

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.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

A Bill

HOUSE BILL 1075

5 By: Representative Thyer
6
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For An Act To Be Entitled

9 AN ACT TO ESTABLISH AN ADDITIONAL AFFIRMATIVE
10 DEFENSE TO THE OFFENSE OF VIOLATION OF AN ORDER
11 OF PROTECTION; AND FOR OTHER PURPOSES.
12

Subtitle

13 AN ACT TO ESTABLISH AN ADDITIONAL
14 AFFIRMATIVE DEFENSE TO THE OFFENSE OF
15 VIOLATION OF AN ORDER OF PROTECTION.
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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 § 5-53-134 is amended to read as follows:
22 5-53-134. Violation of an order of protection.

23 (a)(1) A person commits the offense of violation of an order of
24 protection if:

25 (A) A circuit court or other court with competent
26 jurisdiction has issued a temporary order of protection or an order of
27 protection against him or her pursuant to the Domestic Abuse Act of 1991, §
28 9-15-101 et seq.;

29 (B) He or she has received actual notice or notice
30 pursuant to the Arkansas Rules of Civil Procedure of a temporary order of
31 protection or an order of protection pursuant to the Domestic Abuse Act of
32 1991, § 9-15-101 et seq.; and

33 (C) He or she knowingly violates a condition of an order
34 of protection issued pursuant to the Domestic Abuse Act of 1991, § 9-15-101
35 et seq.

36 (2) A person commits the offense of violation of an out-of-state



1 order of protection if:

2 (A) The court of another state, a federally recognized
3 Indian tribe, or a territory with jurisdiction over the parties and matters
4 has issued a temporary order of protection or an order of protection against
5 him or her pursuant to the laws or rules of the state, federally recognized
6 Indian tribe, or territory;

7 (B) He or she has received actual notice or other lawful
8 notice of a temporary order of protection or an order of protection pursuant
9 to the laws or rules of the other state, the federally recognized Indian
10 tribe, or the territory;

11 (C) He or she knowingly violates a condition of an order
12 of protection issued pursuant to the laws or rules of the other state, the
13 federally recognized Indian tribe, or the territory; and

14 (D) The requirements of § 9-15-302 concerning the full
15 faith and credit for an out-of-state order of protection have been met.

16 (b) Violation of an order of protection under this section is a Class
17 A misdemeanor.

18 (c)(1) A law enforcement officer may arrest and take into custody
19 without a warrant any person who the law enforcement officer has probable
20 cause to believe:

21 (A) Is subject to an order of protection issued pursuant
22 to the laws of this state; and

23 (B) Has violated the terms of the order, even if the
24 violation did not take place in the presence of the law enforcement officer.

25 (2) Under § 9-15-302, a law enforcement officer or agency may
26 arrest and take into custody without a warrant any person who the law
27 enforcement officer or agency has probable cause to believe:

28 ~~(i)~~ (A) Is subject to an order of protection issued
29 pursuant to the laws or rules of another state, a federally recognized Indian
30 tribe, or a territory; and

31 ~~(ii)~~ (B) Has violated the terms of the out-of-state order
32 of protection, even if the violation did not take place in the presence of
33 the law enforcement officer.

34 (d) It shall be an affirmative defense to a prosecution under this
35 section that:

36 (1) ~~the~~ The parties have reconciled prior to the violation of

1 the order,; or

2 (2) The person for whose benefit the order of protection was
3 issued initiated the contact with the person subject to the order.

4 (e) Any law enforcement officer acting in good faith and exercising
5 due care in making an arrest for domestic abuse in an effort to comply with
6 this subchapter shall have immunity from civil or criminal liability.

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