

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 87th General Assembly  
3 Regular Session, 2009  
4

# A Bill

HOUSE BILL 1414

5 By: Representatives D. Creekmore, Garner  
6  
7

## For An Act To Be Entitled

8 AN ACT TO AMEND VARIOUS SECTIONS OF THE DOMESTIC  
9 ABUSE ACT OF 1991; AND FOR OTHER PURPOSES.  
10

### Subtitle

11 TO AMEND VARIOUS SECTIONS OF THE  
12 DOMESTIC ABUSE ACT OF 1991.  
13  
14  
15  
16

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

19 SECTION 1. Arkansas Code § 9-15-103 is amended to read as follows:  
20 9-15-103. Definitions.

21 As used in this chapter:

22 (1) "County where the petitioner resides" means the county in which  
23 the petitioner physically resides at the time the petition is filed and may  
24 include a county where the petitioner is located for a short-term stay in a  
25 domestic violence shelter;

26 (2) "Court" means:

27 (A) A circuit court;

28 (B) A pilot district court; or

29 (C) Other court with lawful jurisdiction;

30 ~~(2)~~(3)(A) "Dating relationship" means a romantic or intimate social  
31 relationship between two (2) individuals that shall be determined by  
32 examining the following factors:

33 (i) The length of the relationship;

34 (ii) The type of the relationship; and

35 (iii) The frequency of interaction between the two (2)

36 individuals involved in the relationship.



1 (B) "Dating relationship" shall not include a casual  
 2 relationship or ordinary fraternization between two (2) individuals in a  
 3 business or social context;

4 ~~(3)~~(4) "Domestic abuse" means:

5 (A) Physical harm, bodily injury, assault, or the infliction of  
 6 fear of imminent physical harm, bodily injury, or assault between family or  
 7 household members; or

8 (B) Any sexual conduct between family or household members,  
 9 whether minors or adults, that constitutes a crime under the laws of this  
 10 state; and

11 ~~(4)~~(5) "Family or household members" means spouses, former spouses,  
 12 parents and children, persons related by blood within the fourth degree of  
 13 consanguinity, any children residing in the household, persons who presently  
 14 or in the past have resided or cohabited together, persons who have or have  
 15 had a child in common, and persons who are presently or in the past have been  
 16 in a dating relationship together.

17  
 18 SECTION 2. Arkansas Code § 9-15-203, concerning the petition for an  
 19 order of protection, is amended to add an additional subsection to read as  
 20 follows:

21 (c)(1)(A) A petitioner may omit his or her home address or business  
 22 address from all documents filed with the court.

23 (B) If a petitioner omits his or her home address, the  
 24 petitioner shall provide the court with a mailing address.

25 (2) If disclosure of a petitioner's home address is necessary to  
 26 determine jurisdiction or consider venue, the court may order the disclosure  
 27 of the petitioner's home address:

28 (A) After receiving the petitioner's consent;

29 (B) Orally and in chambers, out of the presence of the  
 30 respondent, and a sealed record to be made; or

31 (C) After a hearing, if the court takes into consideration  
 32 the safety of the petitioner and finds the disclosure in the interest of  
 33 justice.

34  
 35 SECTION 3. NOT TO BE CODIFIED. The Arkansas Code Revision Commission  
 36 shall redesignate the existing subsection (c) in § 9-15-203 as subsection (d)

1 in § 9-15-203.

2

3 SECTION 4. Arkansas Code § 9-15-204 is amended to read as follows:

4 9-15-204. Hearing – Service.

5 (a)(1) When a petition is filed pursuant to this chapter, the ~~circuit~~  
6 court shall order a hearing on the order of protection to be held ~~thereon~~ on  
7 the order of protection not later than thirty (30) days from the date on  
8 which the petition is filed or at the next court date, whichever is later.

9 (2) The hearing described in subdivision (a)(1) of this section  
10 may be held notwithstanding the denial of a request for issuance of an ex  
11 parte temporary order of protection under this chapter.

12 (b)(1) Service of a copy of the petition, the ex parte temporary order  
13 of protection, if issued, and notice of the date and place set for the  
14 hearing described in subdivision (a)(1) of this section shall be made upon  
15 the respondent;

16 (A) ~~at~~ At least five (5) days ~~prior to~~ before the date of  
17 the hearing; and

18 (B) In accordance with the applicable rules of service  
19 under the Arkansas Rules of Civil Procedure.

20 (2) If service cannot be made on the respondent, the court may  
21 set a new date for the hearing.

22 (c) ~~Nothing in this~~ This section ~~shall~~ does not preclude the court  
23 from setting an earlier hearing.

24

25 SECTION 5. Arkansas Code § 9-15-205 is amended to read as follows:

26 9-15-205. Relief generally – Duration.

27 (a) At the hearing on the petition filed under this chapter, ~~the~~  
28 ~~circuit~~ upon a finding of domestic abuse as defined in § 9-15-103, the court  
29 may provide the following relief:

30 (1) Exclude the abusing party from the dwelling which the  
31 parties 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)(A) Award temporary custody or establish temporary visitation  
35 rights with regard to minor children of the parties;.

36 (B)(i) If there is a previous child-custody determination

1 with regard to the minor children of the parties an order issued by a court  
2 of this state under subdivision (a)(3)(A) of this section shall specify a  
3 period of time that the court considers adequate to allow the person seeking  
4 an order to obtain an order from the court having continuing jurisdiction  
5 over the issue of child custody of the minor children of the parties.

6 (ii) An order issued under subdivision (a)(3)(A) of  
7 this section shall remain in effect until an order is obtained from the court  
8 having continuing jurisdiction over the issue of child custody of the minor  
9 children of the parties within the period of time specified or when the  
10 period of time expires;

11 (4) Order temporary support for minor children or a spouse, with  
12 such support to be enforced in the manner prescribed by law for other child  
13 support and alimony awards;

14 (5) Allow the prevailing party a reasonable attorney's fee as  
15 part of the costs;

16 (6) Prohibit the abusing party directly or through an agent from  
17 contacting the petitioner or victim except under specific conditions named in  
18 the order; and

19 (7)(A) Order such other relief as the ~~ircuit~~ court deems  
20 necessary or appropriate for the protection of a family or household member.

21 (B) The relief may include, but not be limited to,  
22 enjoining and restraining the abusing party from doing, attempting to do, or  
23 threatening to do any act injuring, mistreating, molesting, or harassing the  
24 petitioner.

25 (b) Any relief granted by the ~~ircuit~~ court for protection under the  
26 provisions of this chapter shall be for a fixed period of time not less than  
27 ninety (90) days nor more than ten (10) years in duration, in the discretion  
28 of the ~~ircuit~~ court, and may be renewed at a subsequent hearing upon proof  
29 and a finding by the ~~ircuit~~ court that the threat of domestic abuse still  
30 exists.

31  
32 SECTION 6. Arkansas Code § 9-15-206 is amended to read as follows:  
33 9-15-206. Temporary order.

34 ~~(a) When any petition under this chapter alleges an immediate and~~  
35 ~~present danger of domestic abuse or that the respondent is scheduled to be~~  
36 ~~released from incarceration within thirty (30) days, and upon the~~

~~respondent's release there will be an immediate and present danger of domestic abuse, and the circuit court finds sufficient evidence to support the petition, the court shall grant a temporary order of protection pending a full hearing.~~ When a petition under this chapter alleges an immediate and present danger of domestic abuse or that the respondent is scheduled to be released from incarceration within thirty (30) days and upon the respondent's release there will be an immediate and present danger of domestic abuse, the court shall grant a temporary order of protection pending a full hearing if the court finds sufficient evidence to support the petition.

(b) An ex parte temporary order of protection may:

~~(1) include any or all~~ Include any of the orders provided ~~for~~ in ~~§§ 9-15-201 and 9-15-203~~ §§ 9-15-203 and 9-15-205; and

(2) Provide the following relief:

(A) Exclude the abusing party from the dwelling that the parties share or from the residence of the petitioner or victim;

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

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

(D) Order temporary support for minor children or a spouse, with such support to be enforced in the manner prescribed by law for other child support and alimony awards;

(E) Prohibit the abusing party directly or through an agent from contacting the petitioner or victim except under specific conditions named in the order; and

(F)(i) Order such other relief as the court considers necessary or appropriate for the protection of a family or household member.

(ii) The relief may include without limitation enjoining and restraining the abusing party from doing, attempting to do, or threatening to do an act injuring, mistreating, molesting, or harassing the petitioner.

~~(c) A temporary order of protection shall be effective for a fixed period not to exceed thirty (30) days~~ An ex parte temporary order of protection is effective until the date of the hearing described in § 9-15-204.

~~(d) When a temporary order is issued as authorized in this section, a~~

1 ~~hearing shall be set for no later than thirty (30) days from the issuance of~~  
 2 ~~the temporary order.~~

3 ~~(e) Upon the issuance of an ex parte temporary order, a copy of the~~  
 4 ~~order together with a copy of the petition, excluding, pursuant to court~~  
 5 ~~order, the address of the petitioner and notice of the date and place set for~~  
 6 ~~the full hearing shall be served in accordance with applicable rules of~~  
 7 ~~service under the Arkansas Rules of Civil Procedure.~~

8 ~~(f)(d)~~ Incarceration or imprisonment of the abusing party shall not  
 9 bar the court from issuing an ex parte temporary order of protection.

10 ~~(g)(1)(A) A petitioner may omit his or her home or business address~~  
 11 ~~from all documents filed with the court.~~

12 ~~(B) If a petitioner omits his or her address, the~~  
 13 ~~petitioner must provide the court with a mailing address.~~

14 ~~(2) If disclosure of a petitioner's address is necessary to~~  
 15 ~~determine jurisdiction or consider venue, the court may order the disclosure~~  
 16 ~~be made.~~

17 ~~(A) After receiving the petitioner's consent;~~

18 ~~(B) Orally and in chambers, out of the presence of the~~  
 19 ~~respondent, and a sealed record to be made; or~~

20 ~~(C) After a hearing, if the court takes into consideration~~  
 21 ~~the safety of the petitioner and finds such disclosure in the interest of~~  
 22 ~~justice.~~

23  
 24 SECTION 7. Arkansas Code § 9-15-207 is amended to read as follows:

25 9-15-207. Order of protection – Enforcement – Penalties – Criminal  
 26 jurisdiction.

27 (a) Any order of protection granted pursuant to this chapter shall be  
 28 enforceable by any law enforcement agency with proper jurisdiction.

29 (b) Any order of protection shall include a notice to the respondent  
 30 or party restrained that a violation of the order is a Class A misdemeanor  
 31 carrying a maximum penalty of one (1) year imprisonment in the county jail or  
 32 a fine of up to one thousand dollars (\$1,000), or both.

33 (c) Any order of protection shall include a notice to the respondent  
 34 or party restrained that it is unlawful for an individual who is subject to  
 35 an order of protection or convicted of any misdemeanor of domestic violence  
 36 to ship, transport, or possess a firearm or ammunition pursuant to 18 U.S.C.

1 § 922(g)(8) and (9) as it existed on January 1, 2007.

2 (d)(1) For respondents eighteen (18) years of age or older or  
3 emancipated minors, Jurisdiction jurisdiction for the criminal offense of  
4 violating the terms of an order of protection shall be with the circuit court  
5 or other courts having jurisdiction over criminal matters.

6 (2) For respondents older than thirteen (13) years of age but  
7 younger than eighteen (18) years of age, jurisdiction shall be with the  
8 juvenile court and that court, on adjudication, at the court's discretion,  
9 may order:

10 (A) Without limitation, the minor and his or her parents  
11 to participate in family counseling services necessary to bring about the  
12 cessation of domestic abuse; and

13 (B) The minor to perform community service.

14 (e)(1) In the final order of protection, the petitioner's home or  
15 business address may specifically be excluded from notice to the respondent.

16 (2) A court shall also order that the petitioner's copy of the  
17 order of protection be excluded from any address where the respondent happens  
18 to reside.

19 (f) When a law enforcement officer has probable cause to believe that  
20 a respondent has violated an order of protection and has been presented  
21 verification of the existence of the order, the officer may, without a  
22 warrant, arrest the apparent violator whether the violation was in or outside  
23 the presence of the officer if the order was obtained according to this  
24 chapter and with the Arkansas Rules of Criminal Procedure.

25 (g) An order of protection issued by a court of competent jurisdiction  
26 in any county of this state is enforceable in every county of this state by  
27 any court or law enforcement officer.

28  
29  
30  
31  
32  
33  
34  
35  
36