or service of the order of protection.

SECTION 8. A person's right to file a petition for relief hereunder shall not be affected by his or her leaving the residence or household to avoid abuse and the court shall not require security or bond of any party unless it deems posting a bond necessary in exceptional cases. Any order of protection issued by the court pursuant to petition filed as authorized herein may be modified upon application of either party, notice to all parties, and a hearing to be conducted in the manner prescribed in Section 3 hereof.

SECTION 9. Any order for protection granted pursuant to this Act shall be forwarded by the clerk of the court within twenty-four (24) hours to the local law enforcement agency having jurisdiction of the area where the residence of the petitioner is located. Each appropriate law enforcement agency in the area shall make available to other law enforcement officers in the area information concerning the existence and status of any order for protection issued pursuant to this Act.

SECTION 10. (a) When any order for protection is issued pursuant to this Act and the respondent or person restrained is aware of the order, a violation of the order constitutes a class C misdemeanor and in addition constitutes a contempt of court subject to penalties provided therefor.

(b) A peace officer may arrest and take into custody without a warrant any person who the peace officer has probable cause to believe is subject to a restraining order issued pursuant to this Act and who the officer has reasonable cause to believe has violated the terms of the order by acts or threats of violence or any person who the officer has reasonable cause to believe has within the preceding four hours assaulted a family or household member.

(c) When a petitioner or any peace officer files an affidavit with a court which has issued an order for protection under the provisions of this Act alleging that the respondent or person restrained has violated the order, the court may issue an order to the respondent or person restrained requiring that person to appear and show cause within seven (7) days why he should not be found in contempt of court and punished therefor. Failure to appear for such hearing by a respondent shall constitute contempt of court and shall subject the person to penalties prescribed by law for that offense.

SECTION 11. The record of the testimony and other evidence provided by the parties at any hearing under the provisions of this Act shall be inadmissible in any criminal proceeding.

SECTION 12. Any proceeding under this Act shall be supplemental and in addition to any other civil or criminal remedies now or hereafter provided by law.

SECTION 13. All laws and parts of laws in conflict with this Act are hereby repealed.

