

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

State of Arkansas *As Engrossed: H3/11/19 H3/12/19 H3/18/19*
92nd General Assembly **A Bill**
Regular Session, 2019

HOUSE BILL 1655

By: Representatives Clowney, Tosh

By: *Senator Bond*

For An Act To Be Entitled

AN ACT TO PROTECT VICTIMS OF DOMESTIC ABUSE;
PROHIBITING A PERSON CONVICTED OF MISDEMEANOR
DOMESTIC BATTERING FROM POSSESSING A FIREARM; TO
INFORM THE PERSON OF THE PROHIBITION AGAINST
POSSESSING A FIREARM; AND FOR OTHER PURPOSES.

Subtitle

TO PROTECT VICTIMS OF DOMESTIC ABUSE.

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

SECTION 1. Arkansas Code § 5-26-313 is amended to read as follows:

5-26-313. Notice.

(a) A person who is convicted of ~~any~~ a misdemeanor ~~of~~ offense involving domestic violence shall be notified by the court that it is unlawful for the person to ship, transport, or possess a firearm or ammunition pursuant to under 18 U.S.C. § 922(g)(8) and (9), as they existed on January 1, ~~2007~~ 2019, and under § 5-73-103.

(b)(1) Upon entering a conviction for a misdemeanor offense involving domestic violence, the court shall indicate on the record of the conviction that the conviction prohibits the person from possessing a firearm and shall cause a copy of the record to be transmitted to the Arkansas Crime Information Center.

(2) After receiving the copy of the conviction under subdivision (b)(1) of this section, the center shall determine if the conviction is eligible for entry into the National Instant Criminal Background Check System



and, if the conviction is eligible for entry, enter the conviction into the National Instant Criminal Background Check System.

SECTION 2. Arkansas Code § 5-73-101, concerning definitions used in conjunction with criminal offenses involving weapons, is amended to add an additional subdivision to read as follows:

(12) "Misdemeanor offense involving domestic violence" means a misdemeanor crime of domestic violence, as defined in 18 U.S.C. § 921(a)(33), as it existed on January 1, 2019.

SECTION 3. Arkansas Code § 5-73-103(a), concerning persons who are prohibited from possessing a firearm, is amended to read as follows:

(a) Except as provided in subsection (d) of this section or unless authorized by and subject to such conditions as prescribed by the Governor, or his or her designee, or the United States Bureau of Alcohol, Tobacco, Firearms, and Explosives, or other bureau or office designated by the United States Department of Justice, ~~no~~ a person shall not possess or own any firearm who has been:

- (1) Convicted of:
 - (A) a A felony; or
 - (B) A misdemeanor offense involving domestic violence;
- (2) Adjudicated mentally ill; or
- (3) Committed involuntarily to any mental institution.

SECTION 4. Arkansas Code § 5-73-103, concerning the offense of possession of a firearm by certain persons, is amended to add additional subsections to read as follows:

(e) For the purposes of this section, a person is not considered to have been convicted of a misdemeanor offense involving domestic violence unless:

- (1) The person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and
- (2) In the case of a prosecution for a misdemeanor offense involving domestic violence for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either:
 - (A) The case was tried by a jury; or

(B) The person knowingly and intelligently waived the right to have the case tried by a jury.

(f) A person convicted of a misdemeanor offense of domestic violence is not considered to have been convicted of a misdemeanor offense of domestic violence for purposes of this section if the conviction has been sealed, or if the conviction is for a misdemeanor offense of domestic violence for which the person has been pardoned or has had his or her firearm rights restored under this section, unless the sealing, pardon, or restoration of firearm rights expressly provides that the person may not ship, transport, possess, or receive firearms.

/s/Clowney