

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

HOUSE BILL 1613

5 By: Representative Underwood
6 By: Senator G. Stubblefield
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING THE DOMESTIC ABUSE
10 ACT OF 1991; TO AMEND THE DEFINITIONS UNDER THE
11 DOMESTIC ABUSE ACT; TO AMEND THE REQUIREMENTS FOR
12 OBTAINING AN ORDER OF PROTECTION; TO AMEND THE LAW
13 CONCERNING RELIEF THAT MAY BE GRANTED IN AN ORDER OF
14 PROTECTION; TO ALLOW FOR REMOTE APPEARANCES AND
15 EXPEDITED HEARINGS IN CERTAIN CIRCUMSTANCES WITHIN AN
16 ORDER OF PROTECTION CASE; TO AMEND THE DUTIES OF A
17 SHERIFF'S OFFICE WITH REGARD TO AN ORDER OF
18 PROTECTION CASE; TO ALLOW FOR THE CREATION OF A
19 DOMESTIC VIOLENCE INTERVENTION PROGRAM; AND FOR OTHER
20 PURPOSES.
21
22

Subtitle

23 TO AMEND THE DOMESTIC ABUSE ACT OF 1991;
24 TO ALLOW FOR REMOTE APPEARANCES AND
25 EXPEDITED HEARINGS IN CERTAIN
26 CIRCUMSTANCES IN AN ORDER OF PROTECTION
27 CASE; AND TO CREATE A DOMESTIC VIOLENCE
28 INTERVENTION PROGRAM.
29
30
31

32 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
33

34 SECTION 1. Arkansas Code § 9-15-103(4), concerning the definition of
35 "domestic abuse" under the Domestic Abuse Act of 1991, is amended to read as
36 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;

- 1 (i) Falsely impersonating the other party;
- 2 (j) Harassing the other party;
- 3 (k) Telephoning the other party with the
- 4 intent to harass the other party;
- 5 (l) Destroying the personal property of the
- 6 other party;
- 7 (m) Directly or indirectly contacting the
- 8 other party with the intent to harass the other party;
- 9 (n) Coming within a specified distance of the
- 10 other party;
- 11 (o) Disturbing the peace of the other party;
- 12 (p) Disturbing the peace of a family member or
- 13 household member of the other party; or
- 14 (q) Any other act that the court determines
- 15 should be enjoined.

16

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

18 9-15-201. Petition – Requirements generally.

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

20 (b) The petition shall be filed with the circuit clerk in the county

21 where the petitioner resides, where the alleged incident of abuse occurred,

22 or where the respondent may be served.

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

24 ~~circuit court.~~

25 ~~(2) A petition for relief under this chapter may be filed in a~~

26 ~~pilot district court if the jurisdiction is established by the Supreme Court~~

27 ~~under Arkansas Constitution, Amendment 80, § 7, and if the cases are assigned~~

28 ~~to the pilot district court through the administrative plan under Supreme~~

29 ~~Court Administrative Order No. 14.~~

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

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

32 herself;

33 (2) Any adult family or household member on behalf of another

34 family or household member who is a minor, including a married minor;

35 (3) Any adult family or household member on behalf of another

36 family or household member who has been adjudicated an incompetent; or

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

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

4 (A) Allege the existence of domestic abuse;

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

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

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

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

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

17
18 SECTION 3. Arkansas Code § 9-15-203 is amended to read as follows:
19 9-15-203. Petition – Form.

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

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

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

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

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

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

1 of the petitioner's home address:

2 (A) After receiving the petitioner's consent;

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

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

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

9 "Petition for Order of Protection

10 Case No. _____

11 _____
12 Petitioner's home address:

13 _____
14 _____
15 _____
16 _____
17 _____
18 _____
19 _____
20 _____
21 _____
22 _____
23 _____
24 _____
25 _____

Petitioner's work address:

Date of Birth

17 vs.

19 Respondent's home address:

20 Respondent

21 _____
22 _____
23 _____
24 _____
25 _____

Respondent's work address:

Date of Birth,
if known

26 _____ I am the petitioner and _____ at least 18 years of age _____ under
27 18 but emancipated.

28 _____ I am filing on behalf of myself.

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

30 _____ a minor(s): (list) _____

31 _____ an adjudicated incompetent person: (list) _____

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

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

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

1 incompetent person): (check all that apply)

- 2 Are spouses; Are related by blood;
- 3 Are parent and child; Currently reside together
- 4 or cohabit
- 5 Are former spouses; Formerly resided together or
- 6 cohabitated;
- 7 Have or have had a child in common;
- 8 or Are presently or in the past
- 9 have been in a dating relationship.

10 If order of protection of children is requested:

11 Children	Date of Birth	Address	Relationship to Parties
12			
13			
14			
15			

16 The respondent has committed domestic abuse to the petitioner or victim by
17 the following acts: (describe)

18 _____

19 _____

20 _____

21 _____

22 _____

23 _____

24 _____

25 _____

26 _____

27 I am afraid of the respondent and: (describe)

28 _____

29 _____

30 _____

31 _____

32 _____

33 _____

34 _____ (1) There is an immediate and present danger of domestic abuse
35 to me; or

36 _____ (2) The respondent is scheduled to be released from

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

3 The reasons are as follows: (describe)

4 _____
5 _____
6 _____
7 _____
8 _____

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

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

13 _____

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

16 _____

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

19 Place of business: _____

20 Employment: _____

21 School: _____

22 Other (identify): _____

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

25 _____
26 _____
27 _____

28 _____ Awarding temporary custody of minor children as follows:

29 Child's Name and Name of Person to Receive Custody

30 _____
31 _____
32 _____
33 _____

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

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

1 \$_____ per month

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

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

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

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

10 Place of business: _____

11 Employment: _____

12 School: _____

13 Other (identify): _____

14 _____ Awarding temporary custody of minor children as follows:

15 Child's Name and Name of Person to Receive Custody

16 _____

17 _____

18 _____

19 _____

20 _____

21 _____ Requiring the respondent to pay child support in the amount of

22 \$_____ per child per month

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

24 \$_____ per month

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

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

29 Case No.: _____

30 Circuit or District Judge: _____

31 County or City: _____

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

34 Case No.: _____

35 Circuit Judge: _____

36 County: _____

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

3 _____

4 Date

5
6 _____

7 Petitioner's signature

8
9 STATE OF ARKANSAS

10 COUNTY OF _____

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

13
14 _____

15 Notary Public

16 My Commission Expires:
17 _____".

18
19 SECTION 4. Arkansas Code § 9-15-205 is amended to read as follows:
20 9-15-205. Relief generally – Duration.

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

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

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

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

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

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

1 children;

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

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

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

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

13 (i) The petitioner;

14 (ii) The respondent; or

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

17 (B) Order the respondent to refrain from:

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

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

23 (8) Order the respondent to refrain from:

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

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

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

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

- 1 (A) An automobile;
- 2 (B) A debit card;
- 3 (C) A credit card;
- 4 (D) A checkbook;
- 5 (E) Documentation:
 - 6 (i) Related to financial accounts;
 - 7 (ii) Of health, automobile, or homeowners insurance;
 - 8 and
 - 9 (iii) For purposes of proving identity;
 - 10 (F) A key; and
 - 11 (G) Other necessary specified personal effects;
 - 12 (10) Order the respondent to complete a domestic violence
 - 13 intervention program under § 9-15-223; and

14 ~~(8)(11)~~(A) Order other relief as the court deems necessary or
 15 appropriate for the protection of a family or household member.

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

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

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

28
 29 SECTION 5. Arkansas Code § 9-15-219 is repealed.

30 ~~9-15-219. Order of protection—Course of control—Definitions.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 ~~(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

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

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

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

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

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

16
 17 SECTION 8. Arkansas Code Title 9, Chapter 15, Subchapter 2, is amended
 18 to add an additional section to read as follows:

19 9-15-222. Order of protection – Violation – Expedited hearing.

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

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

24
 25 SECTION 9. Arkansas Code Title 9, Chapter 15, Subchapter 2, is amended
 26 to add an additional section to read as follows:

27 9-15-223. Legislative intent – Domestic violence intervention program
 28 – Definition.

29 (a) The General Assembly finds that:

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

32 (A) Hold batterers accountable;

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

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

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

1 parenting education, or other relevant issues.

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

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

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

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

13 (2) Battering is not:

14 (A) An addiction or disease; or

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

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

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

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

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

25 (5) Family reunification services to address battering behavior:

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

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

30
31
32
33
34
35
36