

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: S3/24/99 S4/6/99

A Bill

SENATE BILL 767

5 By: Senator Bradford
6 By: Representative Ferrell
7

For An Act To Be Entitled

10 "AN ACT TO AMEND THE DOMESTIC ABUSE ACT OF 1991 TO
11 FURTHER PROTECT VICTIMS OF DOMESTIC ABUSE."

Subtitle

14 "AN ACT TO PROTECT VICTIMS OF DOMESTIC
15 ABUSE."

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code 9-15-103(b) is amended to read as follows:

21 "(b) 'Family or household members' means spouses, former spouses,
22 parents and children, persons related by blood within the fourth degree of
23 consanguinity, any child residing in the household, and persons who are
24 presently or in the past have resided or ~~cohabitated~~ cohabited together."
25

26 SECTION 2. Arkansas Code 9-15-205 is amended to read as follows:

27 "9-15-205. Relief generally - Duration.

28 (a) At the hearing on the petition, the court may provide the following
29 relief:

30 (1) Exclude the abusing party from the dwelling which the parties
31 share or from the residence of the petitioner or victim;

32 (2) Exclude the abusing party from the place of business or
33 employment, school, or other location of the petitioner or victim;

34 (3) Award temporary custody or establish temporary visitation
35 rights with regard to minor children of the parties;

36 (4) Order temporary support for minor children or a spouse, with

1 such support to be enforced in the manner prescribed by law for other child
2 support and alimony awards;

3 (5) Allow the prevailing party a reasonable attorney's fee as
4 part of the costs; and

5 (6) Order such other relief as the court deems necessary or
6 appropriate for the protection of a family or household member. Such relief
7 may include, but not be limited to, enjoining and restraining the abusing
8 party from doing, attempting to do, or threatening to do any act injuring,
9 mistreating, molesting, or harassing the petitioner.

10 (b) Any relief granted by the court for protection under the provisions
11 of this chapter shall be for a fixed period of time not less than ninety (90)
12 days nor more than ~~one (1) year~~ two (2) years in duration, and may be renewed
13 at a subsequent hearing upon proof and a finding by the court that the threat
14 of domestic abuse still exists."

15
16 SECTION 3. Arkansas Code 9-15-206 is amended to add the following
17 subsections:

18 "(f) Incarceration or imprisonment of the abusing party shall not bar
19 the court from issuing an Order of Protection.

20 (g) A petitioner may omit his or her home or business address from all
21 documents filed with the court. If a petitioner omits his or her address, the
22 petitioner must provide the court with a mailing address. If disclosure of
23 petitioner's address is necessary to determine jurisdiction or consider venue,
24 the court may order the disclosure be made:

25 (1) After receiving the petitioner's consent; or

26 (2) Orally and in chambers, out of presence of the respondent and
27 sealed record to be made; or

28 (3) After a hearing, if the court takes into consideration the
29 safety of the petitioner and finds such disclosure in the interest of
30 justice."

31
32 SECTION 4. Arkansas Code 9-15-207 is amended to add the following
33 subsection:

34 "(d) In the final order of protection, the petitioner's home or
35 business address may specifically be excluded from notice to the respondent. A
36 court shall also order that the petitioner's copy of the order of protection

1 be excluded from any address where the respondent happens to reside.

2 (e) When a law enforcement officer has probable cause to believe that a
3 respondent has violated an order of protection, and has been presented
4 verification of the existence of the order, the officer may, without a
5 warrant, arrest the apparent violator whether the violation was in or outside
6 the presence of the officer, if the order was obtained according to this act
7 and with the Rules of Criminal Procedure."

8
9 SECTION 5. Arkansas Code 9-15-208 is amended to read as follows:

10 "9-15-208. Law enforcement assistance.

11 When an order is issued under this chapter, upon request of the
12 petitioner the court may order a law enforcement officer with jurisdiction to
13 accompany the petitioner and assist in placing the petitioner in possession of
14 the dwelling or residence or to otherwise assist in execution or service of
15 the order of protection. The court may also order a law enforcement officer to
16 assist petitioner in returning to the residence and getting personal effects."

17
18 SECTION 6. Title 9, Chapter 15, Subchapter 2 of the Arkansas Code is
19 amended to add the following section to be appropriately numbered by the
20 Arkansas Code Revision Commission:

21 "All law enforcement officers shall follow the same procedures as
22 outlined in Arkansas Code 16-90-1107."

23
24 SECTION 7. Title 9, Chapter 15, Subchapter 2 of the Arkansas Code is
25 amended to add the following section to be appropriately numbered by the
26 Arkansas Code Revision Commission:

27 "Denial of Relief Prohibited.

28 The court shall not deny a petitioner relief solely because the act of
29 domestic or family violence and the filing of the petition did not occur
30 within 120 days."

31
32 SECTION 8. Title 9, Chapter 15, Subchapter 2 of the Arkansas Code is
33 amended to add the following section to be appropriately numbered by the
34 Arkansas Code Revision Commission:

35 "Factors in determining custody and visitation.

36 In addition to other factors that a court shall consider in a proceeding

1 in which the temporary custody of a child or temporary visitation by a parent
2 is at issue and in which the court has made a finding of domestic or family
3 violence:

4 (a) The court shall consider as primary the safety and well-being of
5 the child and of the parent who is the plaintiff of domestic or family
6 violence.

7 (b) The court shall consider the defendant's history of causing
8 physical harm, bodily injury, assault, or causing reasonable fear of physical
9 harm, bodily injury, or assault to another person. If a parent is absent or
10 relocates because of an act of domestic or family violence by the other
11 parent, the absence or relocation is not a factor that weighs against the
12 parent in determining custody or visitation."

13
14 SECTION 9. All provisions of this act of a general and permanent nature
15 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
16 Revision Commission shall incorporate the same in the Code.

17
18 SECTION 10. If any provision of this act or the application thereof to
19 any person or circumstance is held invalid, such invalidity shall not affect
20 other provisions or applications of the act which can be given effect without
21 the invalid provision or application, and to this end the provisions of this
22 act are declared to be severable.

23
24 SECTION 11. All laws and parts of laws in conflict with this act are
25 hereby repealed.

26 */s/ Bradford*