

State of Arkansas
91st General Assembly
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As Engrossed: H1/17/17 H2/27/17

A Bill

HOUSE BILL 1059

By: Representatives House, *Burch*

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING THE OFFENSE OF VIOLATION OF AN ORDER OF PROTECTION; TO CRIMINALIZE THE VIOLATION OF A MILITARY ORDER OF PROTECTION; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING THE OFFENSE OF VIOLATION OF AN ORDER OF PROTECTION; AND TO CRIMINALIZE THE VIOLATION OF A MILITARY ORDER OF PROTECTION.

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

SECTION 1. Arkansas Code § 5-53-134(a), concerning the violation of an order of protection, is amended to add an additional subdivision to read as follows:

(3)(A) A service member commits the offense of violation of a military order of protection if:

(i) The commanding general, a military judge, or a special courts-martial convening authority as authorized by § 12-64-406(b) issues a military order of protection against the service member;

(ii) The service member receives actual notice or other lawful notice of the military order of protection as authorized under United States Department of Defense Instruction 6400.06, as it existed on January 1, 2017; and

(iii) The service member knowingly violates a condition of the military order of protection.



(B) A prosecution against a service member for the offense of violation of a military order of protection does not prohibit the commanding general or military commander who issued the military order of protection from pursuing appropriate disciplinary action against the service member under the Military Code of Arkansas.

SECTION 2. Arkansas Code § 5-53-134(c), concerning the violation of an order of protection, is amended to read as follows:

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

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

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

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

(A) Is subject to:

(i) an An order of protection issued ~~pursuant to~~ under the laws or rules of another state, a federally recognized Indian tribe, or a territory; or

(ii) A military order of protection; and

(B) Has violated the terms of the ~~out-of-state~~ order of protection issued under the laws or rules of the other state, federally recognized Indian tribe, or territory, or the military order of protection, even if the violation did not take place in the presence of the law enforcement officer.

(3)(A) If a service member is in the custody of a law enforcement agency as authorized in subdivision (c)(2) of this section, the law enforcement agency shall notify the office of the Adjutant General of the Arkansas National Guard within twenty-four (24) hours from the time the service member was placed in the custody of the law enforcement agency.

(B)(i) The Arkansas National Guard shall take custody of

the service member within forty-eight (48) hours from the time the service member was placed in the custody of the law enforcement agency.

(ii) However, if the Arkansas National Guard does not take custody of the service member as required by subdivision (c)(3)(B)(i) of this section, the law enforcement agency shall release the service member.

SECTION 3. Arkansas Code § 5-53-134, concerning a violation of an order of protection, is amended to add an additional subsection to read as follows:

(f) As used in this section:

(1) "Military order of protection" means an official command directed at a service member for the purpose of preventing violent and threatening acts against a person who:

(A) Is the current or former spouse of the service member;

(B) Is or was a child, step-child, parent, step-parent, sibling, guardian, or ward of the service member;

(C) Is residing or cohabitating or in the past has resided or cohabitated with the service member;

(D) Has or had a child in common with the service member;

(E) Is or has been in a dating relationship with the service member as defined by § 9-15-103;

(F) Has had an intimate sexual relationship with the service member; or

(G) Has made allegations against the service member of violations of the punitive article of sexual misconduct as defined by § 12-64-845; and

(2) "Service member" means a person serving in:

(A) Any branch or reserve component of the United States Armed Forces; or

(B) The National Guard of any state.

SECTION 4. The title of Arkansas Code Title 9, Chapter 15, Subchapter 3 is amended to read as follows:

Subchapter 3 – ~~Out-of-State~~ Orders of Protection From Other Jurisdictions

SECTION 5. Arkansas Code § 9-15-302(a), concerning full faith and credit by Arkansas courts of an order of protection, is amended to read as follows:

~~(a) Any order of protection that meets the requirements of subsection (b) or subsection (c) of this section issued by a court of another state, a federally recognized Indian tribe, or a territory shall be afforded full faith and credit by the courts of this state and shall be enforced by law enforcement as if it were issued in this state.~~

An order of protection shall be afforded full faith and credit by the courts of this state and shall be enforced by law enforcement as if it were issued in this state if the order of protection:

(1) Meets the requirements of subsection (b) or subsection (c) of this section and is issued by a court of another state, a federally recognized Indian tribe, or a territory; or

(2) Is a military order of protection as defined under § 5-53-134(f)(1).

SECTION 6. Arkansas Code § 9-15-303 is amended to read as follows:
9-15-303. Immunity from liability.

(a) Law enforcement officers and law enforcement agencies shall be immune from civil or criminal liability if acting in good faith in an effort to comply with this subchapter.

(b) A military order of protection as defined under § 5-53-134(f)(1) shall be enforced by law enforcement of this state according to the provisions of § 9-15-101 et seq.

/s/House

APPROVED: 03/16/2017