

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

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

HOUSE BILL 1613

By: Representative Underwood

By: Senator G. Stubblefield

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING THE DOMESTIC ABUSE ACT OF 1991; TO AMEND THE DEFINITIONS UNDER THE DOMESTIC ABUSE ACT; TO AMEND THE REQUIREMENTS FOR OBTAINING AN ORDER OF PROTECTION; TO AMEND THE LAW CONCERNING RELIEF THAT MAY BE GRANTED IN AN ORDER OF PROTECTION; TO ALLOW FOR REMOTE APPEARANCES AND EXPEDITED HEARINGS IN CERTAIN CIRCUMSTANCES WITHIN AN ORDER OF PROTECTION CASE; TO AMEND THE DUTIES OF A SHERIFF'S OFFICE WITH REGARD TO AN ORDER OF PROTECTION CASE; TO ALLOW FOR THE CREATION OF A DOMESTIC VIOLENCE INTERVENTION PROGRAM; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE DOMESTIC ABUSE ACT OF 1991;
TO ALLOW FOR REMOTE APPEARANCES AND
EXPEDITED HEARINGS IN CERTAIN
CIRCUMSTANCES IN AN ORDER OF PROTECTION
CASE; AND TO CREATE A DOMESTIC VIOLENCE
INTERVENTION PROGRAM.

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

SECTION 1. Arkansas Code § 9-15-103(4), concerning the definition of "domestic abuse" under the Domestic Abuse Act of 1991, is amended to read as follows:



(4) "Domestic abuse" or "domestic violence" means:

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

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

(C)(i) A pattern of behavior that in purpose or effect unreasonably interferes with the free will and personal liberty of a person, also known as "course of control" as used in this chapter.

(ii) "Course of control" includes without limitation, unreasonably:

(a) Isolating a person from his or her friends, relatives, or other sources of support;

(b) Depriving a person of basic necessities;

(c) Controlling, regulating, or monitoring a person's movements, communications, daily behavior, finances, economic resources, or access to resources; or

(d) Compelling a person by intimidation, force, threat of force, or threat based on actual or suspected immigration status to engage in conduct from which the person has a right to abstain or to abstain from conduct in which the person has a right to engage; or

(D)(i) A pattern of behavior that unreasonably destroys the mental or emotional calm of a family or household member based on the totality of the circumstances, also known as "disturbing the peace" as used in this chapter.

(ii) "Disturbing the peace" includes without limitation:

(a) Molesting the other party;

(b) Attacking the other party;

(c) Striking the other party;

(d) Stalking the other party;

(e) Threatening the other party;

(f) Sexually assaulting the other party;

(g) Battering the other party;

(h) Credibly impersonating the other party;

- (i) Falsely impersonating the other party;
- (j) Harassing the other party;
- (k) Telephoning the other party with the intent to harass the other party;
- (l) Destroying the personal property of the other party;
- (m) Directly or indirectly contacting the other party with the intent to harass the other party;
- (n) Coming within a specified distance of the other party;
- (o) Disturbing the peace of the other party;
- (p) Disturbing the peace of a family member or household member of the other party; or
- (q) Any other act that the court determines should be enjoined.

SECTION 2. Arkansas Code § 9-15-201 is amended to read as follows:

9-15-201. Petition – Requirements generally.

(a) All petitions under this chapter shall be verified.

(b) The petition shall be filed with the circuit clerk in the county where the petitioner resides, where the alleged incident of abuse occurred, or where the respondent may be served.

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

~~(2) A petition for relief under this chapter may be filed in a pilot district court if the jurisdiction is established by the Supreme Court under Arkansas Constitution, Amendment 80, § 7, and if the cases are assigned to the pilot district court through the administrative plan under Supreme Court Administrative Order No. 14.~~

~~(d)~~(c) A petition may be filed by:

(1) Any adult family or household member on behalf of himself or herself;

(2) Any adult family or household member on behalf of another family or household member who is a minor, including a married minor;

(3) Any adult family or household member on behalf of another family or household member who has been adjudicated an incompetent; or

(4) An employee or volunteer of a ~~domestic violence~~ domestic violence shelter or program on behalf of a minor, including a married minor.

~~(e)~~(d)(1) A petition for relief shall:

(A) Allege the existence of domestic abuse;

(B) Disclose the existence of any pending litigation between the parties; and

(C) Disclose any prior filings of a petition for an order of protection under this chapter.

(2) The petition shall be accompanied by an affidavit made under oath that states the specific facts and circumstances of the domestic abuse and the specific relief sought.

~~(f)~~(e) The petition may be filed regardless of whether there is any pending litigation between the parties.

~~(g)~~(f) A person's right to file a petition, or obtain relief hereunder shall not be affected by his or her leaving the residence or household to avoid abuse.

SECTION 3. Arkansas Code § 9-15-203 is amended to read as follows:
9-15-203. Petition – Form.

(a) The circuit clerk shall provide simplified forms and clerical assistance to help petitioners with the writing and filing of a petition under this chapter if the petitioner is not represented by counsel.

(b) The circuit clerk shall provide an informational pamphlet developed by the Arkansas Coalition Against Domestic Violence, in consultation with experts on domestic abuse prevention and intervention, that provides information regarding resources available to victims of domestic abuse.

(c) The petition form shall not require or suggest that a petitioner include his or her Social Security number or the Social Security number of the respondent in the petition.

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

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

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

of the petitioner's home address:

(A) After receiving the petitioner's consent;

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

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

~~(d)~~(e) The petition may be in substantially the following form:

"Petition for Order of Protection

Case No. _____

Petitioner's home address:

Petitioner

Petitioner's work address:

Date of Birth

vs.

Respondent's home address:

Respondent

Respondent's work address:

Date of Birth,
if known

_____ I am the petitioner and _____ at least 18 years of age _____ under 18 but emancipated.

_____ I am filing on behalf of myself.

_____ I am filing on behalf of a family or household member who is:

_____ a minor(s): (list) _____

_____ an adjudicated incompetent person: (list) _____

_____ The respondent is _____ at least 18 years of age _____ under 18 but emancipated.

_____ I am an employee or volunteer of a domestic violence shelter or program, and I am filing on behalf of a minor.

The respondent and petitioner (or victim if filing on behalf of a minor or

incarceration within thirty (30) days and upon the respondent's release there will be an immediate and present danger of domestic abuse to me.

The reasons are as follows: (describe)

_____ Petitioner requests that the court issue an ex parte order of protection with the following provisions: (check all that apply)

_____ Excluding the respondent from a shared residence or from the residence of the petitioner or victim. Address of residence:

_____ Excluding the respondent from the place of business, employment, school, or other location of the petitioner or victim. Address of residence:

_____ Excluding the respondent from the place of business, employment, school, or other location of the petitioner or victim. Address of:

Place of business: _____

Employment: _____

School: _____

Other (identify): _____

Prohibiting the respondent, directly or through an agent, from contacting the petitioner or victim, except under the following conditions:

_____ Awarding temporary custody of minor children as follows:

Child's Name and Name of Person to Receive Custody

_____ Requiring the respondent to pay child support in the amount of \$_____ per child per month

_____ Requiring the respondent to pay spousal support in the amount of

\$_____ per month

_____ Excluding the petitioner's address from notice to the respondent

_____ It is further requested that upon hearing, the court issue a full order of protection with the following provisions: (check all that apply)

_____ Excluding the respondent from the shared residence or from the residence of the petitioner or victim. Address of the residence: _____

_____ Excluding the respondent from the place of business, employment, school, or other location of the petitioner or victim. Address of:

Place of business: _____

Employment: _____

School: _____

Other (identify): _____

_____ Awarding temporary custody of minor children as follows:

Child's Name and Name of Person to Receive Custody

_____ Requiring the respondent to pay child support in the amount of \$_____ per child per month

_____ Requiring the respondent to pay spousal support in the amount of \$_____ per month

_____ Requiring the respondent to pay filing fees, service fees, court costs and petitioner's attorney fees.

_____ I am involved in pending litigation with the respondent in the case of:

Case No.: _____

Circuit or District Judge: _____

County or City: _____

_____ I have previously filed a petition for an order of protection against the respondent in the following case or cases:

Case No.: _____

Circuit Judge: _____

County: _____

The petitioner under oath states that the facts stated in the above petition are true according to the petitioner's best knowledge and belief.

Date

Petitioner's signature

STATE OF ARKANSAS

COUNTY OF _____

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public

My Commission Expires:
_____".

SECTION 4. Arkansas Code § 9-15-205 is amended to read as follows:
9-15-205. Relief generally – Duration.

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

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

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

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

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

(ii) The order shall remain in effect until the court with original jurisdiction enters a subsequent order regarding the

children;

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

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

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

(7)(A) Direct the exclusive care, possession, custody, or control of any pet owned, possessed, leased, kept, or held by: ~~either party residing in the household; and~~

(i) The petitioner;

(ii) The respondent; or

(iii) A minor residing in the residence or household of either the petitioner or the respondent; and

(B) Order the respondent to refrain from:

(i) Coming into contact with a pet under subdivision (7)(A) of this section; and

(ii) Taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of a pet under subdivision (7)(A) of this section;

(8) Order the respondent to refrain from:

(A) Taking any action that could result in the termination of any necessary utility services or other necessary services related to the family dwelling or the dwelling of the applicant;

(B) Taking any action that could result in the cancellation, change of coverage, or change of beneficiary of any health, automobile, or homeowners insurance policy to the detriment of the petitioner or the dependent child or children in common of the petitioner and respondent; and

(C) Transferring, encumbering, concealing, or disposing of specified property owned or leased by the petitioner;

(9) Provide the petitioner with temporary possession of one (1) or more of the following that belongs in whole or in part to the petitioner or temporary, rightful possession of which should be with the petitioner:

- (A) An automobile;
- (B) A debit card;
- (C) A credit card;
- (D) A checkbook;
- (E) Documentation:
 - (i) Related to financial accounts;
 - (ii) Of health, automobile, or homeowners insurance;

and

- (iii) For purposes of proving identity;
- (F) A key; and
- (G) Other necessary specified personal effects;
- (10) Order the respondent to complete a domestic violence intervention program under § 9-15-223; and

~~(8)~~(11)(A) Order other relief as the court deems necessary or appropriate for the protection of a family or household member.

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

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

(c) A request for relief or relief that is granted under this section shall not preclude the imposition of criminal sanctions or a party from seeking any other civil relief.

SECTION 5. Arkansas Code § 9-15-219 is repealed.

~~9-15-219. Order of protection—Course of control—Definitions.~~

~~(a) As used in this section:~~

~~(1)(A) “Course of control” means a pattern of behavior that in purpose or effect unreasonably interferes with the free will and personal liberty of a person.~~

~~(B) “Course of control” includes without limitation the following:~~

~~(i) Unreasonably isolating a person from his or her friends, relatives, or other sources of support;~~

~~(ii) Unreasonably depriving a person of basic necessities;~~

~~(iii) Unreasonably controlling, regulating, or monitoring a person's movements, communications, daily behavior, finances, economic resources, or access to resources; and~~

~~(iv) Unreasonably compelling a person by intimidation, force, threat of force, or threat based on actual or suspected immigration status to engage in conduct from which the person has a right to abstain or to abstain from conduct in which the person has a right to engage; and~~

~~(2)(A) "Disturbing the peace" means a pattern of behavior that unreasonably destroys the mental or emotional calm of a family or household member based on the totality of the circumstances.~~

~~(B) "Disturbing the peace" includes without limitation course of control.~~

~~(b) A court may enter an ex parte order enjoining a party from engaging in course of control or disturbing the peace, including without limitation through one (1) or more of the following acts:~~

~~(1) Molesting the other party;~~

~~(2) Attacking the other party;~~

~~(3) Striking the other party;~~

~~(4) Stalking the other party;~~

~~(5) Threatening the other party;~~

~~(6) Sexually assaulting the other party;~~

~~(7) Battering the other party;~~

~~(8) Credibly impersonating the other party;~~

~~(9) Falsely impersonating the other party;~~

~~(10) Harassing the other party;~~

~~(11) Telephoning the other party with the intent to harass the other party;~~

~~(12) Destroying the personal property of the other party;~~

~~(13) Directly or indirectly contacting the other party with the intent to harass the other party;~~

~~(14) Coming within a specified distance of the other party;~~

~~(15) Disturbing the peace of the other party;~~
~~(16) Disturbing the peace of a family member or household member of the other party; or~~
~~(17) Any other act that the court determines should be enjoined.~~

~~(c)(1) Upon a showing of good cause, an order of protection may include an order granting the petitioner the exclusive care, possession, or control of an animal owned, possessed, leased, kept, or held by:~~

~~(A) The petitioner;~~
~~(B) The respondent; or~~
~~(C) A minor residing in the residence or household of either the petitioner or respondent.~~

~~(2) The court may order the respondent to refrain from:~~

~~(A) Coming into contact with the animal; or~~
~~(B) Taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.~~

~~(d) This section does not limit any other remedy available to a petitioner by another provision of law.~~

SECTION 6. Arkansas Code Title 9, Chapter 15, Subchapter 2, is amended to add an additional section to read as follows:

9-15-220. Hearing – Remote appearance.

(a) The court may allow the testimony of a party or a child who is a subject of a proceeding under the Domestic Abuse Act of 1991 to be taken outside of the physical presence of any other party.

(b) Nothing in this section shall be construed to limit any party's right to cross-examine a witness whose testimony is taken in a room other than the courtroom at the direction of an order issued under this section.

SECTION 7. Arkansas Code Title 9, Chapter 15, Subchapter 2, is amended to add an additional section to read as follows:

9-15-221. Duties of sheriff's office.

(a) The sheriff's office in every county in the state shall designate at least one (1) officer to serve petitions, notices of hearing, ex parte orders of protection, and final orders of protection upon respondents.

(b) If the respondent is located in a county other than the county

where the petition was filed, the designated officer in the county where the respondent is located shall perform the duties included in subsection (d) of this section.

(c) The circuit clerk shall immediately provide the petition, ex parte temporary order of protection, if granted, and notice of hearing to the designated officer.

(d) The designated officer shall attempt to serve the respondent within two (2) hours of receiving the documents under this section.

(e) The county sheriff shall immediately enter or cause to be entered orders and any subsequent modifications or cancellations into the order of protection registry under § 12-12-215.

(f) If the county sheriff does not have an Arkansas Crime Information Center terminal and entries are made by another agency that does have an Arkansas Crime Information Center terminal, that agency shall make entries immediately upon receipt of information from the county sheriff.

SECTION 8. Arkansas Code Title 9, Chapter 15, Subchapter 2, is amended to add an additional section to read as follows:

9-15-222. Order of protection – Violation – Expedited hearing.

(a) An expedited hearing shall be scheduled when a motion for contempt is filed alleging that an order of protection has been violated.

(b) Requesting relief under this section shall not preclude a party from seeking any other civil or criminal relief.

SECTION 9. Arkansas Code Title 9, Chapter 15, Subchapter 2, is amended to add an additional section to read as follows:

9-15-223. Legislative intent – Domestic violence intervention program – Definition.

(a) The General Assembly finds that:

(1) The purpose of a domestic violence intervention program or a batterer intervention program is to:

(A) Hold batterers accountable;

(B) Promote safety for victims of domestic abuse; and

(C) Interrupt, avoid, and end domestic abuse; and

(2) Participants in a domestic violence intervention program may need additional services for mental health, drug and alcohol treatment,

parenting education, or other relevant issues.

(b) As used in this section, "domestic violence intervention program" or "batterer intervention program" means a certified intervention program that serves to provide classes to individuals who commit acts of domestic abuse and that offers nonviolent strategies and reinforces values that promote respect and equality in an intimate partner relationship.

(c) The Arkansas Coalition Against Domestic Violence shall be responsible for the certification of a domestic violence intervention program or batterer intervention program.

(d) A certified intervention program shall operate within a framework of the following fundamental tenets:

(1) Battering is a pattern of behavior and not a singular event;

(2) Battering is not:

(A) An addiction or disease; or

(B)(i) Caused by alcohol or substance abuse.

(ii) However, because alcohol and substance abuse can be aggravating factors of domestic abuse, alcohol and substance abuse within the context of an intimate partner relationship should be addressed;

(3) A batterer is solely responsible for his or her own actions and must be held accountable for his or her perpetration of domestic abuse;

(4)(A) An intervention program service provider may provide factual information.

(B) However, an intervention program service provider shall not participate as an advocate for a batterer in a court setting; and

(5) Family reunification services to address battering behavior:

(A) Are not appropriate as the primary means of intervention; and

(B) Should not be used in the beginning stages of the intervention program or while domestic abuse is still occurring.