

Domestic Violence Statutes – For more information visit www.arkleg.state.ar.us

9-15-103.Definitions.

As used in this chapter:

(1)“County where the petitioner resides” means the county in which the petitioner physically resides at the time the petition is filed and may include a county where the petitioner is located for a short-term stay in a domestic violence shelter;

(2)(A)“Dating relationship” means a romantic or intimate social relationship between two (2) individuals that shall be determined by examining the following factors:

(i)The length of the relationship;

(ii)The type of the relationship; and

(iii)The frequency of interaction between the two (2) individuals involved in the relationship.

(B)“Dating relationship” shall not include a casual relationship or ordinary fraternization between two (2) individuals in a business or social context;

(3)“Domestic abuse” 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; and

(4)“Family or household members” means spouses, former spouses, parents and children, persons related by blood within the fourth degree of consanguinity, any children residing in the household, persons who presently or in the past have resided or cohabited together, persons who have or have had a child in common, and persons who are presently or in the past have been in a dating relationship together.

1; 2001, No. 2; 1999, No. 1551, § History.Acts 1991, No. 266, § 1. 1; 2005, No. 1875, § 1; 2005, No. 1676, § 1678, §

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 circuit court.

(d) 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 shelter or program on behalf of a minor, including a married minor.

(e)(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) 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.

1; 2007, 3, 8; 2003, No. 1221, § History. Acts 1991, No. 266, §§ 1. No. 314, §

5-53-134. Violation of an order of protection.

(a)(1) A person commits the offense of violation of an order of protection if:

(A) A circuit court or other court with competent jurisdiction has issued a temporary order of protection or an order of protection against the person pursuant to the The Domestic Abuse Act of 9-15-101 et seq.; 1991, §

(B) The person 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 The Domestic Abuse Act of 9-15-101 et seq.; and 1991, §

(C)The person knowingly violates a condition of an order of protection issued pursuant to the The Domestic Abuse 9-15-101 et seq. Act of 1991, §

(2)A person commits the offense of violation of an out-of-state order of protection if:

(A)The court of another state, a federally recognized Indian tribe, or a territory with jurisdiction over the parties and matters has issued a temporary order of protection or an order of protection against the person pursuant to the laws or rules of the other state, federally recognized Indian tribe, or territory;

(B)The person has received actual notice or other lawful notice of a temporary order of protection or an order of protection pursuant to the laws or rules of the other state, the federally recognized Indian tribe, or the territory;

(C)The person knowingly violates a condition of an order of protection issued pursuant to the laws or rules of the other state, the federally recognized Indian tribe, or the territory; and

(D)The requirements of

9-15-302 concerning the full faith and credit for an § out-of-state order of protection have been met.(b)Violation of an order of protection under this section is a Class A misdemeanor.

(c)(1)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:

(A)Is subject to an order of protection issued pursuant to the laws of this state; and

(B)Has violated the terms of the order of protection, even if the violation did not take place in the presence of the law enforcement officer.

(2)Under 9-15-302, a law § enforcement officer or law enforcement agency may arrest and take into custody without a warrant any person who the law enforcement officer or law enforcement agency has probable cause to believe:(A)Is subject to an order of protection issued pursuant to the laws or rules of another state, a federally recognized Indian tribe, or a territory; and

(B)Has violated the terms of the out-of-state order of protection, even if the violation did not take place in the presence of the law enforcement officer.

(d)It is an affirmative defense to a prosecution under this section that the parties have reconciled prior to the violation of the order of protection.

(e)Any law enforcement officer acting in good faith and exercising due care in making an arrest for domestic abuse in an effort to comply with this subchapter shall have immunity from civil or criminal liability.

1; 2003, No. 1; 1991, No. 1236, § History.Acts 1991, No. 267, § 4. 651, §

9-15-302.Full faith and credit.

(a)Any order of protection that meets the subsection (b) or subsection (c) of this section issued by a court of another state, a federally recognized Indian tribe, or a territory shall be afforded full faith and credit by the courts of this state and shall be enforced by law enforcement as if it were issued in this state.

(b)An order of protection issued by a court of another state, a federally recognized Indian tribe, or a territory meets the requirements of this section if:

(1)The court had jurisdiction over the parties and matters under the laws of the other state, the federally recognized Indian tribe, or the territory; and

(2)(A)Reasonable notice and opportunity to be heard was given to the person against whom the order was sought sufficient to protect that person's right to due process.

(B)In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by the laws or rules of the other state, the federally recognized Indian tribe, or the territory and, in any event, within a reasonable time after the order is issued sufficient to protect the due process rights of the party against whom the order is enforced.

(c)An order of protection issued against both the petitioner and the respondent by a court of another state, a federally recognized Indian tribe, or a territory shall not be enforceable against the petitioner unless:

(1)The respondent filed a cross or counter petition, complaint, or other written pleading seeking an order of protection;

(2)The issuing court made specific findings against both the petitioner and the respondent; and

(3)The issuing court determined that each party was entitled to an order.

(d)(1)A person seeking recognition and enforcement of an out-of-state order of protection under this section may present a copy of the order of protection to the local law enforcement office in the city or county where enforcement of the order may be necessary.

(2)After receiving a copy of the order of protection, the local law enforcement office shall enter the order into the Arkansas Crime Information Center's protection order registry file.

(3)There shall be no fee for entering the out-of-state order of protection.

(4)The law enforcement office shall not notify the party against whom the order has been issued that an out-of-state order of protection has been entered in this state.

(5)Entry of the out-of-state order of protection into the center's protection order registry file shall not be required for enforcement of the order of protection in this state.

(e)(1)(A)When enforcing an out-of-state order of protection, a law enforcement officer shall determine if there is probable cause to believe that an out-of-state order of protection exists.

(B)A law enforcement officer may rely upon:

(i)An out-of-state order of protection that has been provided to the officer by any source; or

(ii)(a)The statement of any person protected by an out-of-state order of protection that the order exists; and

(b)Verification by the clerk of the court of the other state, the federally recognized Indian tribe, or the territory in writing, by telephone, or by facsimile transmission or other electronic transmission.

(2)(A)When enforcing an out-of-state order of protection, a law enforcement officer shall determine if there is probable cause to believe that the terms of the order have been violated.

(B)The law enforcement officer may rely upon:

(i)Any events he or she witnessed;

(ii)The statement of any person who claims to be a witness; or

(iii)Any other evidence.

(3)A law enforcement officer shall not refuse to enforce the terms of the order of protection on the grounds that the order has not been filed with the local law enforcement office or entered into the center's protection order registry file unless the law enforcement officer has a reasonable belief that the order is not authentic on its face.

History. Acts 2. 3; 2003, No. 651, § 1995, No. 995, §

9-15-303. Immunity from liability.

Law enforcement officers and law enforcement agencies shall be immune from civil or criminal liability if acting in good faith in an effort to comply with this subchapter.

History. Acts 3. 4; 2003, No. 651, § 1995, No. 995, §

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) Upon receipt of an authorized order of protection, temporary order of protection, or any modification or cancellation of such orders, a court clerk shall immediately 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 center system.

(3) If the sheriff does not have a center terminal and entries are made by another agency that does have a center terminal, that agency shall make such entries immediately upon receipt of information from the sheriff.

(4) Only orders which are 9-15-302(b) may be entered into the center consistent with § 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 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.

1. History. Acts 1995, No. 995, §

5-26-303. Domestic battering in the first degree.

(a) A person commits domestic battering in the first degree if:

(1) With the purpose of causing serious physical injury to a family or household member, the person causes serious physical injury to a family or household member by means of a deadly weapon;

(2) With the purpose of seriously and permanently disfiguring a family or household member or of destroying, amputating, or permanently disabling a member or organ of a family or household member's body, the person causes such an injury to a family or household member;

(3) The person causes serious physical injury to a family or household member under circumstances manifesting extreme indifference to the value of human life; or

(4) He or she commits any act of domestic battering as defined in subdivisions (a)(1) – (3) of this section or § 5-26-304 or § 5-26-305 and, for conduct that occurred within the ten (10) years preceding the commission of the current offense, he or she has on two (2) previous occasions been convicted of any act of battery against a family or household member as defined by the laws of this state or by the equivalent laws of any other state or foreign jurisdiction.

(b)(1) Domestic battering in the first degree is a Class B felony.

(2) However, domestic battering in the first degree is a Class A felony upon a conviction pursuant to subsection (a) of this section if:

(A) Committed against a woman the person knew or should have known was pregnant;

(B) For conduct that occurred within the five (5) years preceding the commission of the current offense, the person has been convicted of a prior offense of:

(i) Domestic battering in the first degree;

(ii) Domestic battering in the second degree, 5-26-304; §

5-26-305; (iii) Domestic battering in the third degree, § or

(iv) An equivalent penal law of this state or of another state or foreign jurisdiction.

41-1653; Acts 1; A.S.A. 1947, § History. Acts 1979, No. 396, § 1; 2001, No. 1553, 2; 1999, No. 1365, § 1; 1999, No. 1317, § 1995, No. 1291, § 481; 2007, No. 1; 2005, No. 1994, § 1; 2003, No. 1079, § 8; 2003, No. 944, § 1. 671, §

5-26-304. Domestic battering in the second degree.

(a) A person commits domestic battering in the second degree if:

(1) With the purpose of causing physical injury to a family or household member, the person causes serious physical injury to a family or household member;

(2) With the purpose of causing physical injury to a family or household member, the person causes physical injury to a family or household member by means of a deadly weapon; or

(3) The person recklessly causes serious physical injury to a family or household member by means of a deadly weapon.

(b)(1) Domestic battering in the second degree is a Class C felony.

(2) However, domestic battering in the second degree is a Class B felony if:

(A) Committed against a woman the person knew or should have known was pregnant;

(B) For conduct that occurred within the five (5) years preceding the commission of the current offense, the person has been convicted of a prior offense of:

(i) Domestic battering in the first 5-26-303; degree, §

(ii) Domestic battering in the second degree;

5-26-305; (iii) Domestic battering in the third degree, § or

(iv) An equivalent penal law of this state or of another state or foreign jurisdiction; or

(C) For conduct that occurred within the ten (10) years preceding the commission of the current offense, the person has on two (2) previous occasions been convicted of any act of battery against a family or household member as defined by a law of this state or by an equivalent law of any other state or foreign jurisdiction.

41-1654; Acts 2; A.S.A. 1947, § History. Acts 1979, No. 396, § 9; 2003, No. 944, 2; 2001, No. 1553, § 2; 1999, No. 1365, § 1995, No. 1291, § 481. 1; 2005, No. 1994, § 2; 2003, No. 1079, § §

5-26-305. Domestic battering in the third degree.

(a) A person commits domestic battering in the third degree if:

(1) With the purpose of causing physical injury to a family or household member, the person causes physical injury to a family or household member;

(2) The person recklessly causes physical injury to a family or household member;

(3) The person negligently causes physical injury to a family or household member by means of a deadly weapon; or

(4) The person purposely causes stupor, unconsciousness, or physical or mental impairment or injury to a family or household member by administering to the family or household member, without the family or household member's consent, any drug or other substance.

(b)(1) Domestic battering in the third degree is a Class A misdemeanor.

(2) However, domestic battering in the third degree is a Class D felony if:

(A) Committed against a woman the person knew or should have known was pregnant;

(B) For conduct that occurred within the five (5) years preceding the commission of the current offense, the person has been convicted of a prior offense of:

(i) Domestic 5-26-303; battering in the first degree, §

(ii) Domestic battering in the 5-26-304; second degree, §

(iii) Domestic battering in the third degree; or

(iv) An equivalent penal law of this state or of another state or foreign jurisdiction; or

(C)For conduct that occurred within the ten (10) years preceding the commission of the current offense, the person has on two (2) previous occasions been convicted of any act of battery against a family or household member as defined by a law of this state or by an equivalent law of any other state or foreign jurisdiction.

41-1655; Acts 3; A.S.A. 1947, § History.Acts 1979, No. 396, § 10; 2003, No. 944, 3; 2001, No. 1553, § 3; 1999, No. 1365, § 1995, No. 1291, § 481. 1; 2005, No. 1994, § 3; 2003, No. 1079, § §

5-26-312.Determination of pregnancy.

For purposes of

5-26-303(b)(2), 5-26-304(b)(2), and §§ 5-26-305(b)(2), a woman is considered pregnant four (4) weeks after conception.

History.Acts 2003, No. 944, 4. §

5-71-229.Stalking.

(a)(1)A person commits stalking in the first degree if he or she 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 the person:

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

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

(i)Stalking in the second degree;

5-13-301 or (ii)Violating §

(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 or she is armed with a deadly weapon.

(2)(A)Upon pretrial release of the defendant, a judicial officer 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.

(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)This no contact order remains in effect during the pendency of any appeal of a conviction under subsection (b) of this section.(1)A person commits stalking in the second degree if he or she 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)Upon pretrial release of the defendant, a judicial officer 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.

(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 if 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 or her duty while conducting surveillance on an official work assignment.

(d)As used in 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)“Course of conduct” does not include constitutionally protected activity.

(ii)If the defendant claims that he or she 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 an act of harassment as prohibited 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.

History. Acts 1993, No. 379, 94. 1; 2007, No. 827, § 1-3; 1995, No. 1302, § 1-3; 1993, No. 388, §§ §§

5-26-306. Aggravated assault on a family or household member.

(a) A person commits aggravated assault on a family or household member if, under circumstances manifesting extreme indifference to the value of human life, the person purposely engages in conduct that creates a substantial danger of death or serious physical injury to a family or household member.

(b) Aggravated assault on a family or household member is a Class D felony.

41-1656; Acts 4; A.S.A. 1947, § History. Acts 1979, No. 396, § 4. 1995, No. 1291, §

5-26-307. First degree assault on family or household member.

(a) A person commits first degree assault on a family or household member if the person recklessly engages in conduct that creates a substantial risk of death or serious physical injury to a family or household member.

(b) First degree assault on a family or household member is a Class A misdemeanor.

History. Acts 5. 41-1657; Acts 1995, No. 1291, § 5; A.S.A. 1947, § 1979, No. 396, §

5-26-308. Second degree assault on family or household member.

(a) A person commits second degree assault on a family or household member if the person recklessly engages in conduct that creates a substantial risk of physical injury to a family or household member.

(b) Second degree assault on a family or household member is a Class B misdemeanor.

History. Acts 6. 41-1658; Acts 1995, No. 1291, § 6; A.S.A. 1947, § 1979, No. 396, §

5-4-702. Enhanced penalties for offenses committed in presence of a child.

(a) Any person who commits a felony offense involving assault, battery, domestic battering, or assault on a family member or household member, as provided in

5-13-201 et seq. or § 5-26-303 — 5-26-311, may be subject to an enhanced sentence of an additional § term of imprisonment of not less than one (1) year and not greater than ten (10) years if the offense is

committed in the presence of a child.(b)(1)To seek an enhanced penalty established in this section, a prosecuting attorney shall notify the defendant in writing that the defendant is subject to the enhanced penalty.

(2)If the defendant is charged by information or indictment, the prosecuting attorney may include the written notice in the information or indictment.

(c)The enhanced portion of the sentence is consecutive to any other sentence imposed.

(d)Any person convicted under this section is not eligible for early release on parole or community correction transfer for the enhanced portion of the sentence.

1. 2; 2007, No. 1047, § History.Acts 2001, No. 1707, §

12-9-113.Domestic violence training.

(a)(1)In accordance with the certification requirements of the Arkansas Commission on Law Enforcement Standards and Training for law enforcement officers, all new law enforcement officers in the State of Arkansas shall complete at least twenty (20) hours of training in domestic violence and twenty (20) hours of training in child abuse.

(2)Practicum training will also be sufficient for this requirement.

(b)Pertaining to domestic abuse, the topics that shall be covered are:

(1)The dynamics of domestic abuse;

(2)The Domestic Abuse Act of 1991,

9-15-101 et § seq.:(3)Domestic abuse victim interview techniques;

(4)Supportive services available; and

(5)Pro-arrest guidelines and drawbacks of dual arrest and practices to promote the safety of officers.

(c)Pertaining to child abuse victim interview techniques, the topics that shall be covered are:

(1)Current law, including the Arkansas Child Maltreatment Act,

9-27-301 12-12-501 et seq., and the Arkansas Juvenile Code of 1989, § § et seq.:(2)Child sexual abuse; and

(3)Physical and behavioral indicators.

History.Acts 2001, No. 1. 1452, §

27-16-811.Exception to disclosing residence address — Address confidentiality program.

(a)As used in this section, “licensee” means a person who is applying for, renewing, or requesting a change to his or her driver's license issued or to be issued under this chapter and who is:

- (1)The victim of domestic violence; or
- (2)The dependent of a victim of domestic violence.

(b)A licensee shall qualify for the exception for disclosing a residence address under this section if he or she:

- (1)Presents a valid order of protection issued under the Domestic Abuse Act of 1991, 9-15-101 et seq.;
- (2)Presents an affidavit in which § the licensee states that he or she:

- (A)(i)Is a victim of domestic violence; or
- (ii)Is the dependent of a victim of domestic violence; and

(B)(i)Fears further acts of domestic violence; or

(ii)Resides with the victim of domestic violence and fears further acts of domestic violence against his or her parent, custodian, or guardian; and

(3)Agrees to the terms of participation in the address confidentiality program.

(c)(1)A licensee who participates in the address confidentiality program under this section shall be issued a driver's license that discloses a post office box address in lieu of his or her residence address.

(2)(A)The licensee shall provide to the Department of Finance and Administration his or her residence address, which shall be kept on file with the department for as long as the licensee holds a license that displays a post office box in lieu of a residence address.

(B)The licensee shall update his or her residence address and post office box address with the department if a change occurs.

(3)(A)The department shall only disclose the residence address to a person who:

- (i)Presents a compelling reason for access to the residence address in an affidavit;
- (ii)Presents valid identification to the department; and

(iii)Is not a person against whom the order of protection has been entered or who is related by blood or marriage to the person against whom the order of protection has been entered.

(B)The department shall maintain a record of each and every person to whom the department discloses the residence address.

(C)The department shall provide written notice to the licensee that advises him or her of a disclosure to a third party.

(D)(i)The department shall accept complaints from the licensee if the licensee objects to the disclosure to a third party.

(ii)The department shall refer a complaint to the prosecuting attorney for prosecution for perjury or another 5-53-101 et offense relating to judicial or other official proceedings under § seq. related to a false compelling reason stated in an affidavit under subdivision (c)(3)(A)(i) of this section.

(d)The Director of the Department of Finance and Administration shall promulgate rules and forms to administer the address confidentiality program under this section.

History. Acts 2005, No. 1233, 1. §

5-26-313. Notice.

A person who is convicted of any misdemeanor of 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 18 U.S.C. § 922(g)(8) and (9), as it existed on January 1, 2007.

History. Acts 2007, 1. No. 676, §

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 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.

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

_____ I am the petitioner and _____ 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 _____ 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.

_____ Are spouses; _____ Are related by blood;

_____ Are parent and child; _____ Currently reside together or
_____ Are former spouses; _____ Formerly resided together or
_____ Have or have had a child in common; or _____ Are presently
or in the past have been in a dating relationship. _____ Date of Birth
_____ Relationship to Parties _____

_____ (1) There is an immediate and present danger of
domestic abuse to me; or _____ (2) The respondent is scheduled to be released from
incarceration within thirty (30) days and upon the respondent's release there will be an immediate and
present danger of domestic abuse to me. _____

_____ 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: _____

_____ Awarding temporary custody of minor children as
follows: _____ Person to Receive Custody _____

_____ Requiring the respondent to pay child support in the amount of \$ _____ Requiring the
respondent to pay spousal support in the amount of \$ _____ 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: _____

_____ Awarding temporary custody
of minor children as follows: _____ Person to Receive Custody _____

_____ Requiring the respondent to pay child support in the
amount of \$ _____ Requiring the respondent to pay spousal support in the amount of
\$ _____ 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: _____

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

_____ day of

”

1; 2001, No. 3; 1999, No. 662, § History. Acts 1991, No. 266, § 2. 4; 2007, No. 314, § 1; 2005, No. 1875, § 4; 2005, No. 55, § 1678, §

18-16-112. Protection for victims of domestic abuse.

(a) As used in this section:

(1) “Documented incident of domestic abuse” means evidence of domestic abuse contained in an order of a court of competent jurisdiction;

(2) “Domestic abuse” means:

(A) The infliction of physical injury or the creation of a reasonable fear that physical injury or harm will be inflicted upon a member of a household by a member or former member of the household; or

(B) The commission of a sex crime or act of stalking upon a member of a household;

(3) “Domestic abuse offender” means a person identified in a documented incident of domestic abuse as performing any act of domestic abuse;

(4) “Sex crime” includes without limitation:

(A) The following offenses:

(i) Rape, § 5-14-103;

(ii) Sexual indecency with a child, § 5-14-110;

(iii) Sexual assault in the first degree, § 5-14-124;

(iv) Sexual assault in the second degree, § 5-14-125;

(v) Sexual assault in the third degree, § 5-14-126;

(vi) Sexual assault in the fourth degree, § 5-14-127;

(vii) Incest, § 5-26-202;

(viii) Engaging children in sexually explicit conduct for use in visual or print medium, § 5-27-303;

(ix) Transportation of minors for prohibited sexual conduct, § 5-27-305;

(x) Employing or consenting to the use of a child in a sexual performance, § 5-27-402;

(xi) Pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, § 5-27-304;

- (xii)Producing, directing, or promoting a sexual performance by a child, § 5-27-403;
 - (xiii)Promoting prostitution in the first degree, § 5-70-104;
 - (xiv)Indecent exposure, § 5-14-112, if a felony level offense;
 - (xv)Exposing another person to human immunodeficiency virus when a person who has tested positive for human immunodeficiency virus was ordered by the sentencing court to register as a sex offender, § 5-14-123;
 - (xvi)Kidnapping pursuant to § 5-11-102(a) when the victim is a minor and the offender is not the parent of the victim;
 - (xvii)False imprisonment in the first degree and false imprisonment in the second degree, §§ 5-11-103 and 5-11-104, when the victim is a minor and the offender is not the parent of the victim;
 - (xviii)Permitting abuse of a minor pursuant to § 5-27-221;
 - (xix)Computer child pornography, § 5-27-603;
 - (xx)Computer exploitation of a child in the first degree, § 5-27-605(a);
 - (xxi)Permanent detention or restraint when the offender is not the parent of the victim, § 5-11-106;
 - (xxii)Distributing, possessing, or viewing matter depicting sexually explicit conduct involving a child, § 5-27-602;
 - (xxiii)Computer child pornography, § 5-27-603; and
 - (xxiv)Computer exploitation of a child, § 5-27-605;
- (B)An attempt, solicitation, or conspiracy to commit any offense enumerated in subdivision (a)(4)(A) of this section; and
- (C)An adjudication of guilt for an offense of the law of another state, for a federal offense, for a tribal court offense, or for a military offense:
- (i)That is similar to any offense enumerated in subdivision (a)(4)(A) of this section; or
 - (ii)When that adjudication of guilt requires registration under another state's sex offender registration laws;
- (5)“Stalking” means following or loitering near a person with the purpose of annoying, harassing, or committing an assault or battery against the person; and

(6)“Victim of domestic abuse” means a person or a member of the person's household who is identified in a documented incident of domestic abuse within:

(A)The immediately preceding sixty (60) days; or

(B)Sixty (60) days of the termination of a residential tenancy by the person, a member of the person's household, or landlord because of domestic abuse.

(b)If a residential tenant, an applicant for a residential tenancy, or a member of the tenant or applicant's household is a victim of domestic abuse as evidenced by a documented incident of domestic abuse:

(1)With respect to the victim of domestic abuse, a landlord shall not terminate or fail to renew a residential tenancy, refuse to enter into a residential tenancy, or otherwise retaliate in the leasing of a residence because of the domestic abuse; and

(2)(A)At the residential tenant's expense and with the landlord's prior consent, a landlord or a residential tenant other than a domestic abuse offender may change the locks to the residential tenant's residence.

(B)The landlord or residential tenant shall furnish the other a copy of the new key to the residential tenant's residence immediately after changing the locks or as soon after changing the locks as possible if either the landlord or residential tenant is unavailable.

(c)Notwithstanding a conflicting provision in a domestic abuse offender's residential tenancy agreement, if a domestic abuse offender is under a court order to stay away from a co-tenant residing in the domestic abuser's offender's residence or the co-tenant's residence:

(1)The domestic abuse offender under the court order may access either residence only to the extent permitted by the court order or another court order;

(2)A landlord may refuse access by a domestic abuse offender to the residence of a victim of domestic abuse unless the domestic offender is permitted access by court order; and

(3)A landlord may pursue all available legal remedies against the domestic abuse offender including, without limitation, an action:

(A)To terminate the residential tenancy agreement of the domestic abuse offender;

(B)To evict the domestic abuse offender whether or not a residential tenancy agreement between the landlord and domestic abuse offender exists; and

(C)For damages against the domestic abuse offender:

(i)For any unpaid rent owed by the domestic abuse offender; and

(ii) Resulting from a documented incident of domestic abuse.

(d) A landlord is entitled to a court order terminating the residential tenancy agreement of a person or evicting a person, or both, under subdivision (c)(3)(A) or (B) of this section upon proof that the person is a domestic abuse offender under this section.

(e) A landlord is immune from civil liability if the landlord in good faith:

(1) Changes the locks under subdivision (b)(2) of this section; or

(2) Acts in accordance with a court order under subsection (c) of this section.

(f) A residential tenant may not waive in a residential tenancy the residential tenant's right to request law enforcement assistance or other emergency assistance.

History. Acts 2007, No. 1. 682, §