

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: H3/28/13

A Bill

HOUSE BILL 1448

By: Representative Fite

For An Act To Be Entitled

AN ACT TO PROVIDE FOR *EXTENDED POST-CONVICTION NO CONTACT ORDERS* UPON A CONVICTION FOR CERTAIN CRIMINAL OFFENSES; AND FOR OTHER PURPOSES.

Subtitle

TO PROVIDE FOR EXTENDED POST-CONVICTION NO CONTACT ORDERS UPON A CONVICTION FOR CERTAIN CRIMINAL OFFENSES.

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

SECTION 1. Arkansas Code Title 5, Chapter 4, Subchapter 1, is amended to add a new section to read as follows:

5-4-106. Extended post-conviction no contact order.

(a) As used in this section:

(1) "Extended post-conviction no contact order" means an order issued by a court to a defendant after a conviction for an offense listed in subsection (b) of this section that contains terms as described in subsection (d) of this section; and

(2) "Victim" means:

(A) A person against whom an offense listed in subsection (b) of this section was committed; or

(B) A family member of a person against whom capital murder, §§ 5-10-101, murder in the first degree, § 5-10-102, or murder in the second degree, § 5-10-103, was committed.

(b) At the request of the prosecuting attorney, a court shall determine whether to issue an extended post-conviction no contact order to a person



convicted of one (1) or more of the following offenses:

- (1) Capital murder, § 5-10-101, or attempted capital murder;
- (2) Murder in the first degree, § 5-10-102, or attempted murder in the first degree;
- (3) Murder in the second degree, § 5-10-103, or attempted murder in the second degree;
- (4) Kidnapping, § 5-11-102;
- (5) Battery in the first degree, § 5-13-201;
- (6) Battery in the second degree, § 5-13-202;
- (7) Rape, § 5-14-103;
- (8) Sexual assault in the first degree, § 5-14-124;
- (9) Domestic battering in the first degree, § 5-26-303; or
- (10) Domestic battering in the second degree, § 5-26-304.

(c)(1) If a request is made under subsection (b) of this section, the court shall order the defendant to show cause why an extended post-conviction no contact order shall not be issued and shall hold a show cause hearing at the sentencing of the defendant.

(2) A victim has the right to be heard at the show cause hearing.

(d) If the court determines after the show cause hearing under subsection (c) of this section that the defendant should be subject to an extended post-conviction no contact order, the court shall:

(1) Enter written findings of fact and the grounds on which the extended post-conviction no contact order is issued;

(2) Determine the time period the extended post-conviction no contact order is effective, up to the life of the defendant, and include the time period in the extended post-conviction no contact order;

(3) Determine the terms described in subsection (e) of this section to be included in the extended post-conviction no contact order and include the terms in the extended post-conviction no contact order;

(4) Issue the extended post-conviction no contact order in a separate document from the judgment imposing the sentence on the defendant; and

(5) Provide a copy of the extended post-conviction no contact order to the defendant.

(e) The court may include one (1) or more of the following terms in

the extended post-conviction no contact order:

(1) Order the defendant not to threaten, visit, assault, molest, or otherwise interfere with the victim;

(2) Order the defendant not to follow the victim, including at the victim's workplace;

(3) Order the defendant not to harass the victim;

(4) Order the defendant not to abuse or injure the victim;

(5) Order the defendant not to contact the victim by telephone, written communication, or electronic means; or

(6) Order the defendant to refrain from entering or remaining present at the victim's residence, school, place of employment, or other specified place at times when the victim is present.

(f)(1) An extended post-conviction no contact order entered under this section shall be enforced by a law enforcement agency without further order by the court.

(2) A law enforcement officer shall arrest and take a person into custody, with or without a warrant or other process, if the law enforcement officer has probable cause to believe that the person knowingly violated an extended post-conviction no contact order.

(g) Upon petition by either the prosecuting attorney or the person subject to the extended post-conviction no contact order, an extended post-conviction no contact order may be modified or terminated by the court if circumstances change that substantially alter:

(1) A term or condition of the extended post-conviction no contact order; or

(2) The reason for the issuance of the extended post-conviction no contact order.

(h) A person who knowingly violates an extended post-conviction no contact order upon conviction is guilty of a Class A misdemeanor.

/s/Fite