

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

State of Arkansas  
90th General Assembly  
Regular Session, 2015

# A Bill

HOUSE BILL 1684

By: Representative C. Douglas

## For An Act To Be Entitled

AN ACT TO ESTABLISH A PUBLIC DATABASE FOR PERSONS CONVICTED OF A SERIOUS DOMESTIC OFFENSE; TO CREATE A CRIMINAL OFFENSE FOR NONCOMPLIANCE WITH CERTAIN REQUIREMENTS; AND FOR OTHER PURPOSES.

## Subtitle

TO ESTABLISH A PUBLIC DATABASE FOR PERSONS CONVICTED OF A SERIOUS DOMESTIC OFFENSE; AND TO CREATE A CRIMINAL OFFENSE FOR NONCOMPLIANCE WITH CERTAIN REQUIREMENTS.

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

SECTION 1. Arkansas Code Title 5, Chapter 25, Subchapter 1, is amended to add a new section to read as follows:

5-25-102. Failure to update information in the Serious Domestic Offense Public Database.

(a) A person commits the offense of failure to update information in the Serious Domestic Offense Public Database if he or she knowingly fails to update his or her address as required by § 12-12-1904(c)(1).

(b) Failure to update information in the Serious Domestic Offense Public Database is a Class A misdemeanor.

SECTION 2. Arkansas Code Title 12, Chapter 12, is amended to add a new subchapter to read as follows:



Subchapter 19 – Serious Domestic Offense Public Database Act12-12-1901. Title.

This subchapter shall be known as the "Serious Domestic Offense Public Database Act".

12-12-1902. Definitions.As used in this section:

(1) "Cohabited" means a living arrangement in which two (2) individuals who are not married to each other live together in an intimate relationship on a long-term or permanent basis;

(2) "Court" means a sentencing district court or sentencing circuit court;

(3) "Dating relationship" means a romantic or intimate social relationship between two (2) individuals that is determined by the following factors:

(A) The length of the relationship;

(B) The type of the relationship; and

(C) The frequency of interaction between the two (2) individuals involved in the relationship;

(4) "Eligible offense" means:

(A) A serious domestic offense that is a misdemeanor; or

(B) A serious domestic offense that is a felony;

(5) "Family or household member" means:

(A) A spouse;

(B) A former spouse;

(C) A parent;

(D) A child, including any minor residing in the household;

(E) A person related by blood within the fourth degree of consanguinity, as computed under § 28-9-212;

(F) A person with whom another person in the present or past has resided or cohabited;

(G) A person with whom another person had or has a child in common; or

(H) A person with whom another person in the present or past has been in a dating relationship;

(6) "Intimate relationship" means a relationship that is emotional, sexual, or both;

(7) "Minor" means any person under eighteen (18) years of age; and

(8) "Serious domestic offense" means one (1) of the following criminal offenses:

(A) Capital murder, § 5-10-101, and the offender is a family or household member in relation to the victim;

(B) Murder in the first degree, § 5-10-102, and the offender is a family or household member in relation to the victim;

(C) Murder in the second degree, § 5-10-103, and the offender is a family or household member in relation to the victim;

(D) Manslaughter, § 5-10-104, and the offender is a family or household member in relation to the victim;

(E) Kidnapping, § 5-11-102, and the offender is a family or household member in relation to the victim;

(F) False imprisonment in the first degree, § 5-11-103, and the offender is a family or household member in relation to the victim;

(G) False imprisonment in the second degree, § 5-11-104, and the offender is a family or household member in relation to the victim;

(H) Permanent detention or restraint, § 5-11-106, and the offender is a family or household member in relation to the victim;

(I) Battery in the first degree, § 5-13-201, and the offender is a family or household member in relation to the victim;

(J) Battery in the second degree, § 5-13-202, and the offender is a family or household member in relation to the victim;

(K) Battery in the third degree, § 5-13-203, and the offender is a family or household member in relation to the victim;

(L) Aggravated assault, § 5-13-204, and the offender is a family or household member in relation to the victim;

(M) Assault in the first degree, § 5-13-205, and the offender is a family or household member in relation to the victim;

(N) Terroristic threatening, § 5-13-301, and the offender is a family or household member in relation to the victim;

(O) Terroristic act, § 5-13-310, and the offender is a family or household member in relation to the victim;

(P) Trafficking of persons, § 5-18-103;

- (Q) Domestic battering in the first degree, § 5-26-303;  
(R) Domestic battering in the second degree, § 5-26-304;  
(S) Domestic battering in the third degree, § 5-26-305;  
(T) Aggravated assault on a family or household member, § 5-26-306;  
(U) First degree assault on a family or household member, § 5-26-307;  
(V) Endangering the welfare of an incompetent person in the first degree, § 5-27-201;  
(W) Endangering the welfare of a minor in the first degree, § 5-27-205;  
(X) Permitting abuse of a minor, § 5-27-221;  
(Y) Promoting prostitution in the first degree, § 5-70-104, and the offender is a family or household member in relation to the victim;  
(Z) Stalking, § 5-71-229;  
(AA) Abuse of an endangered or impaired person, § 5-28-103, if the offender is a caregiver as defined under § 5-28-101; and  
(BB) Any offense for which the offender is required to register as a sex offender under the Sex Offender Registration Act of 1997, § 12-12-901 et seq., and he or she is a parent, guardian, or person legally charged with care or custody of the victim who was a minor at the time of the offense.

12-12-1903. Database established.

- (a) There is created the Serious Domestic Offense Public Database.  
(b) The Arkansas Crime Information Center shall maintain the database.  
(c) The database shall be computerized, searchable, and available on the Internet and shall contain information listing persons who:
- (1) Have been convicted on more than two (2) occasions of an eligible serious domestic offense; or  
(2) Have been convicted of a serious domestic offense and the serious domestic offense:
- (A) Was committed with the use of a deadly weapon; or  
(B) Contained an element that was sexual in nature.
- (d) A person listed in the database shall be cross-referenced by the center for any prior convictions for a felony involving violence as that term

is defined under § 5-4-501(d)(2), and any felony involving violence conviction shall be listed as additional information in the database.

(e) The information contained in the database is public information, with the exception of the following:

(1) Information regarding a person's Social Security number, driver's license number, or telephone number; and

(2) Information that identifies the victim of the offense for which the person committing the offense is included in the database.

(f) To the extent the information is available, the database shall contain the following with respect to a person included in the database:

(1) The person's full name, each alias used by the person, and the person's date of birth;

(2) The person's last known address;

(3) A physical description and recent photograph of the person;

(4) A list of eligible offenses for which the person was convicted, the date of conviction for each eligible offense, and the punishment prescribed for each eligible offense;

(5) Whether the person was discharged, placed on probation or community supervision, or released on parole or to mandatory supervision following the conviction for each eligible offense; and

(6) A list of any other:

(A) Felony conviction;

(B) Misdemeanor conviction involving violence; or

(C) Misdemeanor conviction requiring registration under the Sex Offender Registration Act of 1997, § 12-12-901 et seq.

12-12-1904. Inclusion in and removal from database.

(a)(1) A court shall make a finding after a person is convicted of a serious domestic offense as to whether the person was convicted of an eligible offense and shall be included in the Serious Domestic Offense Public Database.

(2) If the court finds that the offense is an eligible offense, the court shall order that the person be included in the database and shall also order that the person submit himself or herself immediately to the arresting law enforcement agency to provide the information required under § 12-12-1903(f).

(3) When the information required by § 12-12-1903(f) is compiled, the arresting law enforcement agency shall submit the information to the Arkansas Crime Information Center, along with a copy of the court order that the person be included in the database.

(4)(A) When the information is received by the center from the arresting law enforcement agency, within two (2) business days the center shall include that person and his or her information in the database.

(B)(i) If the person is already listed in the database, his or her profile shall be updated with the new information.

(ii) Otherwise, a new profile shall be created.

(b) On a biannual basis the center shall update the database by searching for any subsequent criminal offenses that may have been committed by a person listed in the database and that would require disclosure and posting in the database under § 12-12-1903(f)(6).

(c)(1) A person listed in the database is required to notify the center within five (5) days of establishing a new address if the person changes his or her address.

(2) The center shall create a uniform change-of-address form and shall have the form available on the database website.

(3) A person listed in the database who is on probation or parole for the offense for which he or she is listed in the database is required to update his or her address as a condition of his or her probation or parole.

(d)(1) A person may petition the court to have himself or herself removed from the database if:

(A) He or she is later found not guilty of the serious domestic offense on appeal;

(B) He or she offers a good faith argument that the serious domestic offense that mandates his or her inclusion in the database is not an eligible offense;

(C) The serious domestic offense that mandates his or her inclusion in the database has been sealed under the Comprehensive Criminal Record Sealing Act of 2013, § 16-90-1401 et seq.; or

(D) He or she is included in the database because of a serious domestic offense that was a misdemeanor and it has been five (5) years since the date of conviction for the serious domestic offense that was

a misdemeanor.

(2)(A) The prosecuting attorney having jurisdiction shall be a party to a petition under this subsection entitled to notice and shall be given a chance to object to the allegations contained in the petition.

(B) A hearing on the petition shall be granted if the prosecuting attorney requests a hearing within thirty (30) days of being served with a copy of the petition.

(3)(A) If the court determines by clear and convincing evidence that the petition has merit and the person should no longer be included in the database, the court shall immediately issue an order to remove the person from the database and rescind the requirement that the person continually update his or her address.

(B) The prosecuting attorney shall be allowed to appeal the ruling by the court and the person shall remain in the database until all available appeals are exhausted.

12-12-1905. Immunity from civil liability.

(a) A public official, public employee, or public agency is immune from civil liability for good faith conduct under this subchapter.

(b) A person or organization assisting a public official, public employee, or public agency in performing official duties upon a written request for assistance from a public official, public employee, or public agency is immune from civil liability for good faith conduct under this subchapter.

12-12-1906. Release of motor vehicle records by the Department of Finance and Administration.

(a) The Department of Finance and Administration may release to a law enforcement agency or the Arkansas Crime Information Center information contained in a person's motor vehicle record if the information is required to be included in the Serious Domestic Offense Public Database and the law enforcement agency or the center needs the information to comply with this subchapter.

(b) When a law enforcement agency or the center obtains information from the department as provided in subsection (a) of this section, the center may include the information in the database if the disclosure of the

information is required by this subchapter.

(c) This section does not authorize a law enforcement agency or the center to publicly disclose the following information obtained from a motor vehicle record:

- (1) A person's Social Security number; or
- (2) A person's medical or disability information.

12-12-1907. Rulemaking authority.

The Arkansas Crime Information Center may promulgate rules for the administration of this subchapter.