

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

*As Engrossed: H1/28/05*

# A Bill

HOUSE BILL 1075

5 By: Representative Thyer  
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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 (3) Each discrete, non-continuous violation of an order of  
17 protection may be a separate offense.

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

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

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

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

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

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

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

36 (d) *It shall be an affirmative defense to a prosecution for each*

1 violation under this section that:

2 (1) ~~the~~ The parties have reconciled prior to the violation of  
3 the order; or

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

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

9 (f) The establishment of an affirmative defense under subsection (d)  
10 of this section shall not affect the validity or enforceability of the  
11 underlying order of protection.

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13 /s/ Thyer  
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