

ARKANSAS

§ 5-53-134. Violation of a protection order.

- (a) A person commits the offense of violation of an order of protection if:
 - (1) A chancery court or other court with competent jurisdiction has issued a temporary order of protection or an order of protection against him pursuant to the Domestic Abuse Act of 1991, § 9-15-101 et seq.; and
 - (2) He has received actual notice or notice pursuant to the Arkansas Rules of Civil Procedure of a temporary order of protection or an order of protection pursuant to the Domestic Abuse Act of 1991, § 9-15-101 et seq.; and
 - (3) He knowingly violates a condition of an order of protection issued pursuant to the Domestic Abuse Act of 1991, § 9-15-101 et seq.
- (b) Violation of an order of protection is a Class A misdemeanor.
- (c) A law enforcement officer may arrest and take into custody without a warrant any person who the law enforcement officer has probable cause to believe is subject to an order of protection issued pursuant to the laws of this state and who the officer has probable cause to believe has violated the terms of the order, even if the violation did not take place in the presence of the law enforcement officer.
- (d) It shall be an affirmative defense to a prosecution under this section that the parties have reconciled prior to the violation of the order.
- (e) Any law enforcement officer acting in good faith and exercising due care in making an arrest for domestic abuse shall have immunity from civil liability.

§ 5-71-208. Harassment.

- (a) A person commits the offense of harassment if, with purpose to harass, annoy, or alarm another person, without good cause, he:
 - (1) Strikes, shoves, kicks, or otherwise touches a person, subjects him to offensive physical contact or attempts or threatens to do so; or
 - (2) In a public place, directs obscene language or makes an obscene gesture to or at another person in a manner likely to provoke a violent or disorderly response; or
 - (3) Follows a person in or about a public place; or
 - (4) In a public place repeatedly insults, taunts, or challenges another in a manner likely to provoke a violent or disorderly response; or
 - (5) Engages in conduct or repeatedly commits acts that alarm or seriously annoy another person and that serve no legitimate purpose; or

(6) Places the person under surveillance by remaining present outside his or her school, place of employment, vehicle, other place occupied by the person, or residence, other than the residence of the defendant, for no purpose other than to harass, alarm, or annoy.

(b) Harassment is a Class A misdemeanor.

(c) It is an affirmative defense to prosecution under this section whenever the actor is a law enforcement officer, licensed private investigator, attorney, process server, licensed bail bondsman, or a store detective acting within the reasonable scope of his duty while conducting surveillance on an official work assignment.

(d)(1) A judicial officer, upon pretrial release of the defendant, shall enter a no contact order in writing consistent with Rules 9.3 and 9.4 of the Arkansas Rules of Criminal Procedure and shall give notice to the defendant of penalties contained in Rule 9.5 of the Arkansas Rules of Criminal Procedure.

(2) This no contact order shall remain in effect during the pendency of any appeal of a conviction under this section.

(3) The judicial officer or prosecuting attorney shall provide a copy of this no contact order to the victim and arresting agency without unnecessary delay.

(e) If the judicial officer has reason to believe that mental disease or defect of the defendant will or has become an issue in the cause, the judicial officer shall enter such orders as are consistent with § 5-2-305.

§ 5-71-209. Harassing communications.

(a) A person commits the offense of harassing communications if, with the purpose to harass, annoy, or alarm another person, he:

(1) Communicates with a person, anonymously or otherwise, by telephone, telegraph, mail, or any other form of written communication, in a manner likely to harass, annoy, or cause alarm; or

(2) Makes a telephone call or causes a telephone to ring repeatedly, with no purpose of legitimate communication, regardless of whether a conversation ensues; or

(3) Knowingly permits any telephone under his control to be used for any purpose prohibited by this section.

(b) Offenses involving use of telephones may be prosecuted in the county in which the defendant was located when he used a telephone, or in the county in which the telephone made to ring by the defendant was located.

(c) Harassing communications is a Class A misdemeanor.

(d)(1) A judicial officer, upon the pretrial release of the defendant, shall enter a no contact order in writing consistent with Rules 9.3 and 9.4 of the Arkansas Rules of Criminal Procedure

and shall give notice to the defendant of penalties contained in Rule 9.5 of the Arkansas Rules of Criminal Procedure.

(2) This no contact order shall remain in effect during the pendency of any appeal of a conviction under this section.

(3) The judicial officer or prosecuting attorney shall provide a copy of this no contact order to the victim and arresting agency without unnecessary delay.

(e) If the judicial officer has reason to believe that mental disease or defect of the defendant will or has become an issue in the cause, the judicial officer shall enter such orders as are consistent with § 5-2-305.

§ 5-71-229. Stalking.

(a)(1) A person commits stalking in the first degree if he purposely engages in a course of conduct that harasses another person and makes a terroristic threat with the intent of placing that person in imminent fear of death or serious bodily injury or placing that person in imminent fear of the death or serious bodily injury of his or her immediate family and he:

(A) Does so in contravention of an order of protection consistent with the Domestic Abuse Act of 1991, § 9-15-101 et seq., or a no contact order as set out in subdivision (a)(2)(A) of this section, protecting the same victim or victims, or any other order issued by any court protecting the same victim or victims; or

(B) Has been convicted within the previous ten (10) years of:

(i) Stalking in the second degree; or

(ii) Violating § 5-13-301 or § 5-13-310; or

(iii) Stalking or threats against another person's safety under the statutory provisions of any other state jurisdiction; or

(C) Is armed with a deadly weapon or represents by word or conduct that he is so armed.

(2)(A) A judicial officer, upon pretrial release of the defendant, shall enter a no contact order in writing consistent with Rules 9.3 and 9.4 of the Arkansas Rules of Criminal Procedure and shall give notice to the defendant of penalties contained in Rule 9.5 of the Arkansas Rules of Criminal Procedure.

(B) This no contact order shall remain in effect during the pendency of any appeal of a conviction under subsection (a) of this section.

(C) The judicial officer or prosecuting attorney shall provide a copy of this no contact order to the victim and the arresting agency without unnecessary delay.

(D) If the judicial officer has reason to believe that mental disease or defect of the

defendant will or has become an issue in the cause, the judicial officer shall enter such orders as are consistent with § 5-2-305.

(3) Stalking in the first degree is a Class B felony.

(b)(1) A person commits stalking in the second degree if he purposely engages in a course of conduct that harasses another person and makes a terroristic threat with the intent of placing that person in imminent fear of death or serious bodily injury or placing that person in imminent fear of the death or serious bodily injury of his or her immediate family.

(2)(A) A judicial officer, upon pretrial release of the defendant, shall enter a no contact order in writing consistent with Rules 9.3 and 9.4 of the Arkansas Rules of Criminal Procedure and shall give notice to the defendant of penalties contained in Rule 9.5 of the Arkansas Rules of Criminal Procedure.

(B) This no contact order shall remain in effect during the pendency of any appeal of a conviction under subsection (b) of this section.

(C) The judicial officer or prosecuting attorney shall provide a copy of this no contact order to the victim and arresting agency without unnecessary delay.

(D) If the judicial officer has reason to believe that mental disease or defect of the defendant will or has become an issue in the cause, the judicial officer shall enter such orders as are consistent with § 5-2-305.

(3) Stalking in the second degree is a Class C felony.

(c) It is an affirmative defense to prosecution under this section whenever the actor is a law enforcement officer, licensed private investigator, attorney, process server, licensed bail bondsman, or a store detective acting within the reasonable scope of his duty while conducting surveillance on an official work assignment.

(d) For the purpose of this section:

(1)(A) "Course of conduct" means a pattern of conduct composed of two (2) or more acts separated by at least thirty-six (36) hours, but occurring within one (1) year.

(B)(i) Constitutionally protected activity is not included within the meaning of "course of conduct".

(ii) If the defendant claims that he was engaged in a constitutionally protected activity, the court shall determine the validity of that claim as a matter of law and, if found valid, shall exclude that activity from evidence;

(2) "Harasses" means acts of harassment as defined by § 5-71-208; and

(3) "Immediate family" means any spouse, parent, child, any person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household or who, within the prior six (6) months, regularly resided in the household.

§ 9-15-101. Purpose.

The purpose of this chapter is to provide an adequate mechanism whereby the State of Arkansas can protect the general health, welfare, and safety of its citizens by intervening when abuse of a member of a household by another member of a household occurs or is threatened to occur, thus preventing further violence. The General Assembly has assessed domestic abuse in Arkansas and believes that the relief contemplated under this chapter is injunctive, and therefore, equitable in nature. The General Assembly of the State of Arkansas hereby finds that this chapter is necessary to secure important governmental interests in the protection of victims of abuse and the prevention of further abuse through the removal of offenders from the household and other injunctive relief for which there is no adequate remedy in current law. The General Assembly hereby finds that this chapter shall meet a compelling societal need and is necessary to correct the acute and pervasive problem of violence and abuse within households in this state. The equitable nature of this remedy requires the legislature to place proceedings contemplated by this chapter under the jurisdiction of the chancery courts.

§ 9-15-102. Title.

This chapter shall be known and may be cited as "The Domestic Abuse Act of 1991 "

§ 9-15-103. Definitions.

As used in this chapter:

(a) "Domestic abuse" means:

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

(2) Any sexual conduct between family or household members, whether minors, or adults which constitutes a crime under the laws of this state.

(b) "Family or household members" means spouses, former spouses, parents and children, persons related by blood within the fourth degree of consanguinity, and persons who are presently or in the past have resided or cohabitated together.

§ 9-15-201. Petition - Requirements generally.

- (a) All petitions under this chapter shall be verified.
- (b) The petition shall be filed in the county where the petitioner resides, where the alleged incident of abuse occurred, or where the respondent may be served.
- (c) A petition for relief under this chapter shall be filed in the chancery court.
- (d) A petition may be filed by any family or household member or on behalf of another family or household member who is a minor or who has been adjudicated incompetent.
- (e) A petition for relief shall allege the existence of domestic abuse and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances of the domestic abuse and the specific relief sought.
- (f) The petition may be filed regardless of whether there is any pending litigation between the parties.
- (g) 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.

§ 9-15-203. Petition - Form.

- (a) The clerks of the court 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 petition may be in substantially the following form:

{insert pages here}

§ 9-15-204. Hearing - Service.

- (a) When a petition is filed pursuant to this chapter, the court shall order a hearing to be held thereon not later than thirty (30) days from the date on which the petition is filed or at the next court date, whichever is later.
- (b) Service shall be made upon the respondent at least five (5) days prior to the date of the hearing. If service cannot be made on the respondent, the court may set a new date for the hearing.
- (c) Nothing in this section shall preclude the court from setting an earlier hearing.

§ 9-15-205. Relief generally - Duration.

- (a) At the hearing on the petition, the court may provide the following relief:
 - (1) Exclude the abusing party from the dwelling which 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) Award temporary custody or establish temporary visitation rights with regard to minor children of the parties;
 - (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; and
 - (6) Order such other relief as the court deems necessary or appropriate for the protection of a family or household member.
- (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 one (1) year in duration, and may be renewed at a subsequent hearing upon proof and a finding by the court that the threat of domestic abuse still exists.

§ 9-15-206. Temporary order.

- (a) When any petition under this chapter alleges an immediate and present danger of domestic abuse and the court finds sufficient evidence to support the petition, the court shall grant a temporary order of protection pending a full hearing.
- (b) An ex parte temporary order of protection may include any or all of the orders provided for in §§ 9-15-201 and 9-15-203.
- (c) A temporary order of protection shall be effective for a fixed period not to exceed thirty (30) days.

(d) When a temporary order is issued as authorized in this section, a hearing shall be set for no later than thirty (30) days from the issuance of the temporary order.

(e) Upon the issuance of an ex parte temporary order, a copy of the order together with a copy of the petition (excluding, pursuant to court order, the address of the petitioner) and notice of the date and place set for the full hearing shall be served in accordance with applicable rules of service under the Arkansas Rules of Civil Procedure.

§ 9-15-207. Protection order - Enforcement - Penalties - Criminal jurisdiction.

(a) Any order of protection granted pursuant to this chapter shall be enforceable by any law enforcement agency with proper jurisdiction.

(b) Any order of protection shall include a notice to the respondent or party restrained that a violation of the order is a Class A misdemeanor carrying a maximum penalty of one (1) year imprisonment in the county jail or a fine of up to one thousand dollars (\$1,000), or both.

(c) Jurisdiction for the criminal offense of violating the terms of an order of protection shall be with the circuit court or other courts having jurisdiction over criminal matters.

§ 9-15-208. Law enforcement assistance.

When an order is issued under this chapter, upon request of the petitioner the court may order a law enforcement officer with jurisdiction to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence or to otherwise assist in execution or service of the order of protection.

§ 9-15-209. Modification of orders.

Any order of protection issued by the court pursuant to a petition filed as authorized herein may be modified upon application of either party, notice to all parties, and a hearing thereon.

§ 9-15-210. Contempt proceedings.

When a petitioner or any law enforcement officer files an affidavit with a court which has issued an order of protection under the provisions of this chapter alleging that the respondent or person restrained has violated the order, the court may issue an order to the respondent or person restrained requiring that person to appear and show cause why he should not be found in contempt.

§ 9-15-211. Jurisdiction generally.

If any provision of this chapter granting jurisdiction in the chancery court is held invalid or if, for some reason the chancery court cannot exercise jurisdiction under this chapter, then pursuant to Article 7, § 11 of the Arkansas Constitution, the circuit court shall have jurisdiction over such matters.

§ 12-12-215. Registry of orders of protection.

(a) In addition to other duties as provided, the Arkansas Crime Information Center shall maintain

a registry of all orders of protection and temporary orders of protection issued by a court of this state or registered in this state.

(b)(1) The court clerk shall immediately, upon receipt of an authorized order of protection, temporary order of protection, and any modification or cancellation of such orders, forward a copy to the sheriff of the county for service.

(2) The sheriff shall immediately enter, or cause to be entered, such orders and any subsequent modifications or cancellations, into the Arkansas Crime Information Center system.

(3) If the 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 such entries immediately upon receipt of information from the sheriff.

(4) Only orders which are consistent with § 9-15-302(b) may be entered into the Arkansas Crime Information Center system.

(c) Information contained in the registry shall be determined by the Supervisory Board for the Arkansas Crime Information Center. Orders of protection and temporary orders of protection required to be entered into the Arkansas Crime Information Center system shall include, at a minimum, the full name and date of birth of the subject of the order for proper identification.

(d) Information contained in the registry shall be deemed confidential and shall be available at all times only to courts, law enforcement, and prosecuting attorneys.

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas

2 82nd General Assembly

3 Regular Session, 1999

4

5 By: Representative Parks

6

7

8

For An Act To Be Entitled

9

"AN ACT CONCERNING ORDERS OF PROTECTION AND NO CONTACT
ORDERS; AND FOR OTHER PURPOSES."

10

11

12

Subtitle

13

"AN ACT CONCERNING ORDERS OF PROTECTION
AND NO CONTACT ORDERS."

14

15

16

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

18

19 SECTION 1. Arkansas Code 9-15-203 is amended to read as follows:

20

"9-15-203. Petition - Form.

21

(a) The clerks of the court 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.

23

24

(b) The petition may be in substantially the following form:

25

26 Petition for Order of Protection

27

Case No. _____

28

Petitioner's home address:

29

Petitioner _____

30

31

32 Social Security Number

33

Petitioner's work address:

34

Vs. _____

35

36

-----End of Page 1

1

Respondent's home address:

2

Respondent _____

3

4

5 Social Security Number,

6

if known

7

Respondent's work address:

8

9

10

11 _ I am the petitioner and _ at least 18 year of age _ under 18 but
emancipated.

12

13 _ I am filing on behalf of myself.

14

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

16

17 _ a minor(s): (list) _____

18

19 _ an adjudicated incompetent person: (list) _____

20

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

22

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

24

incompetent person): (check all that apply)

25

Arkansas -- 10

20 ☐ are spouses ☐ are related by blood
 21 ☐ are parent and child ☐ currently reside together or cohabit
 22 ☐ are former spouses ☐ formerly resided together or cohabited
 23 If order of protection of children is requested:
 24 Children Date of Birth Address Relationship to Parties
 25 _____
 26 _____
 27 _____
 28 _____
 29 _____
 30 The respondent has committed domestic abuse to the petitioner or victim by the
 31 following acts: (describe)
 32 _____
 33 _____
 34 _____
 35 _____
 36 _____

-----End of Page 2

1 I am afraid of the respondent and:
 2 (1) ~~there~~ There is an immediate and present danger of domestic abuse to
 3 me ~~because;~~ or
 4 (2) The respondent is scheduled to be released from incarceration within
 5 thirty (30) days and upon the respondent's release there will be an immediate
 6 and present danger of domestic abuse to me. The reasons are as follows:
 7 (describe)
 8 _____
 9 _____
 10 _____
 11 _____
 12 _____
 13 ☐ Petitioner requests that the court issue an ex parte order of protection
 14 with the following provisions: (check all that apply)
 15 ☐ excluding the respondent from a shared residence or from the residence
 16 of the petitioner or victim. Address of residence:
 17 _____
 18 ☐ excluding the respondent from the place of business, employment,
 19 school or other location of the petitioner or victim. Address of residence:
 20 _____
 21 ☐ excluding the respondent from the place of business, employment, school
 22 or other location of the petitioner or victim. Address of:
 23 place of business: _____
 24 employment: _____
 25 school: _____
 26 other (identify): _____
 27 Prohibiting the respondent, directly or through an agent, from contacting
 28 the petitioner or victim, except under the following conditions:
 29 _____
 30 _____
 31 _____
 32 ☐ awarding temporary custody of minor children as follows:
 33 Child's name Person to receive custody
 34 _____
 35 _____
 36 _____

-----End of Page 3

1 _____
 2 ☐ requiring the respondent to pay child support in the amount of \$ _____
 3 per child per month
 4 ☐ requiring the respondent to pay spousal support in the amount of
 5 \$ _____ per month
 6 ☐ excluding the petitioner's address from notice to the respondent
 7 ☐ It is further requested that upon hearing the court issue a full order of

8 protection with the following provisions: (check all that apply)
9 ☐ excluding the respondent from the shared residence or from the residence
10 of the petitioner or victim. Address of the residence:

11 _____
12 ☐ excluding the respondent from the place of business, employment, school
13 or other location of the petitioner or victim. Address of:
14 place of business: _____
15 employment: _____
16 school: _____
17 other (identify): _____

18 ☐ awarding temporary custody of minor children as follows:

19 Child's name Person to receive custody

20 _____
21 _____
22 _____
23 _____
24 _____

25 ☐ requiring the respondent to pay child support in the amount of \$ _____
26 per child per month

27 ☐ requiring the respondent to pay spousal support in the amount of
28 \$ _____ per month

29 ☐ requiring the respondent to pay filing fees, service fees, court costs
30 and petitioner's attorney fees.

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

33 _____
34 Date Petitioner's signature
35 STATE OF ARKANSAS
36 COUNTY OF _____

-----End of Page 4

1 Subscribed and sworn to before me this _____ day of _____,
2 19____.

3 _____
4 Notary Public
5 My Commission Expires:
6 _____"

7
8 SECTION 2. Arkansas Code 9-15-205 is amended to read as follows:
9 "9-15-205. Relief generally - Duration.

10 (a) At the hearing on the petition, the court may provide the following
11 relief:

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

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

16 (3) Award temporary custody or establish temporary visitation
17 rights with regard to minor children of the parties;

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

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

23 (6) Prohibiting the abusing party directly or through an agent
24 from contacting the petitioner or victim except under specific conditions
25 named in the order; and

26 ~~(6)~~ (7) Order such other relief as the court deems necessary or
27 appropriate for the protection of a family or household member.

28 (b) Any relief granted by the court for protection under the provisions
29 of this chapter shall be for a fixed period of time not less than ninety (90)
30 days nor more than one (1) year in duration, and may be renewed at a
31 subsequent hearing upon proof and a finding by the court that the threat of
32 domestic abuse still exists."

33

34 SECTION 3. Arkansas Code 9-15-206 (a) is amended to read as follows:

35 "(a) When any petition under this chapter alleges an immediate and
36 present danger of domestic abuse or that the respondent is scheduled to be

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1 released from incarceration within thirty (30) days, and upon the respondent's
2 release there will be an immediate and present danger of domestic abuse, and
3 the court finds sufficient evidence to support the petition, the court shall
4 grant a temporary order of protection pending a full hearing"

5

6 SECTION 4. A no contact order shall prohibit the person from making
7 contact, directly or through an agent, except under such conditions as may be
8 provided in the order.

9

10 SECTION 5. All provisions of this act of a general and permanent nature
11 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
12 Revision Commission shall incorporate the same in the Code.

13

14 SECTION 6. If any provision of this act or the application thereof to
15 any person or circumstance is held invalid, such invalidity shall not affect
16 other provisions or applications of the act which can be given effect without
17 the invalid provision or application, and to this end the provisions of this
18 act are declared to be severable.

19

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

22

23

24 **APPROVED: 3/17/1999**

25

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Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas As Engrossed: S3/24/99 S4/6/99

2 82nd General Assembly

A Bill

Act 1

551 of 1999

3 Regular Session, 1999

SENATE BILL 767

4

5 By: Senator Bradford

6 By: Representative Ferrell

7

8

9

For An Act To Be Entitled

10 "AN ACT TO AMEND THE DOMESTIC ABUSE ACT OF 1991 TO
11 FURTHER PROTECT VICTIMS OF DOMESTIC ABUSE."

12

13

Subtitle

14 "AN ACT TO PROTECT VICTIMS OF DOMESTIC
15 ABUSE."

16

17

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

19

20 SECTION 1. Arkansas Code 9-15-103(b) is amended to read as follows:

21 "(b) Family or household members means spouses, former spouses,
22 parents and children, persons related by blood within the fourth degree of
23 consanguinity, any child residing in the household, and persons who are
24 presently or in the past have resided or ~~cohabitated~~ cohabited together."

25

26 SECTION 2. Arkansas Code 9-15-205 is amended to read as follows:

27 "9-15-205. Relief generally - Duration.

28 (a) At the hearing on the petition, the court may provide the following
29 relief:

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

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

34 (3) Award temporary custody or establish temporary visitation
35 rights with regard to minor children of the parties;

36 (4) Order temporary support for minor children or a spouse, with

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1 such support to be enforced in the manner prescribed by law for other child
2 support and alimony awards;

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

5 (6) Order such other relief as the court deems necessary or
6 appropriate for the protection of a family or household member. Such relief
7 may include, but not be limited to, enjoining and restraining the abusing
8 party from doing, attempting to do, or threatening to do any act injuring
9 mistreating, molesting, or harassing the petitioner.

10 (b) Any relief granted by the court for protection under the provisions
11 of this chapter shall be for a fixed period of time not less than ninety (90)
12 days nor more than ~~one (1) year~~ two (2) years in duration, and may be renewed
13 at a subsequent hearing upon proof and a finding by the court that the threat
14 of domestic abuse still exists."

15

16 SECTION 3. Arkansas Code 9-15-206 is amended to add the following
17 subsections:

18 "(f) Incarceration or imprisonment of the abusing party shall not bar
19 the court from issuing an Order of Protection.
20 (g) A petitioner may omit his or her home or business address from all
21 documents filed with the court. If a petitioner omits his or her address, the
22 petitioner must provide the court with a mailing address. If disclosure of
23 petitioner's address is necessary to determine jurisdiction or consider venue,
24 the court may order the disclosure be made:
25 (1) After receiving the petitioner's consent; or
26 (2) Orally and in chambers, out of presence of the respondent and
27 sealed record to be made; or

28 (3) After a hearing, if the court takes into consideration the
29 safety of the petitioner and finds such disclosure in the interest of
30 justice."

31
32 SECTION 4. Arkansas Code 9-15-207 is amended to add the following
33 subsection:

34 "(d) In the final order of protection, the petitioner's home or
35 business address may specifically be excluded from notice to the respondent. A
36 court shall also order that the petitioner's copy of the order of protection

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1 be excluded from any address where the respondent happens to reside.
2 (e) When a law enforcement officer has probable cause to believe that a
3 respondent has violated an order of protection, and has been presented
4 verification of the existence of the order, the officer may, without a
5 warrant, arrest the apparent violator whether the violation was in or outside
6 the presence of the officer, if the order was obtained according to this act
7 and with the Rules of Criminal Procedure."

8
9 SECTION 5. Arkansas Code 9-15-208 is amended to read as follows:
10 "9-15-208. Law enforcement assistance.

11 When an order is issued under this chapter, upon request of the
12 petitioner the court may order a law enforcement officer with jurisdiction to
13 accompany the petitioner and assist in placing the petitioner in possession of
14 the dwelling or residence or to otherwise assist in execution or service of
15 the order of protection. The court may also order a law enforcement officer to
16 assist petitioner in returning to the residence and getting personal effects."

17
18 SECTION 6. Title 9, Chapter 15, Subchapter 2 of the Arkansas Code is
19 amended to add the following section to be appropriately numbered by the
20 Arkansas Code Revision Commission:

21 "All law enforcement officers shall follow the same procedures as
22 outlined in Arkansas Code 16-90-1107."

23
24 SECTION 7. Title 9, Chapter 15, Subchapter 2 of the Arkansas Code is
25 amended to add the following section to be appropriately numbered by the
26 Arkansas Code Revision Commission:

27 "Denial of Relief Prohibited.
28 The court shall not deny a petitioner relief solely because the act of
29 domestic or family violence and the filing of the petition did not occur
30 within 120 days."

31
32 SECTION 8. Title 9, Chapter 15, Subchapter 2 of the Arkansas Code is
33 amended to add the following section to be appropriately numbered by the
34 Arkansas Code Revision Commission:

35 "Factors in determining custody and visitation.
36 In addition to other factors that a court shall consider in a proceeding

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1 in which the temporary custody of a child or temporary visitation by a parent
2 is at issue and in which the court has made a finding of domestic or family
3 violence;

4 (a) The court shall consider as primary the safety and well-being of
5 the child and of the parent who is the plaintiff of domestic or family

6 violence.
7 (b) The court shall consider the defendant's history of causing
8 physical harm, bodily injury, assault, or causing reasonable fear of physical
9 harm, bodily injury, or assault to another person. If a parent is absent or
10 relocates because of an act of domestic or family violence by the other
11 parent, the absence or relocation is not a factor that weighs against the
12 parent in determining custody or visitation."

13
14 SECTION 9. All provisions of this act of a general and permanent nature
15 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
16 Revision Commission shall incorporate the same in the Code.

17
18 SECTION 10. If any provision of this act or the application thereof to
19 any person or circumstance is held invalid, such invalidity shall not affect
20 other provisions or applications of the act which can be given effect without
21 the invalid provision or application, and to this end the provisions of this
22 act are declared to be severable.

23
24 SECTION 11. All laws and parts of laws in conflict with this act are
25 hereby repealed.
26 /s/ Bradford

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29 **APPROVED: 4/15/1999**

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