

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999

# A Bill

HOUSE BILL 1121

4  
5 By: Representative Wilkins  
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## For An Act To Be Entitled

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9 "AN ACT TO PROHIBIT DISCRIMINATORY PRACTICES AGAINST  
10 VICTIMS OF ABUSE REGARDING HOMEOWNER'S AND PRIVATE  
11 PASSENGER MOTOR VEHICLE INSURANCE; AND FOR OTHER  
12 PURPOSES. "  
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## Subtitle

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15 "AN ACT TO PROHIBIT DISCRIMINATORY  
16 PRACTICES AGAINST VICTIMS OF ABUSE  
17 REGARDING HOMEOWNER'S AND PRIVATE  
18 PASSENGER MOTOR VEHICLE INSURANCE. "  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. A person or entity engaged in the business of issuing  
24 homeowner's or motor vehicle insurance in this state shall not:

25 (1) Deny, refuse to issue, refuse to renew, refuse to reissue, cancel  
26 or otherwise terminate a homeowner's or private passenger motor vehicle  
27 insurance policy or restrict coverage on any individual solely because that  
28 individual or a member of that individual's family or household is, has been  
29 or may be the subject of abuse or seeks, has sought or should have sought,  
30 medical or psychological treatment for abuse, protection from abuse or shelter  
31 from abuse;

32 (2) Add any surcharge or rating factor to a premium of a homeowner's  
33 insurance policy solely because of a history of, status as, or potential to be  
34 a subject of abuse of the applicant or insured or of a member of the family or  
35 household of the insured;

36 (3) Deny coverage for property damage claims or medical payment

1 coverage for an insured, if such coverage is available and purchased under the  
 2 policy, as a result of abuse, even if such losses are caused by the  
 3 intentional act, the fraudulent or criminal act or the failure to act of a co-  
 4 insured and would otherwise have come under a policy's intentional act,  
 5 criminal act, family, household or similar exclusion, unless:

6 (A) The claim or coverage is ordinarily denied in the same manner  
 7 to an insured or claimant who is not a victim of abuse;

8 (B) There is collusion or fraudulent acts by the party seeking  
 9 the insurance coverage or benefits; or

10 (C) The innocent co-insured refuses to cooperate with any law  
 11 enforcement investigation, the results of which would be made available to the  
 12 insurer to verify that the claim for loss resulted from a co-insured's  
 13 wrongful act or omission; or

14 (4) Ask an insured or an applicant for homeowner's or private passenger  
 15 motor vehicle insurance whether that individual is, has been or may be the  
 16 subject of abuse or seeks, has sought or should have sought medical or  
 17 psychological treatment specifically for abuse, protection from abuse or  
 18 shelter from abuse.

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 20 SECTION 2. Nothing in this act shall be construed to prohibit a person  
 21 from:

22 (1) Declining to issue an insurance policy insuring the life of an  
 23 individual who is or has been the subject of abuse if the perpetrator of the  
 24 abuse is the applicant or would be the owner of the insurance policy.

25 (2) Underwriting or rating a risk on the basis of a preexisting  
 26 physical or mental condition, even if such condition had been caused by abuse,  
 27 provided that the person routinely underwrites or rates such condition in the  
 28 same manner with respect to an insured, or an applicant who is not a victim of  
 29 abuse;

30 (3) Denying, refusing to issue, renew or reissue, canceling or  
 31 otherwise terminating an insurance policy based on any existing insurance  
 32 statute, provided that the insurer routinely underwrites individuals in the  
 33 same manner without regard to the individual's abuse status, abuse history or  
 34 abuse-related claim history and that any such action does not have the purpose  
 35 or effect of treating abuse status as an underwriting criterion, is not based  
 36 on any actual or perceived correlation between a type of claim or other

1 underwriting information and abuse and is otherwise permissible by law; or  
2 (4) Rating or surcharging a policy in accordance with any existing  
3 insurance statute provided that the insurer routinely rates or surcharges  
4 individuals in the same manner without regard to the individual's abuse  
5 status, abuse history or abuse-related claims history, and any such action  
6 does not have the purpose or effect of treating abuse status as an  
7 underwriting criterion, is not based on any actual or perceived correlation  
8 between a type of claim or other underwriting information and abuse and is  
9 otherwise permissible by law.

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11 SECTION 3. No person shall refuse to insure, refuse to continue to  
12 insure, limit the amount, extent or kind of coverage available to an  
13 individual, or charge a different rate for the same coverage solely because of  
14 a physical or mental condition, except where the refusal, limitation or rate  
15 differential is based on sound actuarial principles. The fact that an  
16 individual is, has been or may be the subject of abuse may not be considered a  
17 physical or mental condition. Such underwriting or rating shall not be used  
18 to evade the intent of this law or any other provision of law.

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20 SECTION 4. The innocent co-insured shall, at a minimum, be entitled to  
21 recover a pro-rata share of the loss of real or personal property and the  
22 entire amount of additional living expenses, as the policy may so provide.  
23 Nothing in this act shall be construed to prohibit a person from refusing to  
24 defend or indemnify the perpetrator of the wrongful act or omission against  
25 any claim for liability arising from such individual's wrongful act or  
26 omission. The insurer shall retain the right to subrogate against the  
27 wrongdoer for any losses incurred by the injured party, including a wrongdoer  
28 who was a co-insured with the victim.

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30 SECTION 5. A person shall not be held civilly or criminally liable for  
31 any cause of action which may be brought because of compliance with this act.

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33 SECTION 6. All provisions of this act of a general and permanent nature  
34 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
35 Revision Commission shall incorporate the same in the Code.

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1           SECTION 7 If any provision of this act or the application thereof to  
2 any person or circumstance is held invalid, such invalidity shall not affect  
3 other provisions or applications of the act which can be given effect without  
4 the invalid provision or application, and to this end the provisions of this  
5 act are declared to be severable.

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7           SECTION 8. All laws and parts of laws in conflict with this act are  
8 hereby repealed.

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