

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

As Engrossed: H3/3/09 S3/19/09

A Bill

HOUSE BILL 1414

5 By: Representatives D. Creekmore, Garner
6 By: *Senator H. Wilkins*
7

For An Act To Be Entitled

10 AN ACT TO AMEND VARIOUS SECTIONS OF THE DOMESTIC
11 ABUSE ACT OF 1991; AND FOR OTHER PURPOSES.
12

Subtitle

14 TO AMEND VARIOUS SECTIONS OF THE
15 DOMESTIC ABUSE ACT OF 1991.
16
17

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

20 SECTION 1. Arkansas Code § 9-15-103 is amended to read as follows:
21 9-15-103. Definitions.

22 As used in this chapter:

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

27 (2)(A) "Dating relationship" means a romantic or intimate social
28 relationship between two (2) individuals that shall be determined by
29 examining the following factors:

30 (i) The length of the relationship;

31 (ii) The type of the relationship; and

32 (iii) The frequency of interaction between the two (2)
33 individuals involved in the relationship.

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



1 (3) "Domestic abuse" means:

2 (A) Physical harm, bodily injury, assault, or the infliction of
3 fear of imminent physical harm, bodily injury, or assault between family or
4 household members; or

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

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

14
15 *SECTION 2. Arkansas Code § 9-15-201(c), concerning requirements to*
16 *petition for an order of protection, is amended to read as follows:*

17 *(c)(1) A petition for relief under this chapter ~~shall~~ may be filed in*
18 *the circuit court.*

19 *(2) A petition for relief under this chapter may be filed in a*
20 *pilot district court if the jurisdiction is established by the Supreme Court*
21 *under Amendment 80, Section 7 of the Arkansas Constitution and if the cases*
22 *are assigned to the pilot district court through the Court Administrative*
23 *Plan under the Arkansas Supreme Court Administrative Order No. 14.*

24
25 *SECTION 3. Arkansas Code § 9-15-203, concerning the petition for an*
26 *order of protection, is amended to add an additional subsection to read as*
27 *follows:*

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

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

32 *(2) If disclosure of a petitioner's home address is necessary to*
33 *determine jurisdiction or consider venue, the court may order the disclosure*
34 *of the petitioner's home address:*

35 *(A) After receiving the petitioner's consent;*

36 *(B) Orally and in chambers, out of the presence of the*

1 respondent, and a sealed record to be made; or

2 (C) After a hearing, if the court takes into consideration
3 the safety of the petitioner and finds the disclosure in the interest of
4 justice.

5
6 SECTION 4. NOT TO BE CODIFIED. The Arkansas Code Revision Commission
7 shall redesignate the existing subsection (c) in § 9-15-203 as subsection (d)
8 in § 9-15-203.

9
10 SECTION 5. Arkansas Code § 9-15-204 is amended to read as follows:
11 9-15-204. Hearing – Service.

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

16 *(2) A denial of an ex parte temporary order of relief does not*
17 *deny the petitioner the right to a full hearing on the merits.*

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

22 *(A) at ~~At~~ least five (5) days ~~prior to~~ before the date of*
23 *the hearing;* and

24 *(B) In accordance with the applicable rules of service*
25 *under the Arkansas Rules of Civil Procedure.*

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

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

30
31 SECTION 6. Arkansas Code § 9-15-205 is amended to read as follows:
32 9-15-205. Relief generally – Duration.

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

36 *(1) Exclude the abusing party from the dwelling which the*

1 parties share or from the residence of the petitioner or victim;

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

4 (3)(A) Award temporary custody or establish temporary visitation
5 rights with regard to minor children of the parties+.

6 (B)(i) If a previous child custody or visitation
7 determination has been made by another court with continuing jurisdiction
8 with regard to the minor children of the parties, a temporary child custody
9 or visitation determination may be made under subdivision (a)(3)(A) of this
10 section.

11 (ii) The order shall remain in effect until the
12 court with original jurisdiction enters a subsequent order regarding the
13 children.

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

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

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

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

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

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

34
35 SECTION 7. Arkansas Code § 9-15-206 is amended to read as follows:
36 9-15-206. Temporary order.

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

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

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

16 (2) Provide the following relief:

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

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

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

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

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

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

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

35 (c) ~~A temporary order of protection shall be effective for a fixed~~
36 ~~period not to exceed thirty (30) days~~ An ex parte temporary order of

1 protection is effective until the date of the hearing described in § 9-15-
2 204.

3 ~~(d) When a temporary order is issued as authorized in this section, a~~
4 ~~hearing shall be set for no later than thirty (30) days from the issuance of~~
5 ~~the temporary order.~~

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

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

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

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

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

20 ~~(A) After receiving the petitioner's consent,~~

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

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

26
27 SECTION 8. Arkansas Code § 9-15-207 is amended to read as follows:

28 9-15-207. Order of protection – Enforcement – Penalties – Criminal
29 jurisdiction.

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

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

36 (c) Any order of protection shall include a notice to the respondent

1 or party restrained that it is unlawful for an individual who is subject to
2 an order of protection or convicted of any misdemeanor of domestic violence
3 to ship, transport, or possess a firearm or ammunition pursuant to 18 U.S.C.
4 § 922(g)(8) and (9) as it existed on January 1, 2007.

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

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

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

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

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

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24 /s/ D. Creekmore
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