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Memorandum

TO: Representative Cathy Muñoz
FROM: Chuck Burnham, Legislative Analyst
DATE: October 7, 2010
RE: Warrantless Arrests: Misdemeanors Committed Outside the Presence of Law Enforcement
LRS Report 11.051

You asked about warrantless arrests for misdemeanor crimes. Specifically, you wanted to know the misdemeanor offenses in other states for which an offender can be arrested without a warrant even when the crime is committed outside the presence of a law enforcement officer.

As you know, the 4th Amendment to the U.S. Constitution protects citizens from “unreasonable searches and seizures,” and requires that “probable cause” must be shown by law enforcement and recognized by a judicial officer through the issuance of warrant before an arrest can be made. Courts have recognized a number of exceptions to this requirement, including when a crime is being committed in the presence of a law enforcement officer, when there is a risk that not making an arrest will result in danger or damage to people or property, or when there is a substantial likelihood that an offender will escape arrest entirely unless action is taken immediately.

We identified 42 states that have relied on these exceptions to craft a variety of statutory exclusions to the requirement for an arrest warrant for misdemeanor offenses committed outside the presence of law enforcement.¹ Most commonly, states narrowly craft these statutes to be directed at crimes—particularly domestic violence of the violation or protective orders—where the risk of violence in the absence of an arrest is relatively high. However, a number of states have laws specifying that warrants are not required for shoplifting and other kinds of theft, when a driver in an accident is suspected of having been driving under the influence of alcohol or a controlled substance, and various other non-violent offenses. At least four states—Nevada, New York, Ohio, and South Dakota—allow warrantless arrests for the most serious misdemeanors. Three others—Colorado, Missouri, and New York—allow such arrests for any misdemeanor violation. Rhode Island statute permits warrantless arrests for any misdemeanor if the arresting officer has reason to believe that the offender poses a continued danger or could not be arrested at a later time.

The attached table provides statutory citations and summarizes the misdemeanors for which warrantless arrest are permitted in the 42 states with applicable statutes. We include copies of all of the statutes cited in the table as Attachment A.

We hope this information is helpful. If you have questions or need additional information, please let us know.

¹ We performed key-word searches of the Lexis database of state statutes to identify applicable laws. Our research did not include reviews of regulations or case law, which may significantly impact how these statutes are applied. Although we believe our research to be thorough, there are likely other statute sections on the topic that we did not locate due to variations in wording and construction. As a result, this report should not be viewed as exhaustive of all relevant statutes.

Warrantless Arrests: Misdemeanors Committed Outside the Presence of Law Enforcement

State	Citation	Domestic Violence	Battery	Warrant Issued but not in Possession	Escaped Convict / Parole Violation	Violating Court/ Protective Order	Theft / Shop-lifting	DUI - Related Violation	Other/Notes
Alabama	CA § 15-10-3	X		X		X			
Alaska	AS § 18.65.530	X			X	X			
Arizona	ARS § 13-3601	X							
	ARS § 25-315					X			
Arkansas	ACA § 16-81-106		X						<i>Evidence of bodily harm and danger of further violence must be present.</i>
	ACA § 16-81-113	X							<i>Arrest must be made within four hours, or 12 hours for cases involving physical injury.</i>
California	Cal Pen Code § 836	X				X			
	Cal Pen Code § 836.1		X						<i>Battery on Emergency Response Personnel.</i>
	Cal Pen Code § 836.3				X				
	Cal Pen Code § 13701	X				X			
Colorado	CRS § 16-3-102	X	X	X	X	X	X	X	Any offense.
	CRS § 18-6-803.6	X							
Connecticut	GSC § 46b-38b	X							

Warrantless Arrests: Misdemeanors Committed Outside the Presence of Law Enforcement (contd.)

State	Citation	Domestic Violence	Battery	Warrant Issued but not in Possession	Escaped Convict / Parole Violation	Violating Court/ Protective Order	Theft / Shop-lifting	DUI - Related Violation	Other/Notes
Delaware	DCA § 1904		X			X	X		Illegal sexual contact or attempt; and Any misdemeanor on school property.
Florida	FS § 741.29	X							
Georgia	OCGA § 17-4-20	X							Abuse of a vulnerable adult.
Hawaii	HRS § 709-906	X							
Idaho	IC § 19-603	X							
Illinois	§ 725 ILCS 5/112A-30								
Indiana	ICA § 35-33-1-1	X	X			X			Certain weapons violations; interference with reporting of certain crimes.
Iowa	IC § 236.12	X	X			X			Commission of crime aboard an aircraft.
Kansas	KSA § 22-2307	X							
	KSA § 22-2401								Any misdemeanor where an officer has probable cause to believe that an offender will not otherwise be apprehended, evidence will be lost, injury or damage has occurred or will occur.
Kentucky	KRS § 431.005	X			X	X		X	Failing to comply with sex offender registry.
Louisiana	LSA-RS § 46:2140	X							

Warrantless Arrests: Misdemeanors Committed Outside the Presence of Law Enforcement (contd.)

State	Citation	Domestic Violence	Battery	Warrant Issued but not in Possession	Escaped Convict / Parole Violation	Violating Court/ Protective Order	Theft / Shop-lifting	DUI - Related Violation	Other/Notes
Maine	MRSA 19-A, § 4012	X							
Maryland	ACM § 2-203 to 2-204	X			X	X			Giving false alarm of fire; indecent exposure; certain weapons violations; prostitution.
Mass.	ALM GL ch. 209A § 6	X				X			
	ALM GL ch. 276 § 28	X	X						
Michigan	MCL § 257.625m			X				X	DUI involving commercial vehicle.
	MCL § 764.15				X		X	X	Commission of a misdemeanor punishable by more than 92 days imprisonment; and misdemeanors on school property.
	MCL § 764.15a-b	X				X			
Mississippi	§ 99-3-7	X		X	X	X			
Missouri	§ 455.085 R.S.Mo.	X				X			
	§ 544.216 R.S.Mo.	X	X	X	X	X	X	X	Any violation of law.
Montana	MCA § 46-6-210			X					
	MCA § 46-6-311	X	X	X	X	X	X	X	Any violation of law (<i>where circumstances require immediate arrest</i>) .

Warrantless Arrests: Misdemeanors Committed Outside the Presence of Law Enforcement (contd.)

State	Citation	Domestic Violence	Battery	Warrant Issued but not in Possession	Escaped Convict / Parole Violation	Violating Court/ Protective Order	Theft / Shop-lifting	DUI - Related Violation	Other/Notes
Nebraska	RSN § 29-404.02	X							Any misdemeanor if the officer has reason to believe the offender could not be arrested later, poses a danger, or may destroy evidence.
Nevada	NRSA § 171.124	X	X	X	X	X	X	X	Any Gross Misdemeanor.
	NRSA § 171.137	X							
New Hampshire	RSA § 594:10	X				X			
New Jersey	NJSA § 2C:25-21	X				X			
New York	N.Y. Crim. Proc. Law § 140.10	X	X	X	X	X	X	X	Any crime committed within arresting police officer's jurisdiction.
North Carolina	GSNC § 15A-401	X					X	X	Trespassing in home of former domestic partner; pointing a firearm at a partner/family member; violating a quarantine order.
North Dakota	NDCC § 14-07.1-10	X							
Ohio	ORC § 2935.03	X	X	X	X	X	X	X	Any Class 1 misdemeanor within an officer's jurisdiction where pursuit of the offender has taken place without "unreasonable delay."
Oregon	ORS § 122.055	X							

Warrantless Arrests: Misdemeanors Committed Outside the Presence of Law Enforcement (contd.)

State	Citation	Domestic Violence	Battery	Warrant Issued but not in Possession	Escaped Convict / Parole Violation	Violating Court/ Protective Order	Theft / Shop-lifting	DUI - Related Violation	Other/Notes
Rhode Island	R.I. Gen. Laws § 12-7-3	X	X	X	X	X	X	X	Any misdemeanor if the officer has reason to believe the offender could not be arrested later or poses a danger.
	R.I. Gen. Laws § 12-29-3	X				X			
South Carolina	S.C. Code Ann. § 16-25-70	X							
South Dakota	SDCL § 23A-3-2	X	X	X	X	X	X	X	Any Class 1 misdemeanor.
Tennessee	TCA § 36-3-619	X							
	TCA § 40-7-103	X			X			X	
Utah	UCA § 77-36-2.2	X							
Virginia	Va. Code Ann. § 19.2-81		X	X			X	X	Carrying a weapon on school property; brandishing a firearm; and destruction of commercial property.
Washington	RCWA § 10.31.100	X	X			X	X	X	Theft; threats to people or property; possession of cannabis; minor consuming alcohol; criminal trespass; numerous traffic violations; indecent exposure; interference with a health care facility; and possession of dangerous weapon on school grounds.

Warrantless Arrests: Misdemeanors Committed Outside the Presence of Law Enforcement (contd.)

State	Citation	Domestic Violence	Battery	Warrant Issued but not in Possession	Escaped Convict / Parole Violation	Violating Court/ Protective Order	Theft / Shop-lifting	DUI - Related Violation	Other/Notes
Wisconsin	Wis. Stat. § 968.075	X							

Notes and Source: This table was compiled using key-word searches of the *Lexis* database of state statutes and should not be viewed as an exhaustive list of all laws on the topic. We did not review regulations or case law, both of which may impact the manner in which the statute sections listed are applied.

LEXSTAT ALA. CODE § 15-10-3

MICHIE'S ALABAMA CODE ANNOTATED
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*** Current through the end of the 2010 Regular Session ***
*** (Acts 2010, No. 10-754) ***

TITLE 15 Criminal Procedure
CHAPTER 10 Arrests
Article 1 Arrest Before Indictment

Go to the Alabama Code Archive Directory

Code of Ala. § 15-10-3 (2010)

§ 15-10-3. Warrantless arrest; grounds -- Domestic violence report.

(a) An officer may arrest a person without a warrant, on any day and at any time in any of the following instances:

- (1) If a public offense has been committed or a breach of the peace threatened in the presence of the officer.
- (2) When a felony has been committed, though not in the presence of the officer, by the person arrested.
- (3) When a felony has been committed and the officer has reasonable cause to believe that the person arrested committed the felony.
- (4) When the officer has reasonable cause to believe that the person arrested has committed a felony, although it may afterwards appear that a felony had not in fact been committed.
- (5) When a charge has been made, upon reasonable cause, that the person arrested has committed a felony.
- (6) When the officer has actual knowledge that a warrant for the person's arrest for the commission of a felony or misdemeanor has been issued, provided the warrant was issued in accordance with this chapter. However, upon request the officer shall show the warrant to the arrested person as soon as possible. If the officer does not have the warrant in his or her possession at the time of arrest the officer shall inform the defendant of the offense charged and of the fact that a warrant has been issued.
- (7) When the officer has reasonable cause to believe that a felony or misdemeanor has been committed by the person arrested in violation of a protection order issued by a court of competent jurisdiction.
- (8) When an offense involves domestic violence as defined by this section, and the arrest is based on probable cause, regardless of whether the offense is a felony or misdemeanor.

(b) For the purpose of this section, the following terms have the following meanings:

- (1) **Abuse.** Any offense under *Sections 13A-6-60 to 13A-6-70*, inclusive, or under *Sections 26-15-1 to 26-15-4*, inclusive.

(2) Assault. Any offense under *Sections 13A-6-20 to 13A-6-25*, inclusive.

(3) Family, household, or dating or engagement relationship members. Includes a spouse, former spouse, parent, child, or any other person related by marriage or common law marriage, a person with whom the victim has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship.

(4) Domestic violence. Any incident resulting in the abuse, assault, harassment, or the attempt or threats thereof, between family, household, or dating or engagement relationship members.

(5) Harrassment. Any offense under Section 13A-11-8.

(c) When a law enforcement officer investigates an allegation of domestic violence, whether or not an arrest is made, the officer shall make a written report of the alleged incident, including a statement of the complaint, and the disposition of the case.

LEXSTAT AS 18.65.530

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*** Current through the 2009 First Session of the *** Twenty-Sixth State Legislature and the 2009 First Special Session ***

*** Annotations current through opinions posted on Lexis.com as of April 2, 2010 ***

TITLE 18. HEALTH, SAFETY, AND HOUSING
CHAPTER 65. POLICE PROTECTION
ARTICLE 7. DOMESTIC VIOLENCE

Go to the Alaska Code Archive Directory

Alaska Stat. § 18.65.530 (2010)

Legislative Alert: LEXSEE 2010 AK. ALS 19, 2010 AK. Sess. Laws 19 -- See section 21.

Sec. 18.65.530. Mandatory arrest for crimes involving domestic violence, violation of protective orders, and violation of conditions of release

(a) Except as provided in (b) or (c) of this section, a peace officer, with or without a warrant, shall arrest a person if the officer has probable cause to believe the person has, either in or outside the presence of the officer, within the previous 12 hours,

(1) committed domestic violence, except an offense under *AS 11.41.100 -- 11.41.130*, whether the crime is a felony or a misdemeanor;

(2) committed the crime of violating a protective order in violation of *AS 11.56.740*;

(3) violated a condition of release imposed under *AS 12.30.025, 12.30.027, or 12.30.029*.

(b) If a peace officer receives complaints of domestic violence from more than one person arising from the same incident, the officer shall evaluate the conduct of each person to determine who was the principal physical aggressor. If the officer determines that one person was the principal physical aggressor, the other person or persons need not be arrested. In determining whether a person is a principal physical aggressor, the officer shall consider

(1) prior complaints of domestic violence;

(2) the relative severity of the injuries inflicted on each person;

(3) the likelihood of future injury from domestic violence to each person; and

(4) whether one of the persons acted in defense of self or others.

(c) A peace officer is not required to make an arrest under (a) of this section if the officer has received authorization not to arrest from a prosecuting attorney in the jurisdiction in which the offense under investigation arose.

(d) When investigating a crime involving domestic violence, a peace officer may not threaten or suggest the possible arrest of all persons involved in the same incident in a manner that would have a tendency to discourage requests for intervention by law enforcement in incidents involving domestic violence.

(e) In addition to the contents of any other report, a peace officer who does not make an arrest after investigating a complaint of domestic violence, or who arrests two or more persons based on the same incident, shall describe in writing the reasons for not making an arrest or for arresting more than one person.

(f) A person may not bring a civil action for damages for a failure to comply with the provisions of this section.

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PENAL CODE
Part 2. Of Criminal Procedure
Title 3. Additional Provisions Regarding Criminal Procedure
Chapter 5. Arrest, by Whom and How Made

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Pen Code § 836 (2010)

Legislative Alert: 2010 Cal. ALS 178; see section 69, effective 01/01/2011; operative 01/01/2012.

§ 836. Arrests by peace officers with or without warrants; Domestic violence; Noncompliance with protective orders; Carrying of concealed firearm

(a) A peace officer may arrest a person in obedience to a warrant, or, pursuant to the authority granted to him or her by Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, without a warrant, may arrest a person whenever any of the following circumstances occur:

(1) The officer has probable cause to believe that the person to be arrested has committed a public offense in the officer's presence.

(2) The person arrested has committed a felony, although not in the officer's presence.

(3) The officer has probable cause to believe that the person to be arrested has committed a felony, whether or not a felony, in fact, has been committed.

(b) Any time a peace officer is called out on a domestic violence call, it shall be mandatory that the officer make a good faith effort to inform the victim of his or her right to make a citizen's arrest. This information shall include advising the victim how to safely execute the arrest.

(c)

(1) When a peace officer is responding to a call alleging a violation of a domestic violence protective or restraining order issued under *Section 527.6 of the Code of Civil Procedure*, the Family Code, Section 136.2, 646.91, or paragraph (2) of subdivision (a) of Section 1203.097 of this code, *Section 213.5 or 15657.03 of the Welfare and Institutions Code*, or of a domestic violence protective or restraining order issued by the court of another state, tribe, or territory and the peace officer has probable cause to believe that the person against whom the order is issued has notice of the order and has committed an act in violation of the order, the officer shall, consistent with subdivision (b) of Section 13701, make a lawful arrest of the person without a warrant and take that person into custody whether or not the violation occurred in the presence of the arresting officer. The officer shall, as soon as possible after the arrest, confirm with the appropriate

authorities or the Domestic Violence Protection Order Registry maintained pursuant to *Section 6380 of the Family Code* that a true copy of the protective order has been registered, unless the victim provides the officer with a copy of the protective order.

(2) The person against whom a protective order has been issued shall be deemed to have notice of the order if the victim presents to the officer proof of service of the order, the officer confirms with the appropriate authorities that a true copy of the proof of service is on file, or the person against whom the protective order was issued was present at the protective order hearing or was informed by a peace officer of the contents of the protective order.

(3) In situations where mutual protective orders have been issued under Division 10 (commencing with *Section 6200 of the Family Code*), liability for arrest under this subdivision applies only to those persons who are reasonably believed to have been the dominant aggressor. In those situations, prior to making an arrest under this subdivision, the peace officer shall make reasonable efforts to identify, and may arrest, the dominant aggressor involved in the incident. The dominant aggressor is the person determined to be the most significant, rather than the first, aggressor. In identifying the dominant aggressor, an officer shall consider (A) the intent of the law to protect victims of domestic violence from continuing abuse, (B) the threats creating fear of physical injury, (C) the history of domestic violence between the persons involved, and (D) whether either person involved acted in self-defense.

(d) Notwithstanding paragraph (1) of subdivision (a), if a suspect commits an assault or battery upon a current or former spouse, fiancée, fiancée, a current or former cohabitant as defined in *Section 6209 of the Family Code*, a person with whom the suspect currently is having or has previously had an engagement or dating relationship, as defined in paragraph (10) of subdivision (f) of *Section 243*, a person with whom the suspect has parented a child, or is presumed to have parented a child pursuant to the Uniform Parentage Act (Part 3 (commencing with *Section 7600 of Division 12 of the Family Code*), a child of the suspect, a child whose parentage by the suspect is the subject of an action under the Uniform Parentage Act, a child of a person in one of the above categories, any other person related to the suspect by consanguinity or affinity within the second degree, or any person who is 65 years of age or older and who is related to the suspect by blood or legal guardianship, a peace officer may arrest the suspect without a warrant where both of the following circumstances apply:

(1) The peace officer has probable cause to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.

(2) The peace officer makes the arrest as soon as probable cause arises to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.

(e) In addition to the authority to make an arrest without a warrant pursuant to paragraphs (1) and (3) of subdivision (a), a peace officer may, without a warrant, arrest a person for a violation of *Section 12025* when all of the following apply:

(1) The officer has reasonable cause to believe that the person to be arrested has committed the violation of *Section 12025*.

(2) The violation of *Section 12025* occurred within an airport, as defined in *Section 21013 of the Public Utilities Code*, in an area to which access is controlled by the inspection of persons and property.

(3) The peace officer makes the arrest as soon as reasonable cause arises to believe that the person to be arrested has committed the violation of *Section 12025*.

Cal Pen Code § 836.1

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PENAL CODE

Part 2. Of Criminal Procedure

Title 3. Additional Provisions Regarding Criminal Procedure

Chapter 5. Arrest, by Whom and How Made

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Pen Code § 836.1 (2010)

§ 836.1. Grounds for arrest of person who commits assault or battery against firefighters or other specified personnel

When a person commits an assault or battery against the person of a firefighter, emergency medical technician, or mobile intensive care paramedic while that person is on duty engaged in the performance of his or her duties in violation of subdivision (b) of Section 241 or subdivision (b) of Section 243, a peace officer may, without a warrant, arrest the person who commits the assault or battery:

(a) Whenever the peace officer has reasonable cause to believe that the person to be arrested has committed the assault or battery, although the assault or battery was not committed in the peace officer's presence.

(b) Whenever the peace officer has reasonable cause to believe that the person to be arrested has committed the assault or battery, whether or not the assault or battery has in fact been committed.

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Pen Code § 836.3 (2010)

§ 836.3. Arrest of escapee charged with or convicted of misdemeanor

A peace officer may make an arrest in obedience to a warrant delivered to him, or may, without a warrant, arrest a person who, while charged with or convicted of a misdemeanor, has escaped from any county or city jail, prison, industrial farm or industrial road camp or from the custody of the officer or person in charge of him while engaged on any county road or other county work or going to or returning from such county road or other county work or from the custody of any officer or person in whose lawful custody he is when such escape is not by force or violence.

LEXSTAT COLO. REV. STAT. § 18-6-803.6(1)

COLORADO REVISED STATUTES

*** THIS DOCUMENT REFLECTS CHANGES RECEIVED THROUGH THE 2010 LEGISLATIVE SESSION ***

*** ANNOTATIONS CURRENT THROUGH OCTOBER 15, 2009 ***

TITLE 18. CRIMINAL CODE

ARTICLE 6. OFFENSES INVOLVING THE FAMILY RELATIONS

PART 8. DOMESTIC VIOLENCE

GO TO COLORADO STATUTES ARCHIVE DIRECTORY

C.R.S. 18-6-803.6 (2010)

18-6-803.6. Duties of peace officers and prosecuting agencies - preservation of evidence

(1) When a peace officer determines that there is probable cause to believe that a crime or offense involving domestic violence, as defined in *section 18-6-800.3 (1)*, has been committed, the officer shall, without undue delay, arrest the person suspected of its commission pursuant to the provisions in subsection (2) of this section, if applicable, and charge the person with the appropriate crime or offense. Nothing in this subsection (1) shall be construed to require a peace officer to arrest both parties involved in an alleged act of domestic violence when both claim to have been victims of such domestic violence. Additionally, nothing in this subsection (1) shall be construed to require a peace officer to arrest either party involved in an alleged act of domestic violence when a peace officer determines there is no probable cause to believe that a crime or offense of domestic violence has been committed. The arrested person shall be removed from the scene of the arrest and shall be taken to the peace officer's station for booking, whereupon the arrested person may be held or released in accordance with the adopted bonding schedules for the jurisdiction in which the arrest is made.

(2) If a peace officer receives complaints of domestic violence from two or more opposing persons, the officer shall evaluate each complaint separately to determine if a crime has been committed by one or more persons. In determining whether a crime has been committed by one or more persons, the officer shall consider the following:

- (a) Any prior complaints of domestic violence;
- (b) The relative severity of the injuries inflicted on each person;
- (c) The likelihood of future injury to each person; and
- (d) The possibility that one of the persons acted in self-defense.

(3) (a) A peace officer is authorized to use every reasonable means to protect the alleged victim or the alleged victim's children to prevent further violence. Such peace officer may transport, or obtain transportation for, the alleged victim to shelter. Upon the request of the protected person, the peace officer may also transport the minor child of the protected person, who is not an emancipated minor, to the same shelter if such shelter is willing to accept the child, whether or not there is a custody order or an order for the care and control of the child or an order allocating parental responsibilities with respect to the child and whether or not the other parent objects. A peace officer who transports a minor child over the objection of the other parent shall not be held liable for any damages that may result from interference with the custody, parental responsibilities, care, and control of or access to a minor child in complying with this subsection (3).

(b) For purposes of this subsection (3), "shelter" means a battered women's shelter, a friend's or family member's home, or such other safe haven as may be designated by the protected person and which is within a reasonable distance from the location at which the peace officer found the victim.

(4) (a) The arresting agency shall make reasonable efforts to collect and preserve any pertinent evidence until the time of final disposition of the matter, including, but not limited to, the following:

- (I) Any dispatch tape recording relating to the event;
- (II) Any on-scene video or audio tape recordings;
- (III) Any medical records of treatment of the alleged victim or the defendant; and
- (IV) Any other relevant physical evidence or witness statements.

(b) However, in the absence of bad faith, any failure to collect or preserve any evidence listed in paragraph (a) of this subsection (4) shall not be grounds to dismiss the matter.

(4.5) When a peace officer responds to a call or is otherwise responding to a report about an alleged offense involving domestic violence, as defined in *section 18-6-800.3 (1)*, or other domestic dispute, the officer shall include in his or her written or oral report concerning such incident whether children may have seen or heard the alleged offense; except that, in the absence of bad faith, the failure of a peace officer to note that a child may have seen or heard the alleged offense shall not be grounds to dismiss the matter.

(5) A peace officer shall not be held civilly or criminally liable for acting pursuant to this section if the peace officer acts in good faith and without malice.

LEXSTAT CONN. GEN. STAT. § 46B-38B

LEXISNEXIS (TM) CONNECTICUT ANNOTATED STATUTES

*** THIS DOCUMENT IS CURRENT THROUGH THE 2009 LEGISLATION (2010 SUPPLEMENT) ***

TITLE 46b FAMILY LAW
CHAPTER 815e MARRIAGE

GO TO CONNECTICUT STATUTES ARCHIVE DIRECTORY

Conn. Gen. Stat. § 46b-38b (2010)

Legislative Alert: LEXSEE 2010 Ct. ALS 36 -- See section 5.

Sec. 46b-38b. *(See end of section for amended version and effective date.) Investigation of family violence crime by peace officer. Arrest. Assistance to victim. Guidelines. Education and training program.

(a) Whenever a peace officer determines upon speedy information that a family violence crime, except a family violence crime involving a dating relationship, has been committed within such officer's jurisdiction, such officer shall arrest the person or persons suspected of its commission and charge such person or persons with the appropriate crime. The decision to arrest and charge shall not (1) be dependent on the specific consent of the victim, (2) consider the relationship of the parties, or (3) be based solely on a request by the victim. Whenever a peace officer determines that a family violence crime has been committed, such officer may seize any firearm or electronic defense weapon, as defined in section 53a-3, at the location where the crime is alleged to have been committed that is in the possession of any person arrested for the commission of such crime or suspected of its commission or that is in plain view. Not later than seven days after any such seizure, the law enforcement agency shall return such firearm or electronic defense weapon in its original condition to the rightful owner thereof unless such person is ineligible to possess such firearm or electronic defense weapon or unless otherwise ordered by the court.

(b) No peace officer investigating an incident of family violence shall threaten, suggest or otherwise indicate the arrest of all parties for the purpose of discouraging requests for law enforcement intervention by any party. Where complaints are made by two or more opposing parties, the officer shall evaluate each complaint separately to determine whether such officer should make an arrest or seek a warrant for an arrest. Notwithstanding the provisions of subsection (a) of this section, when a peace officer reasonably believes that a party in an incident of family violence has used force as a means of self defense, such officer is not required to arrest such party under this section.

(c) No peace officer shall be held liable in any civil action regarding personal injury or injury to property brought by any party to a family violence incident for an arrest based on probable cause or for any conditions of release imposed pursuant to subsection (b) of *section 54-63c*.

(d) It shall be the responsibility of the peace officer at the scene of a family violence incident to provide immediate assistance to the victim. Such assistance shall include, but not be limited to: (1) Assisting the victim to obtain medical treatment if such treatment is required; (2) notifying the victim of the right to file an affidavit or warrant for arrest; and (3) informing the victim of services available and referring the victim to the Office of Victim Services. In cases where the officer has determined that no cause exists for an arrest, assistance shall include: (A) Assistance as provided in subdivisions (1) to (3), inclusive, of this subsection; and (B) remaining at the scene for a reasonable time until, in the reasonable judgment of the officer, the likelihood of further imminent violence has been eliminated.

(e) Each law enforcement agency shall develop, in conjunction with the Division of Criminal Justice, and

implement specific operational guidelines for arrest policies in family violence incidents. Such guidelines shall include, but not be limited to: (1) Procedures for the conduct of a criminal investigation; (2) procedures for arrest and for victim assistance by peace officers; (3) education as to what constitutes speedy information in a family violence incident; (4) procedures with respect to the provision of services to victims; and (5) such other criteria or guidelines as may be applicable to carry out the purposes of sections 46b-1, 46b-15, 46b-38a to 46b-38f, inclusive, and 54-1g. Such procedures shall be duly promulgated by such law enforcement agency.

(f) The Police Officer Standards and Training Council, in conjunction with the Division of Criminal Justice, shall establish an education and training program for law enforcement officers, supervisors and state's attorneys on the handling of family violence incidents. Training under such program shall: (1) Stress the enforcement of criminal law in family violence cases and the use of community resources, and include training for peace officers at both recruit and in-service levels; and (2) include, but not be limited to: (A) The nature, extent and causes of family violence; (B) legal rights of and remedies available to victims of family violence and persons accused of family violence; (C) services and facilities available to victims and batterers; (D) legal duties imposed on police officers to make arrests and to offer protection and assistance; and (E) techniques for handling incidents of family violence that minimize the likelihood of injury to the officer and promote the safety of the victim.

***Note:** On and after July 1, 2010, this section, as amended by section 64 of public act 09-7 of the September special session, is to read as follows:

"Sec. 46b-38b. Investigation of family violence crime by peace officer. Arrest. Assistance to victim. Guidelines. Education and training program. Assistance and protocols for victims whose immigration status is questionable. (a) Whenever a peace officer determines upon speedy information that a family violence crime, except a family violence crime involving a dating relationship, has been committed within such officer's jurisdiction, such officer shall arrest the person or persons suspected of its commission and charge such person or persons with the appropriate crime. The decision to arrest and charge shall not (1) be dependent on the specific consent of the victim, (2) consider the relationship of the parties, or (3) be based solely on a request by the victim. Whenever a peace officer determines that a family violence crime has been committed, such officer may seize any firearm or electronic defense weapon, as defined in section 53a-3, at the location where the crime is alleged to have been committed that is in the possession of any person arrested for the commission of such crime or suspected of its commission or that is in plain view. Not later than seven days after any such seizure, the law enforcement agency shall return such firearm or electronic defense weapon in its original condition to the rightful owner thereof unless such person is ineligible to possess such firearm or electronic defense weapon or unless otherwise ordered by the court.

(b) No peace officer investigating an incident of family violence shall threaten, suggest or otherwise indicate the arrest of all parties for the purpose of discouraging requests for law enforcement intervention by any party. Where complaints are made by two or more opposing parties, the officer shall evaluate each complaint separately to determine whether such officer should make an arrest or seek a warrant for an arrest. Notwithstanding the provisions of subsection (a) of this section, when a peace officer reasonably believes that a party in an incident of family violence has used force as a means of self defense, such officer is not required to arrest such party under this section.

(c) No peace officer shall be held liable in any civil action regarding personal injury or injury to property brought by any party to a family violence incident for an arrest based on probable cause or for any conditions of release imposed pursuant to subsection (b) of *section 54-63c*.

(d) It shall be the responsibility of the peace officer at the scene of a family violence incident to provide immediate assistance to the victim. Such assistance shall include, but not be limited to: (1) Assisting the victim to obtain medical treatment if such treatment is required; (2) notifying the victim of the right to file an affidavit or warrant for arrest; (3) informing the victim of services available and referring the victim to the Office of Victim Services; and (4) providing assistance in accordance with the uniform protocols for treating victims of family violence whose immigration status is questionable established pursuant to subsection (g) of this section. In cases where the officer has determined that no

cause exists for an arrest, assistance shall include: (A) Assistance as provided in subdivisions (1) to (4), inclusive, of this subsection; and (B) remaining at the scene for a reasonable time until, in the reasonable judgment of the officer, the likelihood of further imminent violence has been eliminated.

(e)(1) Each law enforcement agency shall develop, in conjunction with the Division of Criminal Justice, and implement specific operational guidelines for arrest policies in family violence incidents. Such guidelines shall include, but not be limited to: (A) Procedures for the conduct of a criminal investigation; (B) procedures for arrest and for victim assistance by peace officers; (C) education as to what constitutes speedy information in a family violence incident; (D) procedures with respect to the provision of services to victims; and (E) such other criteria or guidelines as may be applicable to carry out the purposes of sections 46b-1, 46b-15, 46b-38a to 46b-38f, inclusive, and 54-1g. Such procedures shall be duly promulgated by such law enforcement agency.

(2) On and after July 1, 2010, each law enforcement agency shall designate at least one officer with supervisory duties to expeditiously process, upon request of a victim of family violence or other crime who is applying for U Nonimmigrant Status (A) a certification of helpfulness on Form I-918, Supplement B, or any subsequent corresponding form designated by the United States Department of Homeland Security, confirming that the victim of family violence or other crime has been helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of the criminal activity, and (B) any subsequent certification required by the victim.

(f) The Police Officer Standards and Training Council, in conjunction with the Division of Criminal Justice, shall establish an education and training program for law enforcement officers, supervisors and state's attorneys on the handling of family violence incidents. Training under such program shall: (1) Stress the enforcement of criminal law in family violence cases and the use of community resources, and include training for peace officers at both recruit and in-service levels; and (2) include, but not be limited to: (A) The nature, extent and causes of family violence; (B) legal rights of and remedies available to victims of family violence and persons accused of family violence; (C) services and facilities available to victims and batterers; (D) legal duties imposed on police officers to make arrests and to offer protection and assistance, including applicable probable cause standards; and (E) techniques for handling incidents of family violence that minimize the likelihood of injury to the officer and promote the safety of the victim. On and after July 1, 2010, training under such program shall also include, within available appropriations, information on (i) the impact of arrests of multiple parties in a family violence case on the immigration status of the parties; (ii) crime scene investigation and evaluation practices in family violence cases designed by the council to reduce the number of multiple arrests in family violence cases; and (iii) practical considerations in the application of state statutes related to family violence. On and after July 1, 2010, such training shall also address, within available appropriations, eligibility for federal T Visas for victims of human trafficking and federal U Visas for unauthorized immigrants who are victims of family violence and other crimes.

(g) Not later than July 1, 2010, the Police Officer Standards and Training Council shall establish uniform protocols for treating victims of family violence whose immigration status is questionable, and shall make such protocols available to law enforcement agencies. Each law enforcement agency shall adopt and use such protocols on and after the date they are established by the council."

LEXSTAT FLA. STAT. CH. 741.29

LexisNexis (R) Florida Annotated Statutes
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*** STATUTES AND CONSTITUTION ARE CURRENT THROUGH THE 2010 REGULAR SESSION ***

*** Annotations current through Aug. 20, 2010 ***

TITLE 43. DOMESTIC RELATIONS (Chs. 741-753)
CHAPTER 741. MARRIAGE; DOMESTIC VIOLENCE

GO TO FLORIDA STATUTES ARCHIVE DIRECTORY

Fla. Stat. § 741.29 (2010)

§ 741.29. Domestic violence; investigation of incidents; notice to victims of legal rights and remedies; reporting

(1) Any law enforcement officer who investigates an alleged incident of domestic violence shall assist the victim to obtain medical treatment if such is required as a result of the alleged incident to which the officer responds. Any law enforcement officer who investigates an alleged incident of domestic violence shall advise the victim of such violence that there is a domestic violence center from which the victim may receive services. The law enforcement officer shall give the victim immediate notice of the legal rights and remedies available on a standard form developed and distributed by the department. As necessary, the department shall revise the Legal Rights and Remedies Notice to Victims to include a general summary of *s. 741.30* using simple English as well as Spanish, and shall distribute the notice as a model form to be used by all law enforcement agencies throughout the state. The notice shall include:

(a) The resource listing, including telephone number, for the area domestic violence center designated by the Department of Children and Family Services; and

(b) A copy of the following statement: "IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you may ask the state attorney to file a criminal complaint. You also have the right to go to court and file a petition requesting an injunction for protection from domestic violence which may include, but need not be limited to, provisions which restrain the abuser from further acts of abuse; direct the abuser to leave your household; prevent the abuser from entering your residence, school, business, or place of employment; award you custody of your minor child or children; and direct the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so."

(2) When a law enforcement officer investigates an allegation that an incident of domestic violence has occurred, the officer shall handle the incident pursuant to the arrest policy provided in *s. 901.15(7)*, and as developed in accordance with subsections (3), (4), and (5). Whether or not an arrest is made, the officer shall make a written police report that is complete and clearly indicates the alleged offense was an incident of domestic violence. Such report shall be given to the officer's supervisor and filed with the law enforcement agency in a manner that will permit data on domestic violence cases to be compiled. Such report must include:

(a) A description of physical injuries observed, if any.

(b) If a law enforcement officer decides not to make an arrest or decides to arrest two or more parties, the officer shall include in the report the grounds for not arresting anyone or for arresting two or more parties.

(c) A statement which indicates that a copy of the legal rights and remedies notice was given to the victim.

Whenever possible, the law enforcement officer shall obtain a written statement from the victim and witnesses concerning the alleged domestic violence. The officer shall submit the report to the supervisor or other person to whom the employer's rules or policies require reports of similar allegations of criminal activity to be made. The law enforcement agency shall, without charge, send a copy of the initial police report, as well as any subsequent, supplemental, or related report, which excludes victim/witness statements or other materials that are part of an active criminal investigation and are exempt from disclosure under chapter 119, to the nearest locally certified domestic violence center within 24 hours after the agency's receipt of the report. The report furnished to the domestic violence center must include a narrative description of the domestic violence incident.

(3) Whenever a law enforcement officer determines upon probable cause that an act of domestic violence has been committed within the jurisdiction the officer may arrest the person or persons suspected of its commission and charge such person or persons with the appropriate crime. The decision to arrest and charge shall not require consent of the victim or consideration of the relationship of the parties.

(4) (a) When complaints are received from two or more parties, the officers shall evaluate each complaint separately to determine whether there is probable cause for arrest.

(b) If a law enforcement officer has probable cause to believe that two or more persons have committed a misdemeanor or felony, or if two or more persons make complaints to the officer, the officer shall try to determine who was the primary aggressor. Arrest is the preferred response only with respect to the primary aggressor and not the preferred response with respect to a person who acts in a reasonable manner to protect or defend oneself or another family or household member from domestic violence.

(5) No law enforcement officer shall be held liable, in any civil action, for an arrest based on probable cause, enforcement in good faith of a court order, or service of process in good faith under this chapter arising from an alleged incident of domestic violence brought by any party to the incident.

(6) A person who willfully violates a condition of pretrial release provided in s. 903.047, when the original arrest was for an act of domestic violence as defined in s. 741.28, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and shall be held in custody until his or her first appearance.

LEXSTAT GA. CODE ANN. § 17-4-20

OFFICIAL CODE OF GEORGIA ANNOTATED

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*** Current Through the 2010 Regular Session ***

*** Annotations Current Through April 30, 2010 ***

TITLE 17. CRIMINAL PROCEDURE

CHAPTER 4. ARREST OF PERSONS

ARTICLE 2. ARREST BY LAW ENFORCEMENT OFFICERS GENERALLY

Go to the Georgia Code Archive Directory

O.C.G.A. § 17-4-20 (2010)

§ 17-4-20. Authorization of arrests with and without warrants generally; use of deadly force; adoption or promulgation of conflicting regulations, policies, ordinances, and resolutions; authority of nuclear power facility security officer

(a) An arrest for a crime may be made by a law enforcement officer either under a warrant or without a warrant if the offense is committed in such officer's presence or within such officer's immediate knowledge; if the offender is endeavoring to escape; if the officer has probable cause to believe that an act of family violence, as defined in *Code Section 19-13-1*, has been committed; if the officer has probable cause to believe that an offense involving physical abuse has been committed against a vulnerable adult, who shall be for the purposes of this subsection a person 18 years old or older who is unable to protect himself or herself from physical or mental abuse because of a physical or mental impairment; or for other cause if there is likely to be failure of justice for want of a judicial officer to issue a warrant.

(b) Sheriffs and peace officers who are appointed or employed in conformity with Chapter 8 of Title 35 may use deadly force to apprehend a suspected felon only when the officer reasonably believes that the suspect possesses a deadly weapon or any object, device, or instrument which, when used offensively against a person, is likely to or actually does result in serious bodily injury; when the officer reasonably believes that the suspect poses an immediate threat of physical violence to the officer or others; or when there is probable cause to believe that the suspect has committed a crime involving the infliction or threatened infliction of serious physical harm. Nothing in this Code section shall be construed so as to restrict such sheriffs or peace officers from the use of such reasonable nondeadly force as may be necessary to apprehend and arrest a suspected felon or misdemeanor.

(c) Nothing in this Code section shall be construed so as to restrict the use of deadly force by employees of state and county correctional institutions, jails, and other places of lawful confinement or by peace officers of any agency in the State of Georgia when reasonably necessary to prevent escapes or apprehend escapees from such institutions.

(d) No law enforcement agency of this state or of any political subdivision of this state shall adopt or promulgate any rule, regulation, or policy which prohibits a peace officer from using that degree of force to apprehend a suspected felon which is allowed by the statutory and case law of this state.

(e) Each peace officer shall be provided with a copy of this Code section. Training regarding elder abuse, abuse of vulnerable adults, and the requirements of this Code section should be offered as part of at least one in-service training program each year conducted by or on behalf of each law enforcement department and agency in this state.

(f) A nuclear power facility security officer, including a contract security officer, employed by a federally licensed nuclear power facility or licensee thereof for the purpose of securing that facility shall have the authority to:

(1) Threaten or use force against another in defense of a federally licensed nuclear power facility and the persons therein as provided for under *Code Sections 16-3-21* and *16-3-23*;

(2) Search any person on the premises of the nuclear power facility or the properties adjacent to the facility if the facility is under imminent threat or danger pursuant to a written agreement entered into with the local enforcement agency having jurisdiction over the facility for the purpose of determining if such person possesses unauthorized weapons, explosives, or other similarly prohibited material; provided, however, that if such person objects to any search, he or she shall be detained as provided in paragraph (3) of this subsection or shall be required to immediately vacate the premises. Any person refusing to submit to a search and refusing to vacate the premises of a facility upon the request of a security officer as provided for in this Code section shall be guilty of a misdemeanor; and

(3) In accordance with a nuclear security plan approved by the United States Nuclear Regulatory Commission or other federal agency authorized to regulate nuclear facility security, detain any person located on the premises of a nuclear power facility or on the properties adjacent thereto if the facility is under imminent threat or danger pursuant to a written agreement entered into with the local law enforcement agency having jurisdiction over the facility, where there is reasonable suspicion to believe that such person poses a threat to the security of the nuclear power facility, regardless of whether such prohibited act occurred in the officer's presence. In the event of such detention, the law enforcement agency having jurisdiction over the facility shall be immediately contacted. The detention shall not exceed the amount of time reasonably necessary to allow for law enforcement officers to arrive at the facility.

LEXSTAT HAW. REV. STAT §709-906

MICHIE'S HAWAII REVISED STATUTES ANNOTATED

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*** THIS DOCUMENT IS CURRENT FOR 2010 LEGISLATION ACTS 1 THROUGH 212 ***

*** ANNOTATIONS CURRENT THROUGH JULY 15, 2010. ***

DIVISION 5. CRIMES AND CRIMINAL PROCEEDINGS

TITLE 37 Hawaii Penal Code

CHAPTER 709 Offenses Against the Family and Against Incompetents

Goto the Hawaii Code Archive Directory

HRS § 709-906 (2010)

§ 709-906. Abuse of family or household members; penalty.

(1) It shall be unlawful for any person, singly or in concert, to physically abuse a family or household member or to refuse compliance with the lawful order of a police officer under subsection (4). The police, in investigating any complaint of abuse of a family or household member, upon request, may transport the abused person to a hospital or safe shelter.

For the purposes of this section, "family or household member" means spouses or reciprocal beneficiaries, former spouses or reciprocal beneficiaries, persons who have a child in common, parents, children, persons related by consanguinity, and persons jointly residing or formerly residing in the same dwelling unit.

(2) Any police officer, with or without a warrant, may arrest a person if the officer has reasonable grounds to believe that the person is physically abusing, or has physically abused, a family or household member and that the person arrested is guilty thereof.

(3) A police officer who has reasonable grounds to believe that the person is physically abusing, or has physically abused, a family or household member shall prepare a written report.

(4) Any police officer, with or without a warrant, may take the following course of action where the officer has reasonable grounds to believe that there was physical abuse or harm inflicted by one person upon a family or household member, regardless of whether the physical abuse or harm occurred in the officer's presence:

(a) The police officer may make reasonable inquiry of the family or household member upon whom the officer believes physical abuse or harm has been inflicted and other witnesses as there may be;

(b) Where the police officer has reasonable grounds to believe that there is probable danger of further physical abuse or harm being inflicted by one person upon a family or household member, the police officer lawfully may order the person to leave the premises for a period of separation of twenty-four hours, during which time the person shall not initiate any contact, either by telephone or in person, with the family or household member; provided that the person is allowed to enter the premises with police escort to collect any necessary personal effects;

(c) Where the police officer makes the finding referred to in paragraph (b) and the incident occurs after 12:00 p.m. on any Friday, or on any Saturday, Sunday, or legal holiday, the order to leave the premises and to initiate no

HRS § 709-906

further contact shall commence immediately and be in full force, but the twenty-four hour period shall be enlarged and extended until 4:30 p.m. on the first day following the weekend or legal holiday;

(d) All persons who are ordered to leave as stated above shall be given a written warning citation stating the date, time, and location of the warning and stating the penalties for violating the warning. A copy of the warning citation shall be retained by the police officer and attached to a written report which shall be submitted in all cases. A third copy of the warning citation shall be given to the abused person;

(e) If the person so ordered refuses to comply with the order to leave the premises or returns to the premises before the expiration of the period of separation, or if the person so ordered initiates any contact with the abused person, the person shall be placed under arrest for the purpose of preventing further physical abuse or harm to the family or household member; and

(f) The police officer may seize all firearms and ammunition that the police officer has reasonable grounds to believe were used or threatened to be used in the commission of an offense under this section.

(5) Abuse of a family or household member and refusal to comply with the lawful order of a police officer under subsection (4) are misdemeanors and the person shall be sentenced as follows:

(a) For the first offense the person shall serve a minimum jail sentence of forty-eight hours; and

(b) For a second offense that occurs within one year of the first conviction, the person shall be termed a "repeat offender" and serve a minimum jail sentence of thirty days.

Upon conviction and sentencing of the defendant, the court shall order that the defendant immediately be incarcerated to serve the mandatory minimum sentence imposed; provided that the defendant may be admitted to bail pending appeal pursuant to chapter 804. The court may stay the imposition of the sentence if special circumstances exist.

(6) Whenever a court sentences a person pursuant to subsection (5), it also shall require that the offender undergo any available domestic violence intervention programs ordered by the court. However, the court may suspend any portion of a jail sentence, except for the mandatory sentences under subsection (5)(a) and (b), upon the condition that the defendant remain arrest-free and conviction-free or complete court-ordered intervention.

(7) For a third or any subsequent offense that occurs within two years of a second or subsequent conviction, the offense shall be a class C felony.

(8) Where the physical abuse consists of intentionally or knowingly impeding the normal breathing or circulation of the blood of the family or household member by applying pressure on the throat or the neck, abuse of a family or household member is a class C felony.

(9) Any police officer who arrests a person pursuant to this section shall not be subject to any civil or criminal liability; provided that the police officer acts in good faith, upon reasonable belief, and does not exercise unreasonable force in effecting the arrest.

(10) The family or household member who has been physically abused or harmed by another person may petition the family court, with the assistance of the prosecuting attorney of the applicable county, for a penal summons or arrest warrant to issue forthwith or may file a criminal complaint through the prosecuting attorney of the applicable county.

(11) The respondent shall be taken into custody and brought before the family court at the first possible opportunity. The court may dismiss the petition or hold the respondent in custody, subject to bail. Where the petition is not dismissed, a hearing shall be set.

(12) This section shall not operate as a bar against prosecution under any other section of this Code in lieu of prosecution for abuse of a family or household member.

(13) It shall be the duty of the prosecuting attorney of the applicable county to assist any victim under this section in the preparation of the penal summons or arrest warrant.

(14) This section shall not preclude the physically abused or harmed family or household member from pursuing any other remedy under law or in equity.

(15) When a person is ordered by the court to undergo any domestic violence intervention, that person shall provide adequate proof of compliance with the court's order. The court shall order a subsequent hearing at which the person is required to make an appearance, on a date certain, to determine whether the person has completed the ordered domestic violence intervention. The court may waive the subsequent hearing and appearance where a court officer has established that the person has completed the intervention ordered by the court.

LEXSTAT IDAHO CODE § 19-603

IDAHO CODE STATUTES ANNOTATED

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*** Statutes current through the 2010 Regular Session ***

PENAL CODE

TITLE 19. CRIMINAL PROCEDURE

CHAPTER 6. ARREST, BY WHOM AND HOW MADE

Go to the Idaho Code Archive Directory

Idaho Code § 19-603 (2010)

§ 19-603. When peace officer may arrest

A peace officer may make an arrest in obedience to a warrant delivered to him, or may, without a warrant, arrest a person:

1. For a public offense committed or attempted in his presence.
2. When a person arrested has committed a felony, although not in his presence.
3. When a felony has in fact been committed and he has reasonable cause for believing the person arrested to have committed it.
4. On a charge made, upon a reasonable cause, of the commission of a felony by the party arrested.
5. At night, when there is reasonable cause to believe that he has committed a felony.
6. When upon immediate response to a report of a commission of a crime there is probable cause to believe, that the person arrested has committed a violation of section 18-902 (assault), 18-903 (battery), 18-918 (domestic assault or battery), 18-7905 (first degree stalking), 18-7906 (second degree stalking), 39-6312 (violation of a protection order), or 18-920 (violation of a no contact order).
7. When there is reasonable cause to believe, based upon physical evidence observed by the officer or statements made in the presence of the officer upon immediate response to a report of a commission of a crime aboard an aircraft, that the person arrested has committed such a crime.

LEXSTAT 725 ILL. COMP. STAT. 5/112A-30

ILLINOIS COMPILED STATUTES ANNOTATED
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*** STATUTES CURRENT THROUGH PUBLIC ACTS 96-1321, and 96-1338 OF THE 2010 LEGISLATIVE
SESSION ***

*** ANNOTATIONS CURRENT TO STATE CASES THROUGH AUGUST 23, 2010 ***

CHAPTER 725. CRIMINAL PROCEDURE
CODE OF CRIMINAL PROCEDURE OF 1963
TITLE IV. PROCEEDINGS TO COMMENCE PROSECUTION
ARTICLE 112A. DOMESTIC VIOLENCE: ORDER OF PROTECTION

GO TO THE ILLINOIS STATUTES ARCHIVE DIRECTORY

725 ILCS 5/112A-30 (2010)

§ 725 ILCS 5/112A-30. Assistance by law enforcement officers

Sec. 112A-30. Assistance by law enforcement officers. (a) Whenever a law enforcement officer has reason to believe that a person has been abused by a family or household member, the officer shall immediately use all reasonable means to prevent further abuse, including:

- (1) Arresting the abusing party, where appropriate;
- (2) If there is probable cause to believe that particular weapons were used to commit the incident of abuse, subject to constitutional limitations, seizing and taking inventory of the weapons;
- (3) Accompanying the victim of abuse to his or her place of residence for a reasonable period of time to remove necessary personal belongings and possessions;
- (4) Offering the victim of abuse immediate and adequate information (written in a language appropriate for the victim or in Braille or communicated in appropriate sign language), which shall include a summary of the procedures and relief available to victims of abuse under subsection (c) of Section 112A-17 [725 ILCS 5/112A-17] and the officer's name and badge number;
- (5) Providing the victim with one referral to an accessible service agency;
- (6) Advising the victim of abuse about seeking medical attention and preserving evidence (specifically including photographs of injury or damage and damaged clothing or other property); and
- (7) Providing or arranging accessible transportation for the victim of abuse (and, at the victim's request, any minors or dependents in the victim's care) to a medical facility for treatment of injuries or to a nearby place of shelter or safety; or, after the close of court business hours, providing or arranging for transportation for the victim (and, at the victim's request, any minors or dependents in the victim's care) to the nearest available circuit judge or associate judge so the victim may file a petition for an emergency order of protection under subsection (c) of Section 112A-17 [725 ILCS 5/112A-17]. When a victim of abuse chooses to leave the scene of the offense, it shall be presumed that it is in the best

interests of any minors or dependents in the victim's care to remain with the victim or a person designated by the victim, rather than to remain with the abusing party.

(b) Whenever a law enforcement officer does not exercise arrest powers or otherwise initiate criminal proceedings, the officer shall:

(1) Make a police report of the investigation of any bona fide allegation of an incident of abuse and the disposition of the investigation, in accordance with subsection (a) of Section 112A-29 [725 ILCS 5/112A-29];

(2) Inform the victim of abuse of the victim's right to request that a criminal proceeding be initiated where appropriate, including specific times and places for meeting with the State's Attorney's office, a warrant officer, or other official in accordance with local procedure; and

(3) Advise the victim of the importance of seeking medical attention and preserving evidence (specifically including photographs of injury or damage and damaged clothing or other property).

(c) Except as provided by Section 24-6 of the Criminal Code of 1961 [720 ILCS 5/24-6] or under a court order, any weapon seized under subsection (a)(2) shall be returned forthwith to the person from whom it was seized when it is no longer needed for evidentiary purposes.

1 of 1 DOCUMENT

BURNS INDIANA STATUTES ANNOTATED
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*** Statutes current through the 2010 Second Regular Session ***

*** Annotations current through April 20, 2010 for Indiana Supreme Court cases, through February 9, 2010 for Indiana Appellate Court cases, through January 25, 2010 for Indiana Tax Court cases, and through April 7, 2010 for federal court cases. ***

Title 35 Criminal Law and Procedure
Article 33 Preliminary Proceedings
Chapter 1 Arrest

Go to the Indiana Code Archive Directory

Burns Ind. Code Ann. § 35-33-1-1 (2010)

35-33-1-1. Arrests by law enforcement officers and persons authorized to act as law enforcement officers.

(a) A law enforcement officer may arrest a person when the officer has:

- (1) a warrant commanding that the person be arrested;
 - (2) probable cause to believe the person has committed or attempted to commit, or is committing or attempting to commit, a felony;
 - (3) probable cause to believe the person has violated the provisions of *IC 9-26-1-1(1)*, *IC 9-26-1-1(2)*, *IC 9-26-1-2(1)*, *IC 9-26-1-2(2)*, *IC 9-26-1-3*, *IC 9-26-1-4*, or *IC 9-30-5*;
 - (4) probable cause to believe the person is committing or attempting to commit a misdemeanor in the officer's presence;
 - (5) probable cause to believe the person has committed a:
 - (A) battery resulting in bodily injury under *IC 35-42-2-1*; or
 - (B) domestic battery under *IC 35-42-2-1.3*.
- The officer may use an affidavit executed by an individual alleged to have direct knowledge of the incident alleging the elements of the offense of battery to establish probable cause;
- (6) probable cause to believe that the person violated *IC 35-46-1-15.1* (invasion of privacy);
 - (7) probable cause to believe that the person violated *IC 35-47-2-1* (carrying a handgun without a license) or *IC 35-47-2-22* (counterfeit handgun license);
 - (8) probable cause to believe that the person is violating or has violated an order issued under *IC 35-50-7*;
 - (9) probable cause to believe that the person is violating or has violated *IC 35-47-6-1.1* (undisclosed transport of a

dangerous device); or

(10) probable cause to believe that the person is:

(A) violating or has violated *IC 35-45-2-5* (interference with the reporting of a crime); and

(B) interfering with or preventing the reporting of a crime involving domestic or family violence (as defined in *IC 34-6-2-34.5*).

(b) A person who:

(1) is employed full time as a federal enforcement officer;

(2) is empowered to effect an arrest with or without warrant for a violation of the United States Code; and

(3) is authorized to carry firearms in the performance of the person's duties;

may act as an officer for the arrest of offenders against the laws of this state where the person reasonably believes that a felony has been or is about to be committed or attempted in the person's presence.

LEXSTAT IOWA CODE § 236.12

LEXIS NEXIS (R) IOWA ANNOTATED STATUTES

*** THIS DOCUMENT IS CURRENT THROUGH THE 2009 SUPPLEMENT (2009 LEGISLATION) ***

*** ANNOTATIONS CURRENT THROUGH AUGUST 20, 2010 ***

TITLE VI. HUMAN SERVICES
SUBTITLE 6. CHILDREN AND FAMILIES
CHAPTER 236. DOMESTIC ABUSE

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

Iowa Code § 236.12 (2010)

236.12 Prevention of further abuse -- notification of rights -- arrest -- liability.

1. If a peace officer has reason to believe that domestic abuse has occurred, the officer shall use all reasonable means to prevent further abuse including but not limited to the following:

a. If requested, remaining on the scene as long as there is a danger to an abused person's physical safety without the presence of a peace officer, including but not limited to staying in the dwelling unit, or if unable to remain on the scene, assisting the person in leaving the residence.

b. Assisting an abused person in obtaining medical treatment necessitated by an assault, including providing assistance to the abused person in obtaining transportation to the emergency room of the nearest hospital.

c. Providing an abused person with immediate and adequate notice of the person's rights. The notice shall consist of handing the person a document that includes the telephone numbers of shelters, support groups, and crisis lines operating in the area and contains a copy of the following statement written in English and Spanish; asking the person to read the card; and asking whether the person understands the rights:

"You have the right to ask the court for the following help on a temporary basis:

- (1) Keeping your attacker away from you, your home and your place of work.
- (2) The right to stay at your home without interference from your attacker.
- (3) Getting custody of children and obtaining support for yourself and your minor children if your attacker is legally required to provide such support.
- (4) Professional counseling for you, the children who are members of the household, and the defendant.

You have the right to seek help from the court to seek a protective order with or without the assistance of legal representation. You have the right to seek help from the courts without the payment of court costs if you do not have sufficient funds to pay the costs.

You have the right to file criminal charges for threats, assaults, or other related crimes.

You have the right to seek restitution against your attacker for harm to yourself or your property.

If you are in need of medical treatment, you have the right to request that the officer present assist you in obtaining

transportation to the nearest hospital or otherwise assist you.

If you believe that police protection is needed for your physical safety, you have the right to request that the officer present remain at the scene until you and other affected parties can leave or until safety is otherwise ensured."

2. *a.* A peace officer may, with or without a warrant, arrest a person under section 708.2A, subsection 2, paragraph "a", if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed which did not result in any injury to the alleged victim.

b. Except as otherwise provided in subsection 3, a peace officer shall, with or without a warrant, arrest a person under section 708.2A, subsection 2, paragraph "b", if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed which resulted in the alleged victim's suffering a bodily injury.

c. Except as otherwise provided in subsection 3, a peace officer shall, with or without a warrant, arrest a person under section 708.2A, subsection 2, paragraph "c", if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed with the intent to inflict a serious injury.

d. Except as otherwise provided in subsection 3, a peace officer shall, with or without a warrant, arrest a person under section 708.2A, subsection 2, paragraph "c", if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed and that the alleged abuser used or displayed a dangerous weapon in connection with the assault.

3. As described in subsection 2, paragraph "b", "c", or "d", the peace officer shall arrest the person whom the peace officer believes to be the primary physical aggressor. The duty of the officer to arrest extends only to those persons involved who are believed to have committed an assault. Persons acting with justification, as defined in section 704.3, are not subject to mandatory arrest. In identifying the primary physical aggressor, a peace officer shall consider the need to protect victims of domestic abuse, the relative degree of injury or fear inflicted on the persons involved, and any history of domestic abuse between the persons involved. A peace officer's identification of the primary physical aggressor shall not be based on the consent of the victim to any subsequent prosecution or on the relationship of the persons involved in the incident, and shall not be based solely upon the absence of visible indications of injury or impairment.

4. A peace officer is not civilly or criminally liable for actions pursuant to this section taken in good faith.

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LexisNexis (R) KANSAS ANNOTATED STATUTES

*** THIS DOCUMENT IS CURRENT THROUGH THE 2009 SUPPLEMENT ***
*** ANNOTATIONS CURRENT THROUGH AUGUST 20, 2010 ***

CHAPTER 22. CRIMINAL PROCEDURE
ARTICLE 23. PRELIMINARY PROCEEDINGS

GO TO KANSAS STATUTES ARCHIVE DIRECTORY

K.S.A. § 22-2307 (2009)

Legislative Alert: LEXSEE 2009 Kan. HB 2517 -- See sections 8 and 12.

22-2307 Domestic violence calls; written policies to be adopted by law enforcement agencies; contents.

(a) All law enforcement agencies in this state shall adopt written policies regarding domestic violence calls as provided in subsection (b). These policies shall be made available to all officers of such agency.

(b) Such written policies shall include, but not be limited to, the following:

(1) A statement directing that the officers shall make an arrest when they have probable cause to believe that a crime is being committed or has been committed;

(2) a statement defining domestic violence;

(3) a statement describing the dispatchers' responsibilities;

(4) a statement describing the responding officers' responsibilities and procedures to follow when responding to a domestic violence call and the suspect is at the scene;

(5) a statement regarding procedures when the suspect has left the scene of the crime;

(6) procedures for both misdemeanor and felony cases;

(7) procedures for law enforcement officers to follow when handling domestic violence calls involving court orders, including protection from abuse orders, restraining orders and a protective order issued by a court of any state or Indian tribe;

(8) a statement that the law enforcement agency shall provide the following information to victims, in writing:

(A) Availability of emergency and medical telephone numbers, if needed;

(B) the law enforcement agency's report number;

(C) the address and telephone number of the prosecutor's office the victim should contact to obtain information about victims' rights pursuant to *K.S.A. 74-7333* and *74-7335* and amendments thereto;

(D) the name and address of the crime victims' compensation board and information about possible compensation benefits;

- (E) advise the victim that the details of the crime may be made public;
- (F) advise the victim of such victims' rights under *K.S.A. 74-7333* and *74-7335* and amendments thereto; and
- (G) advise the victim of known available resources which may assist the victim; and
- (9) whether an arrest is made or not, a standard offense report shall be completed on all such incidents and sent to the Kansas bureau of investigation.

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LexisNexis (R) KANSAS ANNOTATED STATUTES

*** THIS DOCUMENT IS CURRENT THROUGH THE 2009 SUPPLEMENT ***

*** ANNOTATIONS CURRENT THROUGH AUGUST 20, 2010 ***

CHAPTER 22. CRIMINAL PROCEDURE

ARTICLE 24. ARREST

GO TO KANSAS STATUTES ARCHIVE DIRECTORY

K.S.A. § 22-2401 (2009)

22-2401 Arrest by law enforcement officer.

A law enforcement officer may arrest a person under any of the following circumstances:

- (a) The officer has a warrant commanding that the person be arrested.
- (b) The officer has probable cause to believe that a warrant for the person's arrest has been issued in this state or in another jurisdiction for a felony committed therein.
- (c) The officer has probable cause to believe that the person is committing or has committed:
 - (1) A felony; or
 - (2) a misdemeanor, and the law enforcement officer has probable cause to believe that:
 - (A) The person will not be apprehended or evidence of the crime will be irretrievably lost unless the person is immediately arrested;
 - (B) the person may cause injury to self or others or damage to property unless immediately arrested; or
 - (C) the person has intentionally inflicted bodily harm to another person.
- (d) Any crime, except a traffic infraction or a cigarette or tobacco infraction, has been or is being committed by the person in the officer's view.

LEXSTAT KY. REV. STAT. ANN. § 431.005

KENTUCKY REVISED STATUTES ANNOTATED

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*** CURRENT THROUGH THE 2009 FIRST EXTRAORDINARY SESSION ***

*** ANNOTATIONS CURRENT THROUGH JUNE 4, 2010 ***

TITLE XL Crimes and Punishments

CHAPTER 431 General Provisions Concerning Crimes and Punishments

Go to the Kentucky Code Archive Directory

KRS § 431.005 (2010)

Legislative Alert: LEXSEE 2010 Ky. Acts 170 -- See section 17.

431.005. Arrest by peace officers -- By private persons.

(1) A peace officer may make an arrest:

(a) In obedience to a warrant; or

(b) Without a warrant when a felony is committed in his presence; or

(c) Without a warrant when he has probable cause to believe that the person being arrested has committed a felony; or

(d) Without a warrant when a misdemeanor, as defined in *KRS 431.060*, has been committed in his presence; or

(e) Without a warrant when a violation of *KRS 189.290*, *189.393*, *189.520*, *189.580*, *511.080*, or *525.070* has been committed in his presence, except that a violation of *KRS 189A.010* or *KRS 281A.210* need not be committed in his presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person has violated *KRS 189A.010* or *KRS 281A.210*.

(2) (a) Any peace officer may arrest a person without warrant when the peace officer has probable cause to believe that the person has intentionally or wantonly caused physical injury to a family member or member of an unmarried couple.

(b) For the purposes of this subsection, the term "family member" means a spouse, including a former spouse, a parent, a grandparent, a child, a stepchild, or any other person related by consanguinity or affinity within the second degree.

(c) For the purpose of this subsection, the term "member of an unmarried couple" means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together.

(3) A peace officer may arrest a person without a warrant when the peace officer has probable cause to believe that the person is a sexual offender who has failed to comply with the Kentucky Sex Offender Registry requirements based

upon information received from the Law Information Network of Kentucky.

(4) For purposes of subsections (2) and (3) of this section, a "peace officer" is an officer certified pursuant to *KRS 15.380*.

(5) If a law enforcement officer has probable cause to believe that a person has violated a condition of release imposed in accordance with *KRS 431.064* and verifies that the alleged violator has notice of the conditions, the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

(6) A private person may make an arrest when a felony has been committed in fact and he has probable cause to believe that the person being arrested has committed it.

(7) If a law enforcement officer has probable cause to believe that a person has violated a restraining order issued under *KRS 508.155*, then the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

LEXSTAT LA. REV. STAT. ANN. § 46:2140

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*** ANNOTATIONS ARE CURRENT THROUGH JUNE 25, 2010 ***

LOUISIANA REVISED STATUTES
TITLE 46. PUBLIC WELFARE AND ASSISTANCE
CHAPTER 28. PROTECTION FROM FAMILY VIOLENCE ACT
PART 2. DOMESTIC ABUSE ASSISTANCE

GO TO LOUISIANA STATUTES ARCHIVE DIRECTORY

La. R.S. 46:2140 (2010)

§ 46:2140. Law enforcement officers; duties

A. Whenever a law enforcement officer has reason to believe that a family or household member or dating partner has been abused, the officer shall immediately use all reasonable means to prevent further abuse, including:

(1) Arresting the abusive party with a warrant or without a warrant pursuant to *Code of Criminal Procedure Article 213*, if probable cause exists to believe that a felony has been committed by that person, whether or not the offense occurred in the officer's presence.

(2) Arresting the abusive party in case of any misdemeanor crime which endangers the physical safety of the abused person whether or not the offense occurred in the presence of the officer. If there is no cause to believe there is impending danger, arresting the abusive party is at the officer's discretion.

(3) Assisting the abused person in obtaining medical treatment necessitated by the battery; arranging for, or providing, or assisting in the procurement of transportation for the abused person to a place of shelter or safety.

(4) Notifying the abused person of his right to initiate criminal or civil proceedings; the availability of the protective order, *R.S. 46:2136*; and the availability of community assistance for domestic violence victims.

B. (1) When a law enforcement officer receives conflicting accounts of domestic abuse or dating violence, the officer shall evaluate each account separately to determine if one party was the predominant aggressor.

(2) In determining if one party is the predominant aggressor, the law enforcement officer may consider any other relevant factors, but shall consider the following factors based upon his or her observation:

(a) Evidence from complainants and other witnesses.

(b) The extent of personal injuries received by each person.

(c) Whether a person acted in self-defense.

(d) An imminent threat of future injury to any of the parties.

(e) Prior complaints of domestic abuse or dating violence, if that history can be reasonably ascertained by the officer.

(f) The future welfare of any minors who are present at the scene.

(3) (a) If the officer determines that one person was the predominant aggressor in a felony offense, the officer shall arrest that person. The arrest shall be subject to the laws governing arrest, including the need for probable cause as otherwise provided by law.

(b) If the officer determines that one person was the predominant aggressor in a misdemeanor offense, the officer shall arrest the predominant aggressor if there is reason to believe that there is impending danger. If there is no threat of impending danger, the officer may arrest the predominant aggressor at the officer's discretion, whether or not the offense occurred in the presence of the officer. An arrest pursuant to the provisions of this Subparagraph shall be subject to the laws governing arrest, including the need for probable cause as otherwise provided by law. The exceptions provided for in *R.S. 46:2140* shall apply.

(4) As used in this Subsection:

(a) "Dating violence" has the meaning as defined in *R.S. 46:2151(C)*.

(b) "Domestic abuse" has the meaning as defined in *R.S. 46:2132(3)*.

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Maine Revised Statutes Annotated by LexisNexis(R)

*** Current with Legislation through 2009 Second Regular Session of the 124th Legislature ***

*** May 3, 2010 Annotation Service ***

TITLE 19-A. DOMESTIC RELATIONS
PART 4. PROTECTION FROM ABUSE
CHAPTER 101. PROTECTION FROM ABUSE

GO TO MAINE REVISED STATUTES ARCHIVE DIRECTORY

19-A M.R.S. § 4012 (2010)

§ 4012. Law enforcement agency responsibilities

1. **REPORTS.** A law enforcement agency shall report all incidents of abuse by adults of family or household members as required by the State Bureau of Identification under Title 25, section 1544.

2. **AGENCY PROCEDURES.** Law enforcement agencies shall establish procedures to ensure that dispatchers and officers at the scene of an alleged incident of abuse or violation of an order of protection are informed of a recorded prior incident of abuse involving the abused party and can verify the effective dates and terms of a recorded order of protection.

3. **OFFICER TRAINING.** Law enforcement agencies shall provide officers employed by them with an education and training program designed to inform the officers of the problems of family and household abuse, procedures to deal with these problems, the provisions of this chapter and the services and facilities available to abused family and household members. The amount and degree of officer training, beyond the distribution of information, must be determined by each local law enforcement agency.

4. **MAINE CRIMINAL CODE ENFORCEMENT.** A law enforcement officer at the scene of an alleged incident of abuse shall use the same standard of enforcing relevant Maine Criminal Code sections when the incident involves family or household members as when it involves strangers.

5. **ARREST IN CERTAIN SITUATIONS.** When a law enforcement officer has probable cause to believe that there has been a criminal violation under section 4011 of a court-approved consent agreement or a protection order issued pursuant to this chapter or Title 15, chapter 12-A, or that a violation of Title 17-A, section 208 has occurred between members of the same family or household, that enforcement officer shall arrest and take into custody the alleged offender.

6. **OFFICER RESPONSIBILITIES.** When a law enforcement officer has reason to believe that a family or household member has been abused, the officer shall immediately use all reasonable means to prevent further abuse, including:

A. Remaining on the scene as long as the officer reasonably believes there is a danger to the physical safety of that person without the presence of a law enforcement officer, including, but not limited to, staying in the dwelling unit;

B. Assisting that person in obtaining medical treatment necessitated by an assault, including driving the victim to the emergency room of the nearest hospital;

C. Giving that person immediate and adequate written notice of that person's rights, which include information summarizing the procedures and relief available to victims of the family or household abuse; or

D. Arresting the abusing party with or without a warrant pursuant to section 4011 and Title 17-A, section 15.

7. **LAW ENFORCEMENT AGENCY POLICY.** Every municipal, county and state law enforcement agency with the duty to investigate, prosecute and arrest offenders of this chapter and Title 17-A shall adopt a written policy on the enforcement of this chapter and the handling of domestic abuse cases in general.

8. **DISTRICT ATTORNEY PROSECUTORIAL POLICY.** The Attorney General, in consultation with the prosecutors' association, shall develop a written policy regarding prosecution of domestic abuse cases under the provisions of Title 17-A. The district attorney for each of the several counties within the State shall adopt a written policy regarding prosecution of domestic abuse cases.

9. **NOTIFICATION OF ATTEMPTED PURCHASE OF FIREARM.** When the Department of Public Safety receives notification from a federal agency that a background criminal records check conducted under the system established pursuant to *18 United States Code, Section 922(t)* indicates that a potential buyer or transferee is prohibited from receipt or possession of a firearm pursuant to a temporary or final protection from abuse order, the department shall make every reasonable effort to notify as quickly as practicable both the individual intended to be protected by the protection from abuse order and another law enforcement agency with jurisdiction in the municipality in which that individual resides of the information received from the federal agency.

For the purposes of this subsection, notification may be made by the Department of Public Safety to the individual intended to be protected by the protection from abuse order through a law enforcement agency within the county in which the individual resides. When the department makes notification through such a law enforcement agency, that agency then must make reasonable effort to notify as quickly as practicable the individual intended to be protected by the protection from abuse order. If, when notifying a law enforcement agency, the department is informed by that agency that it cannot notify the individual intended to be protected by the protection from abuse order, the department must continue to make a reasonable effort to notify that individual as quickly as practicable, including through a different law enforcement agency within the county in which the individual resides.

10. **LIABILITY FOR DAMAGES.** The State, a political subdivision of the State or a law enforcement officer is not liable for damage that may be caused by the failure or inability to inform an individual who is the subject of a protection from abuse order in accordance with subsection 9. This subsection does not prohibit the State or a political subdivision of the State from pursuing legally authorized disciplinary action.

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*** Current through all Chapters of the 2010 Regular Session ***
*** Annotations current through August 27, 2010 ***

CRIMINAL PROCEDURE
TITLE 2. LAW ENFORCEMENT PROCEDURES; ARREST PROCESS
SUBTITLE 2. WARRANTLESS ARRESTS

GO TO MARYLAND STATUTES ARCHIVE DIRECTORY

Md. CRIMINAL PROCEDURE Code Ann. § 2-203 (2010)

§ 2-203. Warrantless arrests -- Commission of specified crimes

(a) In general. -- A police officer without a warrant may arrest a person if the police officer has probable cause to believe:

- (1) that the person has committed a crime listed in subsection (b) of this section; and
- (2) that unless the person is arrested immediately, the person:
 - (i) may not be apprehended;
 - (ii) may cause physical injury or property damage to another; or
 - (iii) may tamper with, dispose of, or destroy evidence.

(b) Specified crimes. -- The crimes referred to in subsection (a)(1) of this section are:

- (1) manslaughter by vehicle or vessel under § 2-209 of the *Criminal Law Article*;
- (2) malicious burning under § 6-104 or § 6-105 of the *Criminal Law Article* or an attempt to commit the crime;
- (3) malicious mischief under § 6-301 of the *Criminal Law Article* or an attempt to commit the crime;
- (4) a theft crime where the value of the property or services stolen is less than \$ 500 under § 7-104 or § 7-105 of the *Criminal Law Article* or an attempt to commit the crime;
- (5) the crime of giving or causing to be given a false alarm of fire under § 9-604 of the *Criminal Law Article*;
- (6) indecent exposure under § 11-107 of the *Criminal Law Article*;
- (7) a crime that relates to controlled dangerous substances under Title 5 of the *Criminal Law Article* or an attempt to commit the crime;
- (8) the wearing, carrying, or transporting of a handgun under § 4-203 or § 4-204 of the *Criminal Law Article*;

- (9) carrying or wearing a concealed weapon under § 4-101 of the Criminal Law Article;
- (10) prostitution and related crimes under Title 11, Subtitle 3 of the Criminal Law Article; and
- (11) violation of a condition of pretrial or posttrial release under § 5-213.1 of this article.

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*** Annotations current through August 27, 2010 ***

CRIMINAL PROCEDURE
TITLE 2. LAW ENFORCEMENT PROCEDURES; ARREST PROCESS
SUBTITLE 2. WARRANTLESS ARRESTS

GO TO MARYLAND STATUTES ARCHIVE DIRECTORY

Md. CRIMINAL PROCEDURE Code Ann. § 2-204 (2010)

§ 2-204. Warrantless arrests -- For domestic abuse

(a) In general. -- A police officer without a warrant may arrest a person if:

(1) the police officer has probable cause to believe that:

- (i) the person battered the person's spouse or another person with whom the person resides;
- (ii) there is evidence of physical injury; and
- (iii) unless the person is arrested immediately, the person:
 - 1. may not be apprehended;
 - 2. may cause physical injury or property damage to another; or
 - 3. may tamper with, dispose of, or destroy evidence; and

(2) a report to the police was made within 48 hours of the alleged incident.

(b) Self-defense. -- If the police officer has probable cause to believe that mutual battery occurred and arrest is necessary under subsection (a) of this section, the police officer shall consider whether one of the persons acted in self-defense when determining whether to arrest the person whom the police officer believes to be the primary aggressor.

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Md. CRIMINAL PROCEDURE Code Ann. § 2-204.1

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*** Current through all Chapters of the 2010 Regular Session ***
*** Annotations current through August 27, 2010 ***

CRIMINAL PROCEDURE
TITLE 2. LAW ENFORCEMENT PROCEDURES; ARREST PROCESS
SUBTITLE 2. WARRANTLESS ARRESTS

GO TO MARYLAND STATUTES ARCHIVE DIRECTORY

Md. CRIMINAL PROCEDURE Code Ann. § 2-204.1 (2010)

§ 2-204.1. Warrantless arrests --For violation of protective order

A police officer shall arrest with or without a warrant and take into custody a person who the officer has probable cause to believe is in violation of a protective order as described in § 4-508.1(c) or § 4-509(b) of the *Family Law Article*.

LEXSTAT MASS. GEN. LAWS ANN. CH. 209A § 6

ANNOTATED LAWS OF MASSACHUSETTS
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*** Current through Act 282 of the 2010 Legislative Session ***

PART II REAL AND PERSONAL PROPERTY AND DOMESTIC RELATIONS
TITLE III DOMESTIC RELATIONS
Chapter 209A Abuse Prevention

GO TO MASSACHUSETTS CODE ARCHIVE DIRECTORY

ALM GL ch. 209A, § 6 (2010)

§ 6. Powers and Duties of Law Officers; Notice of Rights.

Whenever any law officer has reason to believe that a family or household member has been abused or is in danger of being abused, such officer shall use all reasonable means to prevent further abuse. The officer shall take, but not be limited to the following action:

(1) remain on the scene of where said abuse occurred or was in danger of occurring as long as the officer has reason to believe that at least one of the parties involved would be in immediate physical danger without the presence of a law officer. This shall include, but not be limited to remaining in the dwelling for a reasonable period of time;

(2) assist the abused person in obtaining medical treatment necessitated by an assault, which may include driving the victim to the emergency room of the nearest hospital, or arranging for appropriate transportation to a health care facility, notwithstanding any law to the contrary;

(3) assist the abused person in locating and getting to a safe place; including but not limited to a designated meeting place for a shelter or a family member's or friend's residence. The officer shall consider the victim's preference in this regard and what is reasonable under all the circumstances;

(4) give such person immediate and adequate notice of his or her rights. Such notice shall consist of handing said person a copy of the statement which follows below and reading the same to said person. Where said person's native language is not English, the statement shall be then provided in said person's native language whenever possible.

"You have the right to appear at the Superior, Probate and Family, District or Boston Municipal Court, if you reside within the appropriate jurisdiction, and file a complaint requesting any of the following applicable orders: (a) an order restraining your attacker from abusing you; (b) an order directing your attacker to leave your household, building or workplace; (c) an order awarding you custody of a minor child; (d) an order directing your attacker to pay support for you or any minor child in your custody, if the attacker has a legal obligation of support; and (e) an order directing your attacker to pay you for losses suffered as a result of abuse, including medical and moving expenses, loss of earnings or support, costs for restoring utilities and replacing locks, reasonable attorney's fees and other out-of-pocket losses for injuries and property damage sustained.

For an emergency on weekends, holidays, or weeknights the police will refer you to a justice of the superior, probate and family, district, or Boston municipal court departments.

You have the right to go to the appropriate district court or the Boston municipal court and seek a criminal complaint for threats, assault and battery, assault with a deadly weapon, assault with intent to kill or other related offenses.

If you are in need of medical treatment, you have the right to request that an officer present drive you to the nearest hospital or otherwise assist you in obtaining medical treatment.

If you believe that police protection is needed for your physical safety, you have the right to request that the officer present remain at the scene until you and your children can leave or until your safety is otherwise ensured. You may also request that the officer assist you in locating and taking you to a safe place, including but not limited to a designated meeting place for a shelter or a family member's or a friend's residence, or a similar place of safety.

You may request a copy of the police incident report at no cost from the police department."

The officer shall leave a copy of the foregoing statement with such person before leaving the scene or premises.

(5) assist such person by activating the emergency judicial system when the court is closed for business;

(6) inform the victim that the abuser will be eligible for bail and may be promptly released; and

(7) arrest any person a law officer witnesses or has probable cause to believe has violated a temporary or permanent vacate, restraining, or no-contact order or judgment issued pursuant to section eighteen, thirty-four B or thirty-four C of chapter two hundred and eight, section thirty-two of chapter two hundred and nine, section three, three B, three C, four or five of this chapter, or sections fifteen or twenty of chapter two hundred and nine C or similar protection order issued by another jurisdiction. When there are no vacate, restraining, or no-contact orders or judgments in effect, arrest shall be the preferred response whenever an officer witnesses or has probable cause to believe that a person:

(a) has committed a felony;

(b) has committed a misdemeanor involving abuse as defined in section one of this chapter;

(c) has committed an assault and battery in violation of section thirteen A of chapter two hundred and sixty-five.

The safety of the victim and any involved children shall be paramount in any decision to arrest. Any officer arresting both parties must submit a detailed, written report in addition to an incident report, setting forth the grounds for dual arrest.

No law officer investigating an incident of domestic violence shall threaten, suggest, or otherwise indicate the arrest of all parties for the purpose of discouraging requests for law enforcement intervention by any party.

No law officer shall be held liable in any civil action regarding personal injury or injury to property brought by any party to a domestic violence incident for an arrest based on probable cause when such officer acted reasonably and in good faith and in compliance with this chapter and the statewide policy as established by the secretary of public safety.

[Effective until Nov 4, 2010.]

Whenever any law officer investigates an incident of domestic violence, the officer shall immediately file a written incident report in accordance with the standards of the officer's law enforcement agency and, wherever possible, in the form of the National Incident-Based Reporting System, as defined by the Federal Bureau of Investigation. The latter information may be submitted voluntarily by the local police on a monthly basis to the crime reporting unit of the criminal history systems board.

[Effective Nov 4, 2010.]

Whenever any law officer investigates an incident of domestic violence, the officer shall immediately file a written incident report in accordance with the standards of the officer's law enforcement agency and, wherever possible, in the form of the National Incident-Based Reporting System, as defined by the Federal Bureau of Investigation. The latter information may be submitted voluntarily by the local police on a monthly basis to the crime reporting unit of the department of criminal justice information services.

The victim shall be provided a copy of the full incident report at no cost upon request to the appropriate law enforcement department.

When a judge or other person authorized to take bail bails any person arrested under the provisions of this chapter, he shall make reasonable efforts to inform the victim of such release prior to or at the time of said release.

When any person charged with or arrested for a crime involving abuse under this chapter is released from custody, the court or the emergency response judge shall issue, upon the request of the victim, a written no-contact order prohibiting the person charged or arrested from having any contact with the victim and shall use all reasonable means to notify the victim immediately of release from custody. The victim shall be given at no cost a certified copy of the no-contact order.

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CHAPTER 760-777 CODE OF CRIMINAL PROCEDURE
THE CODE OF CRIMINAL PROCEDURE
CHAPTER IV. ARREST

Go to the Michigan Code Archive Directory

MCLS § 764.15

MCL § 764.15

§ 764.15. Arrest by officer without warrant; situations; circumstances.

Sec. 15. (1) A peace officer, without a warrant, may arrest a person in any of the following situations:

- (a) A felony, misdemeanor, or ordinance violation is committed in the peace officer's presence.
- (b) The person has committed a felony although not in the peace officer's presence.
- (c) A felony in fact has been committed and the peace officer has reasonable cause to believe the person committed it.
- (d) The peace officer has reasonable cause to believe a misdemeanor punishable by imprisonment for more than 92 days or a felony has been committed and reasonable cause to believe the person committed it.
- (e) The peace officer has received positive information by written, telegraphic, teletypic, telephonic, radio, electronic, or other authoritative source that another peace officer or a court holds a warrant for the person's arrest.
- (f) The peace officer has received positive information broadcast from a recognized police or other governmental radio station, or teletype, that affords the peace officer reasonable cause to believe a misdemeanor punishable by imprisonment for more than 92 days or a felony has been committed and reasonable cause to believe the person committed it.
- (g) The peace officer has reasonable cause to believe the person is an escaped convict, has violated a condition of parole from a prison, has violated a condition of a pardon granted by the executive, or has violated 1 or more conditions of a conditional release order or probation order imposed by a court of this state, another state, Indian tribe, or United States territory.
- (h) The peace officer has reasonable cause to believe the person was, at the time of an accident in this state, the operator of a vehicle involved in the accident and was operating the vehicle in violation of section 625(1), (3), (6), or (7) or section 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m, or a local ordinance substantially corresponding to section 625(1), (3), (6), or (7) or section 625m of that act.
- (i) The person is found in the driver's seat of a vehicle parked or stopped on a highway or street within this state if any part of the vehicle intrudes into the roadway and the peace officer has reasonable cause to believe the person was operating the vehicle in violation of section 625(1), (3), (6), or (7) or section 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m, or a local ordinance substantially corresponding to section 625(1), (3), (6), or (7) or section 625m of that act.
- (j) The peace officer has reasonable cause to believe the person was, at the time of an accident, the operator of a

snowmobile involved in the accident and was operating the snowmobile in violation of section 82127(1) or (3) of the natural resources and environmental protection act, *1994 PA 451, MCL 324.82127*, or a local ordinance substantially corresponding to section 82127(1) or (3) of that act.

(k) The peace officer has reasonable cause to believe the person was, at the time of an accident, the operator of an ORV involved in the accident and was operating the ORV in violation of section 81134(1) or (2) or 81135 of the natural resources and environmental protection act, *1994 PA 451, MCL 324.81134 and 324.81135*, or a local ordinance substantially corresponding to section 81134(1) or (2) or 81135 of that act.

(l) The peace officer has reasonable cause to believe the person was, at the time of an accident, the operator of a vessel involved in the accident and was operating the vessel in violation of section 80176(1) or (3) of the natural resources and environmental protection act, *1994 PA 451, MCL 324.80176*, or a local ordinance substantially corresponding to section 80176(1) or (3) of that act.

(m) The peace officer has reasonable cause to believe a violation of section 356c or 356d of the Michigan penal code, *1931 PA 328, MCL 750.356c and 750.356d*, has taken place or is taking place and reasonable cause to believe the person committed or is committing the violation, regardless of whether the violation was committed in the peace officer's presence.

(n) The peace officer has reasonable cause to believe a misdemeanor has taken place or is taking place on school property and reasonable cause to believe the person committed or is committing the violation, regardless of whether the violation was committed in the peace officer's presence. As used in this subdivision, "school property" means that term as defined in section 7410 of the public health code, *1978 PA 368, MCL 333.7410*.

(2) An officer in the United States customs service or the immigration and naturalization service, without a warrant, may arrest a person if all of the following circumstances exist:

(a) The officer is on duty.

(b) One or more of the following situations exist:

(i) The person commits an assault or an assault and battery punishable under section 81 or 81a of the Michigan penal code, *1931 PA 328, MCL 750.81 and 750.81a*, on the officer.

(ii) The person commits an assault or an assault and battery punishable under section 81 or 81a of the Michigan penal code, *1931 PA 328, MCL 750.81 and 750.81a*, on any other person in the officer's presence or commits any felony.

(iii) The officer has reasonable cause to believe a felony has been committed and reasonable cause to believe the person committed it, and the reasonable cause is not founded on a customs search.

(iv) The officer has received positive information by written, telegraphic, teletypic, telephonic, radio, electronic, or other authoritative source that a peace officer or a court holds a warrant for the person's arrest.

(c) The officer has received training in the laws of this state equivalent to the training provided for an officer of a local police agency under the commission on law enforcement standards act, *1965 PA 203, MCL 28.601 to 28.616*.

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CHAPTER 760-777 CODE OF CRIMINAL PROCEDURE
THE CODE OF CRIMINAL PROCEDURE
CHAPTER IV. ARREST

MCLS § 764.15a

Go to the Michigan Code Archive Directory

MCLS § 764.15a

MCL § 764.15a

§ 764.15a. Arrest without warrant for assault of individual having child in common, household resident, dating relationship, or spouse or former spouse.

Sec. 15a. A peace officer may arrest an individual for violating section 81 or 81a of the Michigan penal code, *1931 PA 328, MCL 750.81 and 750.81a*, or a local ordinance substantially corresponding to section 81 of that act regardless of whether the peace officer has a warrant or whether the violation was committed in his or her presence if the peace officer has or receives positive information that another peace officer has reasonable cause to believe both of the following:

(a) The violation occurred or is occurring.

(b) The individual has had a child in common with the victim, resides or has resided in the same household as the victim, has or has had a dating relationship with the victim, or is a spouse or former spouse of the victim. As used in this subdivision, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

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CHAPTER 760-777 CODE OF CRIMINAL PROCEDURE
THE CODE OF CRIMINAL PROCEDURE
CHAPTER IV. ARREST

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MCLS § 764.15b

MCL § 764.15b

§ 764.15b. Arrest without warrant for violation of personal protection order; answering to charge of contempt; hearing; bond; show cause order; jurisdiction to conduct contempt proceedings; prosecution of criminal contempt; prohibited actions by court; definitions.

Sec. 15b. (1) A peace officer, without a warrant, may arrest and take into custody an individual when the peace officer has or receives positive information that another peace officer has reasonable cause to believe all of the following apply:

MCLS § 764.15b

(a) A personal protection order has been issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or is a valid foreign protection order.

(b) The individual named in the personal protection order is violating or has violated the order. An individual is violating or has violated the order if that individual commits 1 or more of the following acts the order specifically restrains or enjoins the individual from committing:

- (i) Assaulting, attacking, beating, molesting, or wounding a named individual.
- (ii) Removing minor children from an individual having legal custody of the children, except as otherwise authorized by a custody or parenting time order issued by a court of competent jurisdiction.
- (iii) Entering onto premises.
- (iv) Engaging in conduct prohibited under section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i.
- (v) Threatening to kill or physically injure a named individual.
- (vi) Purchasing or possessing a firearm.
- (vii) Interfering with petitioner's efforts to remove petitioner's children or personal property from premises that are solely owned or leased by the individual to be restrained or enjoined.
- (viii) Interfering with petitioner at petitioner's place of employment or education or engaging in conduct that impairs petitioner's employment or educational relationship or environment.
- (ix) Any other act or conduct specified by the court in the personal protection order.

(c) If the personal protection order was issued under section 2950 or 2950a, the personal protection order states on its face that a violation of its terms subjects the individual to immediate arrest and either of the following:

(i) If the individual restrained or enjoined is 17 years of age or older, to criminal contempt of court and, if found guilty of criminal contempt, to imprisonment for not more than 93 days and to a fine of not more than \$500.00.

(ii) If the individual restrained or enjoined is less than 17 years of age, to the dispositional alternatives listed in section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18.

(2) An individual arrested under this section shall be brought before the family division of the circuit court having jurisdiction in the cause within 24 hours after arrest to answer to a charge of contempt for violating the personal protection order, at which time the court shall do each of the following:

(a) Set a time certain for a hearing on the alleged violation of the personal protection order. The hearing shall be held within 72 hours after arrest, unless extended by the court on the motion of the arrested individual or the prosecuting attorney.

(b) Set a reasonable bond pending a hearing of the alleged violation of the personal protection order.

(c) Notify the prosecuting attorney of the criminal contempt proceeding.

(d) Notify the party who procured the personal protection order and his or her attorney of record, if any, and direct the party to appear at the hearing and give evidence on the charge of contempt.

(3) In circuits in which the circuit court judge may not be present or available within 24 hours after arrest, an individual arrested under this section shall be taken before the district court within 24 hours after arrest, at which time the district court shall set bond and order the defendant to appear before the family division of circuit court in the county for a hearing on the charge. If the district court will not be open within 24 hours after arrest, a judge or district court magistrate shall set bond and order the defendant to appear before the circuit court in the county for a hearing on the charge.

(4) If a criminal contempt proceeding for violation of a personal protection order is not initiated by an arrest under this section but is initiated as a result of a show cause order or other process or proceedings, the court shall do all of the following:

(a) Notify the party who procured the personal protection order and his or her attorney of record, if any, and direct the party to appear at the hearing and give evidence on the contempt charge.

(b) Notify the prosecuting attorney of the criminal contempt proceeding.

(5) The family division of circuit court in each county of this state has jurisdiction to conduct contempt proceedings based upon a violation of a personal protection order described in this section issued by the circuit court in any county of this state or upon a violation of a valid foreign protection order. The court of arraignment shall notify the court that issued the personal protection order or foreign protection order that the issuing court may request that the defendant be

returned to that court for violating the personal protection order or foreign protection order. If the court that issued the personal protection order or foreign protection order requests that the defendant be returned to that court to stand trial, the county of the requesting court shall bear the cost of transporting the defendant to that county.

(6) The family division of circuit court has jurisdiction to conduct contempt proceedings based upon a violation of a personal protection order issued pursuant to section 2(h) of chapter XIIA of the probate code of 1939, *1939 PA 288, MCL 712A.2*, by the family division of circuit court in any county of this state or a valid foreign protection order issued against a respondent who is less than 18 years of age at the time of the alleged violation of the foreign protection order in this state. The family division of circuit court that conducts the preliminary inquiry shall notify the court that issued the personal protection order or foreign protection order that the issuing court may request that the respondent be returned to that county for violating the personal protection order or foreign protection order. If the court that issued the personal protection order or foreign protection order requests that the respondent be returned to that court to stand trial, the county of the requesting court shall bear the cost of transporting the respondent to that county.

(7) The prosecuting attorney shall prosecute a criminal contempt proceeding initiated by the court under subsection (2) or initiated by a show cause order under subsection (4), unless the party who procured the personal protection order retains his or her own attorney for the criminal contempt proceeding or the prosecuting attorney determines that the personal protection order was not violated or that it would not be in the interest of justice to prosecute the criminal contempt violation. If the prosecuting attorney prosecutes the criminal contempt proceeding, the court shall grant an adjournment for not less than 14 days or a lesser period requested if the prosecuting attorney moves for adjournment. If the prosecuting attorney prosecutes the criminal contempt proceeding, the court may dismiss the proceeding upon motion of the prosecuting attorney for good cause shown.

(8) A court shall not rescind a personal protection order, dismiss a contempt proceeding based on a personal protection order, or impose any other sanction for a failure to comply with a time limit prescribed in this section.

(9) As used in this section:

(a) "Foreign protection order" means that term as defined in section 2950h of the revised judicature act of 1961, *1961 PA 236, MCL 600.2950h*.

(b) "Personal protection order" means a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, *1961 PA 236, MCL 600.2950 and 600.2950a*, and, unless the context indicates otherwise, includes a valid foreign protection order.

(c) "Valid foreign protection order" means a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, *1961 PA 236, MCL 600.2950i*.

LEXSTAT MO. REV. STAT. § 455.085

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*** CURRENT THROUGH THE 95TH GENERAL ASSEMBLY, FIRST REGULAR SESSION 2009 ***
MOST CURRENT ANNOTATION SEPTEMBER 20, 2010

TITLE 30. DOMESTIC RELATIONS (Chs. 451-455)
CHAPTER 455. ABUSE--ADULTS AND CHILDREN--SHELTERS AND PROTECTIVE ORDERS
ADULT ABUSE

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

§ 455.085 R.S.Mo. (2010)

§ 455.085. Arrest for violation of order -- penalties -- good faith immunity for law enforcement officials

1. When a law enforcement officer has probable cause to believe a party has committed a violation of law amounting to abuse or assault, as defined in *section 455.010*, against a family or household member, the officer may arrest the offending party whether or not the violation occurred in the presence of the arresting officer. When the officer declines to make arrest pursuant to this subsection, the officer shall make a written report of the incident completely describing the offending party, giving the victim's name, time, address, reason why no arrest was made and any other pertinent information. Any law enforcement officer subsequently called to the same address within a twelve-hour period, who shall find probable cause to believe the same offender has again committed a violation as stated in this subsection against the same or any other family or household member, shall arrest the offending party for this subsequent offense. The primary report of nonarrest in the preceding twelve-hour period may be considered as evidence of the defendant's intent in the violation for which arrest occurred. The refusal of the victim to sign an official complaint against the violator shall not prevent an arrest under this subsection.

2. When a law enforcement officer has probable cause to believe that a party, against whom a protective order has been entered and who has notice of such order entered, has committed an act of abuse in violation of such order, the officer shall arrest the offending party-respondent whether or not the violation occurred in the presence of the arresting officer. Refusal of the victim to sign an official complaint against the violator shall not prevent an arrest under this subsection.

3. When an officer makes an arrest he is not required to arrest two parties involved in an assault when both parties claim to have been assaulted. The arresting officer shall attempt to identify and shall arrest the party he believes is the primary physical aggressor. The term "primary physical aggressor" is defined as the most significant, rather than the first, aggressor. The law enforcement officer shall consider any or all of the following in determining the primary physical aggressor:

- (1) The intent of the law to protect victims of domestic violence from continuing abuse;
- (2) The comparative extent of injuries inflicted or serious threats creating fear of physical injury;
- (3) The history of domestic violence between the persons involved.

No law enforcement officer investigating an incident of family violence shall threaten the arrest of all parties for the purpose of discouraging requests or law enforcement intervention by any party. Where complaints are received from two or more opposing parties, the officer shall evaluate each complaint separately to determine whether he should seek a warrant for an arrest.

4. In an arrest in which a law enforcement officer acted in good faith reliance on this section, the arresting and assisting law enforcement officers and their employing entities and superiors shall be immune from liability in any civil action alleging false arrest, false imprisonment or malicious prosecution.

5. When a person against whom an order of protection has been entered fails to surrender custody of minor children to the person to whom custody was awarded in an order of protection, the law enforcement officer shall arrest the respondent, and shall turn the minor children over to the care and custody of the party to whom such care and custody was awarded.

6. The same procedures, including those designed to protect constitutional rights, shall be applied to the respondent as those applied to any individual detained in police custody.

7. A violation of the terms and conditions, with regard to abuse, stalking, child custody, communication initiated by the respondent or entrance upon the premises of the petitioner's dwelling unit, of an ex parte order of protection of which the respondent has notice, shall be a class A misdemeanor unless the respondent has previously pleaded guilty to or has been found guilty of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class D felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of such prior pleas of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict.

8. A violation of the terms and conditions, with regard to abuse, stalking, child custody, communication initiated by the respondent or entrance upon the premises of the petitioner's dwelling unit, of a full order of protection shall be a class A misdemeanor, unless the respondent has previously pleaded guilty to or has been found guilty of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class D felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of such prior plea of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of the sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict. For the purposes of this subsection, in addition to the notice provided by actual service of the order, a party is deemed to have notice of an order of protection if the law enforcement officer responding to a call of a reported incident of abuse or violation of an order of protection presented a copy of the order of protection to the respondent.

9. Good faith attempts to effect a reconciliation of a marriage shall not be deemed tampering with a witness or victim tampering under *section 575.270, RSMo.*

10. Nothing in this section shall be interpreted as creating a private cause of action for damages to enforce the provisions set forth herein.

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LexisNexis (R) Montana Code Annotated

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*** ANNOTATIONS CURRENT THROUGH JULY 16, 2010 ***

TITLE 46 CRIMINAL PROCEDURE
CHAPTER 6 ARREST
PART 2 ARREST WITH A WARRANT

Go to the Montana Code Archive Directory

Mont. Code Anno., § 46-6-210 (2010)

46-6-210 Arrest by peace officer.

A peace officer may arrest a person when the officer has a warrant commanding that the person be arrested or when the officer believes on reasonable grounds:

(1) that a warrant for the person's arrest has been issued in this state, except that unless otherwise provided by law, a warrant for violation of a city ordinance may not be acted upon unless the person is located within the limits of the city in which the violation is alleged to have occurred; or

(2) that a felony warrant for the person's arrest has been issued in another jurisdiction.

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LexisNexis (R) Montana Code Annotated

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*** ANNOTATIONS CURRENT THROUGH JULY 16, 2010 ***

TITLE 46 CRIMINAL PROCEDURE
CHAPTER 6 ARREST
PART 3 WARRANTLESS ARREST AND NOTICE TO APPEAR

Go to the Montana Code Archive Directory

Mont. Code Anno., § 46-6-311 (2010)

46-6-311 Basis for arrest without warrant -- arrest of predominant aggressor -- no contact order.

(1) A peace officer may arrest a person when a warrant has not been issued if the officer has probable cause to believe that the person is committing an offense or that the person has committed an offense and existing circumstances require immediate arrest.

(2) (a) The summoning of a peace officer to a place of residence by a partner or family member constitutes an exigent circumstance for making an arrest. Arrest is the preferred response in partner or family member assault cases

involving injury to the victim, use or threatened use of a weapon, violation of a restraining order, or other imminent danger to the victim.

(b) When a peace officer responds to a partner or family member assault complaint and if it appears that the parties were involved in mutual aggression, the officer shall evaluate the situation to determine who is the predominant aggressor. If, based on the officer's evaluation, the officer determines that one person is the predominant aggressor, the officer may arrest only the predominant aggressor. A determination of who the predominant aggressor is must be based on but is not limited to the following considerations, regardless of who was the first aggressor:

(i) the prior history of violence between the partners or family members, if information about the prior history is available to the officer;

(ii) the relative severity of injuries received by each person;

(iii) whether an act of or threat of violence was taken in self-defense;

(iv) the relative sizes and apparent strength of each person;

(v) the apparent fear or lack of fear between the partners or family members; and

(vi) statements made by witnesses.

(3) If a judge has issued a standing order as provided in *45-5-209*, a peace officer shall give a defendant charged with partner or family member assault both written and verbal notice of the no contact order issued pursuant to *45-5-209*. The notice must include specific conditions as ordered by the court.

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*** CURRENT THROUGH THE 2010 101ST FIRST SESSION ***
*** ANNOTATIONS CURRENT THROUGH AUGUST 20, 2010 ***

CHAPTER 29. CRIMINAL PROCEDURE
ARTICLE 4. WARRANT AND ARREST OF ACCUSED

Go to the Nebraska Code Archive Directory

R.R.S. Neb. § 29-404.02 (2010)

§ 29-404.02. Arrest without warrant; when

(1) Except as provided in *section 42-928*, a peace officer may arrest a person without a warrant if the officer has reasonable cause to believe that such person has committed:

(a) A felony;

(b) A misdemeanor, and the officer has reasonable cause to believe that such person either (i) will not be apprehended unless immediately arrested, (ii) may cause injury to himself or herself or others or damage to property unless immediately arrested, (iii) may destroy or conceal evidence of the commission of such misdemeanor, or (iv) has committed a misdemeanor in the presence of the officer; or

(c) One or more of the following acts to one or more household members, whether or not committed in the presence of the peace officer:

(i) Attempting to cause or intentionally and knowingly causing bodily injury with or without a dangerous instrument;

(ii) Placing, by physical menace, another in fear of imminent bodily injury; or

(iii) Engaging in sexual contact or sexual penetration without consent as defined in *section 28-318*.

(2) For purposes of this section:

(a) Household members shall include spouses or former spouses, children, persons who are presently residing together or who have resided together in the past, persons who have a child in common whether or not they have been married or have lived together at any time, other persons related by consanguinity or affinity, and persons who are presently involved in a dating relationship with each other or who have been involved in a dating relationship with each other; and

(b) Dating relationship means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement, but does not include a casual relationship or an ordinary association between persons in a business or social context.

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TITLE 14. Procedure In Criminal Cases.
CHAPTER 171. Proceedings to Commitment.
Arrest: By Whom and How Made

Go to the Nevada Code Archive Directory

Nev. Rev. Stat. Ann. § 171.124 (2010)

171.124. Arrest by peace officer or officer of Drug Enforcement Administration.

1. Except as otherwise provided in subsection 3 and *NRS 33.070*; and 33.320, a peace officer or an officer of the Drug Enforcement Administration designated by the Attorney General of the United States for that purpose may make an arrest in obedience to a warrant delivered to him or her, or may, without a warrant, arrest a person:

- (a) For a public offense committed or attempted in the officer's presence.
- (b) When a person arrested has committed a felony or gross misdemeanor, although not in the officer's presence.
- (c) When a felony or gross misdemeanor has in fact been committed, and the officer has reasonable cause for believing the person arrested to have committed it.
- (d) On a charge made, upon a reasonable cause, of the commission of a felony or gross misdemeanor by the person arrested.
- (e) When a warrant has in fact been issued in this State for the arrest of a named or described person for a public offense, and the officer has reasonable cause to believe that the person arrested is the person so named or described.

2. A peace officer or an officer of the Drug Enforcement Administration designated by the Attorney General of the United States for that purpose may also, at night, without a warrant, arrest any person whom the officer has reasonable cause for believing to have committed a felony or gross misdemeanor, and is justified in making the arrest, though it afterward appears that a felony or gross misdemeanor has not been committed.

3. An officer of the Drug Enforcement Administration may only make an arrest pursuant to subsections 1 and 2 for a violation of chapter 453 of NRS.

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TITLE 14. Procedure In Criminal Cases.
CHAPTER 171. Proceedings to Commitment.
Arrest: By Whom and How Made

Go to the Nevada Code Archive Directory

Nev. Rev. Stat. Ann. § 171.137 (2010)

171.137. Arrest required for suspected battery constituting domestic violence; exceptions.

1. Except as otherwise provided in subsection 2, whether or not a warrant has been issued, a peace officer shall, unless mitigating circumstances exist, arrest a person when the peace officer has probable cause to believe that the person to be arrested has, within the preceding 24 hours, committed a battery upon his or her spouse, former spouse, any other person to whom he or she is related by blood or marriage, a person with whom he or she is or was actually residing, a person with whom he or she has had or is having a dating relationship, a person with whom he or she has a child in common, the minor child of any of those persons or his or her minor child.

2. If the peace officer has probable cause to believe that a battery described in subsection 1 was a mutual battery, the peace officer shall attempt to determine which person was the primary physical aggressor. If the peace officer determines that one of the persons who allegedly committed a battery was the primary physical aggressor involved in the incident, the peace officer is not required to arrest any other person believed to have committed a battery during the incident. In determining whether a person is a primary physical aggressor for the purposes of this subsection, the peace officer shall consider:

- (a) Prior domestic violence involving either person;
- (b) The relative severity of the injuries inflicted upon the persons involved;
- (c) The potential for future injury;
- (d) Whether one of the alleged batteries was committed in self-defense; and
- (e) Any other factor that may help the peace officer decide which person was the primary physical aggressor.

3. A peace officer shall not base a decision regarding whether to arrest a person pursuant to this section on the peace officer's perception of the willingness of a victim or a witness to the incident to testify or otherwise participate in related judicial proceedings.

4. As used in this section, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.

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LexisNexis (TM) New Jersey Annotated Statutes

*** THIS SECTION IS CURRENT THROUGH NEW JERSEY 214TH LEGISLATURE ***
1ST ANNUAL SESSION (P.L. 2010 CHAPTER 78 and JR 3)
ANNOTATIONS CURRENT THROUGH SEPTEMBER 20, 2010

TITLE 2C. THE NEW JERSEY CODE OF CRIMINAL JUSTICE
SUBTITLE 2. SPECIFIC OFFENSES
PART 3. OFFENSES AGAINST OTHER PERSONS
CHAPTER 25. DOMESTIC VIOLENCE

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 2C:25-21 (2010)

§ 2C:25-21. Arrest of alleged attacker; seizure of weapons, etc

a. When a person claims to be a victim of domestic violence, and where a law enforcement officer responding to the incident finds probable cause to believe that domestic violence has occurred, the law enforcement officer shall arrest the person who is alleged to be the person who subjected the victim to domestic violence and shall sign a criminal complaint if:

- (1) The victim exhibits signs of injury caused by an act of domestic violence;
- (2) A warrant is in effect;
- (3) There is probable cause to believe that the person has violated *N.J.S. 2C:29-9*, and there is probable cause to believe that the person has been served with the order alleged to have been violated. If the victim does not have a copy of a purported order, the officer may verify the existence of an order with the appropriate law enforcement agency; or
- (4) There is probable cause to believe that a weapon as defined in *N.J.S. 2C:39-1* has been involved in the commission of an act of domestic violence.

b. A law enforcement officer may arrest a person; or may sign a criminal complaint against that person, or may do both, where there is probable cause to believe that an act of domestic violence has been committed, but where none of the conditions in subsection a. of this section applies.

c. (1) As used in this section, the word "exhibits" is to be liberally construed to mean any indication that a victim has suffered bodily injury, which shall include physical pain or any impairment of physical condition. Where the victim exhibits no visible sign of injury, but states that an injury has occurred, the officer should consider other relevant factors in determining whether there is probable cause to make an arrest.

(2) In determining which party in a domestic violence incident is the victim where both parties exhibit signs of injury, the officer should consider the comparative extent of the injuries, the history of domestic violence between the parties, if any, and any other relevant factors.

(3) No victim shall be denied relief or arrested or charged under this act with an offense because the victim used reasonable force in self defense against domestic violence by an attacker.

d. (1) In addition to a law enforcement officer's authority to seize any weapon that is contraband, evidence or an instrumentality of crime, a law enforcement officer who has probable cause to believe that an act of domestic violence has been committed shall:

(a) question persons present to determine whether there are weapons on the premises; and

(b) upon observing or learning that a weapon is present on the premises, seize any weapon that the officer reasonably believes would expose the victim to a risk of serious bodily injury. If a law enforcement officer seizes any firearm pursuant to this paragraph, the officer shall also seize any firearm purchaser identification card or permit to purchase a handgun issued to the person accused of the act of domestic violence.

(2) A law enforcement officer shall deliver all weapons, firearms purchaser identification cards and permits to purchase a handgun seized pursuant to this section to the county prosecutor and shall append an inventory of all seized items to the domestic violence report.

(3) Weapons seized in accordance with the "Prevention of Domestic Violence Act of 1991", P.L. 1991, c. 261 (*C. 2C:25-17 et seq.*) shall be returned to the owner except upon order of the Superior Court. The prosecutor who has possession of the seized weapons may, upon notice to the owner, petition a judge of the Family Part of the Superior Court, Chancery Division, within 45 days of seizure, to obtain title to the seized weapons, or to revoke any and all permits, licenses and other authorizations for the use, possession, or ownership of such weapons pursuant to the law governing such use, possession, or ownership, or may object to the return of the weapons on such grounds as are provided for the initial rejection or later revocation of the authorizations, or on the grounds that the owner is unfit or that the owner poses a threat to the public in general or a person or persons in particular.

A hearing shall be held and a record made thereof within 45 days of the notice provided above. No formal pleading and no filing fee shall be required as a preliminary to such hearing. The hearing shall be summary in nature. Appeals from the results of the hearing shall be to the Superior Court, Appellate Division, in accordance with the law.

If the prosecutor does not institute an action within 45 days of seizure, the seized weapons shall be returned to the owner.

After the hearing the court shall order the return of the firearms, weapons and any authorization papers relating to the seized weapons to the owner if the court determines the owner is not subject to any of the disabilities set forth in *N.J.S. 2C:58-3 c.* and finds that the complaint has been dismissed at the request of the complainant and the prosecutor determines that there is insufficient probable cause to indict; or if the defendant is found not guilty of the charges; or if the court determines that the domestic violence situation no longer exists. Nothing in this act shall impair the right of the State to retain evidence pending a criminal prosecution. Nor shall any provision of this act be construed to limit the authority of the State or a law enforcement officer to seize, retain or forfeit property pursuant to chapter 64 of Title 2C of the New Jersey Statutes.

If, after the hearing, the court determines that the weapons are not to be returned to the owner, the court may:

(a) With respect to weapons other than firearms, order the prosecutor to dispose of the weapons if the owner does not arrange for the transfer or sale of the weapons to an appropriate person within 60 days; or

(b) Order the revocation of the owner's firearms purchaser identification card or any permit, license or authorization, in which case the court shall order the owner to surrender any firearm seized and all other firearms possessed to the prosecutor and shall order the prosecutor to dispose of the firearms if the owner does not arrange for the sale of the firearms to a registered dealer of the firearms within 60 days; or

(c) Order such other relief as it may deem appropriate. When the court orders the weapons forfeited to the State or the prosecutor is required to dispose of the weapons, the prosecutor shall dispose of the property as provided in *N.J.S.*

2C:64-6.

(4) A civil suit may be brought to enjoin a wrongful failure to return a seized firearm where the prosecutor refuses to return the weapon after receiving a written request to do so and notice of the owner's intent to bring a civil action pursuant to this section. Failure of the prosecutor to comply with the provisions of this act shall entitle the prevailing party in the civil suit to reasonable costs, including attorney's fees, provided that the court finds that the prosecutor failed to act in good faith in retaining the seized weapon.

(5) No law enforcement officer or agency shall be held liable in any civil action brought by any person for failing to learn of, locate or seize a weapon pursuant to this act, or for returning a seized weapon to its owner.

LEXSTAT N.Y. CRIM. PROC. LAW § 140.10

NEW YORK CONSOLIDATED LAWS SERVICE

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*** THIS SECTION IS CURRENT THROUGH 2010 RELEASED CHAPTERS ***

*** 1-56, 58, 61-196, 199-210, 231, 243, 249, 253, 256, 260, 261, 278, 284, 308, 314-318, 321, 325, 329, 331, 332, 334, 341-343, 345-350 and 468 ***

CRIMINAL PROCEDURE LAW

PART TWO. THE PRINCIPAL PROCEEDINGS

TITLE H. PRELIMINARY PROCEEDINGS IN LOCAL CRIMINAL COURT

ARTICLE 140. ARREST WITHOUT A WARRANT

Go to the New York Code Archive Directory

NY CLS CPL § 140.10 (2010)

§ 140.10. Arrest without a warrant; by police officer; when and where authorized

1. Subject to the provisions of subdivision two, a police officer may arrest a person for:

(a) Any offense when he has reasonable cause to believe that such person has committed such offense in his presence; and

(b) A crime when he has reasonable cause to believe that such person has committed such crime, whether in his presence or otherwise.

2. A police officer may arrest a person for a petty offense, pursuant to subdivision one, only when:

(a) Such offense was committed or believed by him or her to have been committed within the geographical area of such police officer's employment or within one hundred yards of such geographical area; and

(b) Such arrest is made in the county in which such offense was committed or believed to have been committed or in an adjoining county; except that the police officer may follow such person in continuous close pursuit, commencing either in the county in which the offense was or is believed to have been committed or in an adjoining county, in and through any county of the state, and may arrest him in any county in which he apprehends him.

3. A police officer may arrest a person for a crime, pursuant to subdivision one, whether or not such crime was committed within the geographical area of such police officer's employment, and he may make such arrest within the state, regardless of the situs of the commission of the crime. In addition, he may, if necessary, pursue such person outside the state and may arrest him in any state the laws of which contain provisions equivalent to those of section 140.55.

4. [Expires and repealed Sept 1, 2011] Notwithstanding any other provisions of this section, a police officer shall arrest a person, and shall not attempt to reconcile the parties or mediate, where such officer has reasonable cause to believe that:

(a) a felony, other than [fig 1] subdivision three, four, nine or ten of *section 155.30 of the penal law*, has been committed by such person against a member of the same family or household, as member of the same family or household is defined in subdivision one of section 530.11 of this chapter; or

(b) a duly served order of protection or special order of conditions issued pursuant to subparagraph (i) or (ii) of paragraph (o) of subdivision one of section 330.20 of this chapter is in effect, or an order of which the respondent or defendant has actual knowledge because he or she was present in court when such order was issued, where the order appears to have been issued by a court of competent jurisdiction of this or another state, territorial or tribal jurisdiction; and

(i) Such order directs that the respondent or defendant stay away from persons on whose behalf the order of protection or special order of conditions has been issued and the respondent or defendant committed an act or acts in violation of such "stay away" provision of such order; or

(ii) The respondent or defendant commits a family offense as defined in subdivision one of section eight hundred twelve of the family court act or subdivision one of section 530.11 of this chapter in violation of such order of protection or special order of conditions.

The provisions of this subdivision shall apply only to orders of protection issued pursuant to sections two hundred forty and two hundred fifty-two of the domestic relations law, articles four, five, six and eight of the family court act and section 530.12 of this chapter, special orders of conditions issued pursuant to subparagraph (i) or (ii) of paragraph (o) of subdivision one of section 330.20 of this chapter insofar as they involve a victim or victims of domestic violence as defined by subdivision one of section four hundred fifty-nine-a of the social services law or a designated witness or witnesses to such domestic violence, and to orders of protection issued by courts of competent jurisdiction in another state, territorial or tribal jurisdiction. In determining whether reasonable cause [fig 1] exists to make an arrest for a violation of an order issued by a court of another state, territorial or tribal jurisdiction, the officer shall consider, among other factors, whether the order, if available, appears to be valid on its face or whether a record of the order exists on the statewide registry of orders of protection and warrants established pursuant to section two hundred twenty-one-a of the executive law or the protection order file maintained by the national crime information center; provided, however, that entry of the order of protection or special order of conditions into the statewide registry or the national protection order file shall not be required for enforcement of the order. When a special order of conditions is in effect and a defendant or respondent has been taken into custody pursuant to this paragraph, nothing contained in this paragraph shall restrict or impair a police officer from acting pursuant to *section 9.41 of the mental hygiene law*; or

(c) a misdemeanor constituting a family offense, as described in subdivision one of section 530.11 of this chapter and section eight hundred twelve of the family court act, has been committed by such person against such family or household member, unless the victim requests otherwise. The officer shall [fig 1] neither inquire as to whether the victim seeks an arrest of such person nor threaten the arrest of any person for the purpose of discouraging requests for police intervention. Notwithstanding the foregoing, when an officer has reasonable cause to believe that more than one family or household member has committed such a misdemeanor, the officer is not required to arrest each such person. In such circumstances, the officer shall attempt to identify and arrest the primary physical aggressor after considering: (i) the comparative extent of any injuries inflicted by and between the parties; (ii) whether any such person is threatening or has threatened future harm against another party or another family or household member; (iii) whether any such person has a prior history of domestic violence that the officer can reasonably ascertain; and (iv) whether any such person acted defensively to protect himself or herself from injury. The officer shall evaluate each complaint separately to determine who is the primary physical aggressor and shall not base the decision to arrest or not to arrest on the willingness of a person to testify or otherwise participate in a judicial proceeding.

Nothing contained in this subdivision shall be deemed to (a) require the arrest of any person when the officer reasonably believes the person's conduct is justifiable under article thirty-five of title C of the penal law; or (b) restrict or impair the authority of any municipality, political subdivision, or the division of state police from promulgating rules, regulations and policies requiring the arrest of persons in additional circumstances where domestic violence has allegedly occurred.

No cause of action for damages shall arise in favor of any person by reason of any arrest made by a police officer pursuant to this subdivision, except as provided in sections seventeen and eighteen of the public officers law and sections fifty-k, fifty-l, fifty-m and fifty-n of the general municipal law, as appropriate.

5. [Until Dec 15, 2009] Upon investigating a report of a crime or offense between members of the same family or household as such terms are defined in section 530.11 of this chapter and section eight hundred twelve of the family court act, a law enforcement officer shall prepare and file a written report of the incident, on a form promulgated pursuant to section eight hundred thirty-seven of the executive law, including statements made by the victim and by any witnesses, and make any additional reports required by local law enforcement policy or regulations. Such report shall be prepared and filed, whether or not an arrest is made as a result of the officers' investigation, and shall be retained by the law enforcement agency for a period of not less than four years. Where the reported incident involved an offense committed against a person who is sixty-five years of age or older a copy of the report required by this subdivision shall be sent to the New York state committee for the coordination of police services to elderly persons established pursuant to section eight hundred forty-four-b of the executive law.

5. [Eff Dec 15, 2009] Upon investigating a report of a crime or offense between members of the same family or household as such terms are defined in section 530.11 of this chapter and section eight hundred twelve of the family court act, a law enforcement officer shall prepare and file a written report of the incident, on a form promulgated pursuant to section eight hundred thirty-seven of the executive law, including statements made by the victim and by any witnesses, and make any additional reports required by local law enforcement policy or regulations. Such report shall be prepared and filed, whether or not an arrest is made as a result of the officers' investigation, and shall be retained by the law enforcement agency for a period of not less than four years. Where the reported incident involved an offense committed against a person who is sixty-five years of age or older a copy of the report required by this subdivision shall be sent to the New York state committee for the coordination of police services to elderly persons established pursuant to section eight hundred forty-four-b of the executive law. Where the reported incident involved an offense committed by an individual known by the law enforcement officer to be under probation or parole supervision, he or she shall transmit a copy of the report as soon as practicable to the supervising probation department or the division of parole.

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GENERAL STATUTES OF NORTH CAROLINA
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*** STATUTES CURRENT THROUGH THE 2009 REGULAR SESSION ***
*** ANNOTATIONS CURRENT THROUGH JULY 30, 2010 ***

CHAPTER 15A. CRIMINAL PROCEDURE ACT
SUBCHAPTER 04 . ARREST
ARTICLE 20. ARREST

Go to the North Carolina Code Archive Directory

N.C. Gen. Stat. § 15A-401 (2010)

§ 15A-401. Arrest by law-enforcement officer

(a) Arrest by Officer Pursuant to a Warrant. --

(1) Warrant in Possession of Officer. -- An officer having a warrant for arrest in his possession may arrest the person named or described therein at any time and at any place within the officer's territorial jurisdiction.

(2) Warrant Not in Possession of Officer. -- An officer who has knowledge that a warrant for arrest has been issued and has not been executed, but who does not have the warrant in his possession, may arrest the person named therein at any time. The officer must inform the person arrested that the warrant has been issued and serve the warrant upon him as soon as possible. This subdivision applies even though the arrest process has been returned to the clerk under *G.S. 15A-301*.

(b) Arrest by Officer Without a Warrant. --

(1) Offense in Presence of Officer. -- An officer may arrest without a warrant any person who the officer has probable cause to believe has committed a criminal offense in the officer's presence.

(2) Offense Out of Presence of Officer. -- An officer may arrest without a warrant any person who the officer has probable cause to believe:

a. Has committed a felony; or

b. Has committed a misdemeanor, and:

1. Will not be apprehended unless immediately arrested, or

2. May cause physical injury to himself or others, or damage to property unless immediately arrested; or

c. Has committed a misdemeanor under *G.S. 14-72.1, 14-134.3, 20-138.1, or 20-138.2*; or

d. Has committed a misdemeanor under *G.S. 14-33(a), 14-33(c)(1), 14-33(c)(2), or 14-34* when the offense was

committed by a person with whom the alleged victim has a personal relationship as defined in *G.S. 50B-1*; or

e. Has committed a misdemeanor under *G.S. 50B-4.1(a)*; or

f. Has violated a pretrial release order entered under *G.S. 15A-534.1(a)(2)*.

(3) Repealed by Session Laws 1991, c. 150.

(4) A law enforcement officer may detain an individual arrested for violation of an order limiting freedom of movement or access issued pursuant to *G.S. 130A-475* or *G.S. 130A-145* in the area designated by the State Health Director or local health director pursuant to such order. The person may be detained in such area until the initial appearance before a judicial official pursuant to *G.S. 15A-511* and *G.S. 15A-534.5*.

(c) How Arrest Made. --

(1) An arrest is complete when:

- a. The person submits to the control of the arresting officer who has indicated his intention to arrest, or
- b. The arresting officer, with intent to make an arrest, takes a person into custody by the use of physical force.

(2) Upon making an arrest, a law-enforcement officer must:

- a. Identify himself as a law-enforcement officer unless his identity is otherwise apparent,
- b. Inform the arrested person that he is under arrest, and
- c. As promptly as is reasonable under the circumstances, inform the arrested person of the cause of the arrest, unless the cause appears to be evident.

(d) Use of Force in Arrest. --

(1) Subject to the provisions of subdivision (2), a law-enforcement officer is justified in using force upon another person when and to the extent that he reasonably believes it necessary:

- a. To prevent the escape from custody or to effect an arrest of a person who he reasonably believes has committed a criminal offense, unless he knows that the arrest is unauthorized; or
- b. To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect an arrest or while preventing or attempting to prevent an escape.

(2) A law-enforcement officer is justified in using deadly physical force upon another person for a purpose specified in subdivision (1) of this subsection only when it is or appears to be reasonably necessary thereby:

- a. To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force;
- b. To effect an arrest or to prevent the escape from custody of a person who he reasonably believes is attempting to escape by means of a deadly weapon, or who by his conduct or any other means indicates that he presents an imminent threat of death or serious physical injury to others unless apprehended without delay; or
- c. To prevent the escape of a person from custody imposed upon him as a result of conviction for a felony.

Nothing in this subdivision constitutes justification for willful, malicious or criminally negligent conduct by any

person which injures or endangers any person or property, nor shall it be construed to excuse or justify the use of unreasonable or excessive force.

(e) Entry on Private Premises or Vehicle; Use of Force. --

(1) A law-enforcement officer may enter private premises or a vehicle to effect an arrest when:

a. The officer has in his possession a warrant or order or a copy of the warrant or order for the arrest of a person, provided that an officer may utilize a copy of a warrant or order only if the original warrant or order is in the possession of a member of a law enforcement agency located in the county where the officer is employed and the officer verifies with the agency that the warrant is current and valid; or the officer is authorized to arrest a person without a warrant or order having been issued,

b. The officer has reasonable cause to believe the person to be arrested is present, and

c. The officer has given, or made reasonable effort to give, notice of his authority and purpose to an occupant thereof, unless there is reasonable cause to believe that the giving of such notice would present a clear danger to human life.

(2) The law-enforcement officer may use force to enter the premises or vehicle if he reasonably believes that admittance is being denied or unreasonably delayed, or if he is authorized under subsection (e)(1)c to enter without giving notice of his authority and purpose.

(f) Use of Deadly Weapon or Deadly Force to Resist Arrest. --

(1) A person is not justified in using a deadly weapon or deadly force to resist an arrest by a law-enforcement officer using reasonable force, when the person knows or has reason to know that the officer is a law-enforcement officer and that the officer is effecting or attempting to effect an arrest.

(2) The fact that the arrest was not authorized under this section is no defense to an otherwise valid criminal charge arising out of the use of such deadly weapon or deadly force.

(3) Nothing contained in this subsection (f) shall be construed to excuse or justify the unreasonable or excessive force by an officer in effecting an arrest. Nothing contained in this subsection (f) shall be construed to bar or limit any civil action arising out of an arrest not authorized by this Article.

(g) Care of minor children. -- When a law enforcement officer arrests an adult who is supervising minor children who are present at the time of the arrest, the minor children must be placed with a responsible adult approved by a parent or guardian of the minor children. If it is not possible to place the minor children with a responsible adult approved by a parent or guardian within a reasonable period of time, the law enforcement officer shall contact the county department of social services.

LEXSTAT N.D. CENT. CODE § 14-07.1-10

NORTH DAKOTA CENTURY CODE
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TITLE 14 Domestic Relations and Persons
CHAPTER 14-07.1 Domestic Violence

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N.D. Cent. Code, § 14-07.1-10 (2010)

14-07.1-10. Arrest procedures.

1. If a law enforcement officer has probable cause to believe that a person has committed a crime involving domestic violence, whether the offense is a felony or misdemeanor, and whether or not the crime was committed in the presence of the officer, the law enforcement officer shall presume that arresting the person is the appropriate response.

2. A law enforcement officer investigating a crime involving domestic violence may not threaten, suggest, or otherwise indicate, for the purpose of discouraging requests for law enforcement intervention, that family or household members will be arrested. When complaints are received from two or more family or household members, the officer shall evaluate each complaint separately to determine if either party acted in self-defense as defined in *section 12.1-05-03*. If self-defense is not a factor, to determine whether to seek an arrest warrant or to pursue further investigation, the officer shall consider which party was the predominant aggressor by considering certain factors, including the comparative severity of injuries involved, any history of domestic violence, or any other violent acts that the officer can reasonably ascertain and the likelihood of future harm.

3. An individual arrested for a crime involving domestic violence may not be released on bail or on the individual's personal recognizance unless the individual has made a personal appearance before a magistrate pursuant to rule 5 of the North Dakota Rules of Criminal Procedure.

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PAGE'S OHIO REVISED CODE ANNOTATED
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*** CURRENT THROUGH LEGISLATION PASSED BY THE 128TH OHIO GENERAL ASSEMBLY AND FILED
WITH THE SECRETARY OF STATE THROUGH FILE 54 ***

*** ANNOTATIONS CURRENT THROUGH JULY 1, 2010 ***

*** OPINIONS OF ATTORNEY GENERAL CURRENT THROUGH JULY 1, 2010 ***

TITLE 29. CRIMES -- PROCEDURE
CHAPTER 2935. ARREST, CITATION, AND DISPOSITION ALTERNATIVES

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ORC Ann. 2935.03 (2010)

§ 2935.03. Officer's authority to arrest without warrant; pursuit outside jurisdiction

(A) (1) A sheriff, deputy sheriff, marshal, deputy marshal, municipal police officer, township constable, police officer of a township or joint township police district, member of a police force employed by a metropolitan housing authority under division (D) of *section 3735.31 of the Revised Code*, member of a police force employed by a regional transit authority under division (Y) of *section 306.35 of the Revised Code*, state university law enforcement officer appointed under *section 3345.04 of the Revised Code*, veterans' home police officer appointed under *section 5907.02 of the Revised Code*, special police officer employed by a port authority under *section 4582.04 or 4582.28 of the Revised Code*, or a special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in *section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3*, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of transportation as provided in Parts 1542. and 1544. of Title 49 of the Code of Federal Regulations, as amended, shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, university, veterans' home operated under Chapter 5907. of the Revised Code, port authority, or municipal airport or other municipal air navigation facility, in which the peace officer is appointed, employed, or elected, a law of this state, an ordinance of a municipal corporation, or a resolution of a township.

(2) A peace officer of the department of natural resources, a state fire marshal law enforcement officer described in division (A)(23) of *section 109.71 of the Revised Code*, or an individual designated to perform law enforcement duties under *section 511.232 [511.23.2], 1545.13, or 6101.75 of the Revised Code* shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the peace officer's, state fire marshal law enforcement officer's, or individual's territorial jurisdiction, a law of this state.

(3) The house sergeant at arms if the house sergeant at arms has arrest authority pursuant to division (E)(1) of *section 101.311 [101.31.1] of the Revised Code* and an assistant house sergeant at arms shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the sergeant at arms's or assistant sergeant at arms's territorial jurisdiction specified in division (D)(1)(a) of *section 101.311 [101.31.1] of the Revised Code* or while

providing security pursuant to division (D)(1)(f) of *section 101.311 [101.31.1] of the Revised Code*, a law of this state, an ordinance of a municipal corporation, or a resolution of a township.

(B) (1) When there is reasonable ground to believe that an offense of violence, the offense of criminal child enticement as defined in *section 2905.05 of the Revised Code*, the offense of public indecency as defined in *section 2907.09 of the Revised Code*, the offense of domestic violence as defined in *section 2919.25 of the Revised Code*, the offense of violating a protection order as defined in *section 2919.27 of the Revised Code*, the offense of menacing by stalking as defined in *section 2903.211 [2903.21.1] of the Revised Code*, the offense of aggravated trespass as defined in *section 2911.211 [2903.21.1] of the Revised Code*, a theft offense as defined in *section 2913.01 of the Revised Code*, or a felony drug abuse offense as defined in *section 2925.01 of the Revised Code*, has been committed within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, university, veterans' home operated under Chapter 5907. of the Revised Code, port authority, or municipal airport or other municipal air navigation facility, in which the peace officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer, a peace officer described in division (A) of this section may arrest and detain until a warrant can be obtained any person who the peace officer has reasonable cause to believe is guilty of the violation.

(2) For purposes of division (B)(1) of this section, the execution of any of the following constitutes reasonable ground to believe that the offense alleged in the statement was committed and reasonable cause to believe that the person alleged in the statement to have committed the offense is guilty of the violation:

(a) A written statement by a person alleging that an alleged offender has committed the offense of menacing by stalking or aggravated trespass;

(b) A written statement by the administrator of the interstate compact on mental health appointed under *section 5119.51 of the Revised Code* alleging that a person who had been hospitalized, institutionalized, or confined in any facility under an order made pursuant to or under authority of *section 2945.37, 2945.371 [2945.37.1], 2945.38, 2945.39, 2945.40, 2945.401 [2945.40.1], or 2945.402 [2945.40.2] of the Revised Code* has escaped from the facility, from confinement in a vehicle for transportation to or from the facility, or from supervision by an employee of the facility that is incidental to hospitalization, institutionalization, or confinement in the facility and that occurs outside of the facility, in violation of *section 2921.34 of the Revised Code*;

(c) A written statement by the administrator of any facility in which a person has been hospitalized, institutionalized, or confined under an order made pursuant to or under authority of *section 2945.37, 2945.371 [2945.37.1], 2945.38, 2945.39, 2945.40, 2945.401 [2945.40.1], or 2945.402 [2945.40.2] of the Revised Code* alleging that the person has escaped from the facility, from confinement in a vehicle for transportation to or from the facility, or from supervision by an employee of the facility that is incidental to hospitalization, institutionalization, or confinement in the facility and that occurs outside of the facility, in violation of *section 2921.34 of the Revised Code*.

(3) (a) For purposes of division (B)(1) of this section, a peace officer described in division (A) of this section has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that a particular person is guilty of committing the offense if any of the following occurs:

(i) A person executes a written statement alleging that the person in question has committed the offense of domestic violence or the offense of violating a protection order against the person who executes the statement or against a child of the person who executes the statement.

(ii) No written statement of the type described in division (B)(3)(a)(i) of this section is executed, but the peace officer, based upon the peace officer's own knowledge and observation of the facts and circumstances of the alleged

incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order or based upon any other information, including, but not limited to, any reasonably trustworthy information given to the peace officer by the alleged victim of the alleged incident of the offense or any witness of the alleged incident of the offense, concludes that there are reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that the person in question is guilty of committing the offense.

(iii) No written statement of the type described in division (B)(3)(a)(i) of this section is executed, but the peace officer witnessed the person in question commit the offense of domestic violence or the offense of violating a protection order.

(b) If pursuant to division (B)(3)(a) of this section a peace officer has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that a particular person is guilty of committing the offense, it is the preferred course of action in this state that the officer arrest and detain that person pursuant to division (B)(1) of this section until a warrant can be obtained.

If pursuant to division (B)(3)(a) of this section a peace officer has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that family or household members have committed the offense against each other, it is the preferred course of action in this state that the officer, pursuant to division (B)(1) of this section, arrest and detain until a warrant can be obtained the family or household member who committed the offense and whom the officer has reasonable cause to believe is the primary physical aggressor. There is no preferred course of action in this state regarding any other family or household member who committed the offense and whom the officer does not have reasonable cause to believe is the primary physical aggressor, but, pursuant to division (B)(1) of this section, the peace officer may arrest and detain until a warrant can be obtained any other family or household member who committed the offense and whom the officer does not have reasonable cause to believe is the primary physical aggressor.

(c) If a peace officer described in division (A) of this section does not arrest and detain a person whom the officer has reasonable cause to believe committed the offense of domestic violence or the offense of violating a protection order when it is the preferred course of action in this state pursuant to division (B)(3)(b) of this section that the officer arrest that person, the officer shall articulate in the written report of the incident required by *section 2935.032 [2935.03.2] of the Revised Code* a clear statement of the officer's reasons for not arresting and detaining that person until a warrant can be obtained.

(d) In determining for purposes of division (B)(3)(b) of this section which family or household member is the primary physical aggressor in a situation in which family or household members have committed the offense of domestic violence or the offense of violating a protection order against each other, a peace officer described in division (A) of this section, in addition to any other relevant circumstances, should consider all of the following:

(i) Any history of domestic violence or of any other violent acts by either person involved in the alleged offense that the officer reasonably can ascertain;

(ii) If violence is alleged, whether the alleged violence was caused by a person acting in self-defense;

(iii) Each person's fear of physical harm, if any, resulting from the other person's threatened use of force against any person or resulting from the other person's use or history of the use of force against any person, and the reasonableness of that fear;

(iv) The comparative severity of any injuries suffered by the persons involved in the alleged offense.

(e) (i) A peace officer described in division (A) of this section shall not require, as a prerequisite to arresting or charging a person who has committed the offense of domestic violence or the offense of violating a protection order,

that the victim of the offense specifically consent to the filing of charges against the person who has committed the offense or sign a complaint against the person who has committed the offense.

(ii) If a person is arrested for or charged with committing the offense of domestic violence or the offense of violating a protection order and if the victim of the offense does not cooperate with the involved law enforcement or prosecuting authorities in the prosecution of the offense or, subsequent to the arrest or the filing of the charges, informs the involved law enforcement or prosecuting authorities that the victim does not wish the prosecution of the offense to continue or wishes to drop charges against the alleged offender relative to the offense, the involved prosecuting authorities, in determining whether to continue with the prosecution of the offense or whether to dismiss charges against the alleged offender relative to the offense and notwithstanding the victim's failure to cooperate or the victim's wishes, shall consider all facts and circumstances that are relevant to the offense, including, but not limited to, the statements and observations of the peace officers who responded to the incident that resulted in the arrest or filing of the charges and of all witnesses to that incident.

(f) In determining pursuant to divisions (B)(3)(a) to (g) of this section whether to arrest a person pursuant to division (B)(1) of this section, a peace officer described in division (A) of this section shall not consider as a factor any possible shortage of cell space at the detention facility to which the person will be taken subsequent to the person's arrest or any possibility that the person's arrest might cause, contribute to, or exacerbate overcrowding at that detention facility or at any other detention facility.

(g) If a peace officer described in division (A) of this section intends pursuant to divisions (B)(3)(a) to (g) of this section to arrest a person pursuant to division (B)(1) of this section and if the officer is unable to do so because the person is not present, the officer promptly shall seek a warrant for the arrest of the person.

(h) If a peace officer described in division (A) of this section responds to a report of an alleged incident of the offense of domestic violence or an alleged incident of the offense of violating a protection order and if the circumstances of the incident involved the use or threatened use of a deadly weapon or any person involved in the incident brandished a deadly weapon during or in relation to the incident, the deadly weapon that was used, threatened to be used, or brandished constitutes contraband, and, to the extent possible, the officer shall seize the deadly weapon as contraband pursuant to Chapter 2981. of the Revised Code. Upon the seizure of a deadly weapon pursuant to division (B)(3)(h) of this section, *section 2981.12 of the Revised Code* shall apply regarding the treatment and disposition of the deadly weapon. For purposes of that section, the "underlying criminal offense" that was the basis of the seizure of a deadly weapon under division (B)(3)(h) of this section and to which the deadly weapon had a relationship is any of the following that is applicable:

(i) The alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order to which the officer who seized the deadly weapon responded;

(ii) Any offense that arose out of the same facts and circumstances as the report of the alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order to which the officer who seized the deadly weapon responded.

(4) If, in the circumstances described in divisions (B)(3)(a) to (g) of this section, a peace officer described in division (A) of this section arrests and detains a person pursuant to division (B)(1) of this section, or if, pursuant to division (B)(3)(h) of this section, a peace officer described in division (A) of this section seizes a deadly weapon, the officer, to the extent described in and in accordance with *section 9.86 or 2744.03 of the Revised Code*, is immune in any civil action for damages for injury, death, or loss to person or property that arises from or is related to the arrest and detention or the seizure.

(C) When there is reasonable ground to believe that a violation of division (A)(1), (2), (3), (4), or (5) of section 4506.15 or a violation of *section 4511.19 of the Revised Code* has been committed by a person operating a motor

vehicle subject to regulation by the public utilities commission of Ohio under Title XLIX of the Revised Code, a peace officer with authority to enforce that provision of law may stop or detain the person whom the officer has reasonable cause to believe was operating the motor vehicle in violation of the division or section and, after investigating the circumstances surrounding the operation of the vehicle, may arrest and detain the person.

(D) If a sheriff, deputy sheriff, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under division (D) of *section 3735.31 of the Revised Code*, member of a police force employed by a regional transit authority under division (Y) of *section 306.35 of the Revised Code*, special police officer employed by a port authority under *section 4582.04 or 4582.28 of the Revised Code*, special police officer employed by a municipal corporation at a municipal airport or other municipal air navigation facility described in division (A) of this section, township constable, police officer of a township or joint township police district, state university law enforcement officer appointed under *section 3345.04 of the Revised Code*, peace officer of the department of natural resources, individual designated to perform law enforcement duties under *section 511.232 [511.23.2], 1545.13, or 6101.75 of the Revised Code*, the house sergeant at arms if the house sergeant at arms has arrest authority pursuant to division (E)(1) of *section 101.311 [101.31.1] of the Revised Code*, or an assistant house sergeant at arms is authorized by division (A) or (B) of this section to arrest and detain, within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, port authority, municipal airport or other municipal air navigation facility, college, or university in which the officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer, a person until a warrant can be obtained, the peace officer, outside the limits of that territory, may pursue, arrest, and detain that person until a warrant can be obtained if all of the following apply:

(1) The pursuit takes place without unreasonable delay after the offense is committed;

(2) The pursuit is initiated within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, port authority, municipal airport or other municipal air navigation facility, college, or university in which the peace officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer;

(3) The offense involved is a felony, a misdemeanor of the first degree or a substantially equivalent municipal ordinance, a misdemeanor of the second degree or a substantially equivalent municipal ordinance, or any offense for which points are chargeable pursuant to *section 4510.036 [4510.03.6] of the Revised Code*.

(E) In addition to the authority granted under division (A) or (B) of this section:

(1) A sheriff or deputy sheriff may arrest and detain, until a warrant can be obtained, any person found violating *section 4503.11, 4503.21, or 4549.01, sections 4549.08 to 4549.12, section 4549.62, or Chapter 4511. or 4513. of the Revised Code* on the portion of any street or highway that is located immediately adjacent to the boundaries of the county in which the sheriff or deputy sheriff is elected or appointed.

(2) A member of the police force of a township police district created under *section 505.48 of the Revised Code*, a member of the police force of a joint township police district created under *section 505.481 [505.48.1] of the Revised Code*, or a township constable appointed in accordance with *section 509.01 of the Revised Code*, who has received a certificate from the Ohio peace officer training commission under *section 109.75 of the Revised Code*, may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section, other than *sections 4513.33 and 4513.34 of the Revised Code*, on the portion of any street or highway that is located immediately adjacent to the boundaries of the township police district or joint township police district, in the case of a member of a township police district or joint township police district police force, or the unincorporated territory of the township, in the case of a township constable. However, if the population of the

township that created the township police district served by the member's police force, or the townships that created the joint township police district served by the member's police force, or the township that is served by the township constable, is sixty thousand or less, the member of the township police district or joint police district police force or the township constable may not make an arrest under division (E)(2) of this section on a state highway that is included as part of the interstate system.

(3) A police officer or village marshal appointed, elected, or employed by a municipal corporation may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section on the portion of any street or highway that is located immediately adjacent to the boundaries of the municipal corporation in which the police officer or village marshal is appointed, elected, or employed.

(4) A peace officer of the department of natural resources, a state fire marshal law enforcement officer described in division (A)(23) of *section 109.71 of the Revised Code*, or an individual designated to perform law enforcement duties under *section 511.232 [511.23.2]*, *1545.13*, or *6101.75 of the Revised Code* may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section, other than *sections 4513.33 and 4513.34 of the Revised Code*, on the portion of any street or highway that is located immediately adjacent to the boundaries of the lands and waters that constitute the territorial jurisdiction of the peace officer or state fire marshal law enforcement officer.

(F) (1) A department of mental health special police officer or a department of developmental disabilities special police officer may arrest without a warrant and detain until a warrant can be obtained any person found committing on the premises of any institution under the jurisdiction of the particular department a misdemeanor under a law of the state.

A department of mental health special police officer or a department of developmental disabilities special police officer may arrest without a warrant and detain until a warrant can be obtained any person who has been hospitalized, institutionalized, or confined in an institution under the jurisdiction of the particular department pursuant to or under authority of *section 2945.37, 2945.371 [2945.37.1], 2945.38, 2945.39, 2945.40, 2945.401 [2945.40.1], or 2945.402 [2945.40.2] of the Revised Code* and who is found committing on the premises of any institution under the jurisdiction of the particular department a violation of *section 2921.34 of the Revised Code* that involves an escape from the premises of the institution.

(2) (a) If a department of mental health special police officer or a department of developmental disabilities special police officer finds any person who has been hospitalized, institutionalized, or confined in an institution under the jurisdiction of the particular department pursuant to or under authority of *section 2945.37, 2945.371 [2945.37.1], 2945.38, 2945.39, 2945.40, 2945.401 [2945.40.1], or 2945.402 [2945.40.2] of the Revised Code* committing a violation of *section 2921.34 of the Revised Code* that involves an escape from the premises of the institution, or if there is reasonable ground to believe that a violation of *section 2921.34 of the Revised Code* has been committed that involves an escape from the premises of an institution under the jurisdiction of the department of mental health or the department of developmental disabilities and if a department of mental health special police officer or a department of developmental disabilities special police officer has reasonable cause to believe that a particular person who has been hospitalized, institutionalized, or confined in the institution pursuant to or under authority of *section 2945.37, 2945.371 [2945.37.1], 2945.38, 2945.39, 2945.40, 2945.401 [2945.40.1], or 2945.402 [2945.40.2] of the Revised Code* is guilty of the violation, the special police officer, outside of the premises of the institution, may pursue, arrest, and detain that person for that violation of *section 2921.34 of the Revised Code*, until a warrant can be obtained, if both of the following apply:

- (i) The pursuit takes place without unreasonable delay after the offense is committed;
- (ii) The pursuit is initiated within the premises of the institution from which the violation of *section 2921.34*

of the Revised Code occurred.

(b) For purposes of division (F)(2)(a) of this section, the execution of a written statement by the administrator of the institution in which a person had been hospitalized, institutionalized, or confined pursuant to or under authority of *section 2945.37, 2945.371 [2945.37.1], 2945.38, 2945.39, 2945.40, 2945.401 [2945.40.1], or 2945.402 [2945.40.2] of the Revised Code* alleging that the person has escaped from the premises of the institution in violation of *section 2921.34 of the Revised Code* constitutes reasonable ground to believe that the violation was committed and reasonable cause to believe that the person alleged in the statement to have committed the offense is guilty of the violation.

(G) As used in this section:

(1) A "department of mental health special police officer" means a special police officer of the department of mental health designated under *section 5119.14 of the Revised Code* who is certified by the Ohio peace officer training commission under *section 109.77 of the Revised Code* as having successfully completed an approved peace officer basic training program.

(2) A "department of developmental disabilities special police officer" means a special police officer of the department of developmental disabilities designated under *section 5123.13 of the Revised Code* who is certified by the Ohio peace officer training council under *section 109.77 of the Revised Code* as having successfully completed an approved peace officer basic training program.

(3) "Deadly weapon" has the same meaning as in *section 2923.11 of the Revised Code*.

(4) "Family or household member" has the same meaning as in *section 2919.25 of the Revised Code*.

(5) "Street" or "highway" has the same meaning as in *section 4511.01 of the Revised Code*.

(6) "Interstate system" has the same meaning as in *section 5516.01 of the Revised Code*.

(7) "Peace officer of the department of natural resources" means an employee of the department of natural resources who is a natural resources law enforcement staff officer designated pursuant to *section 1501.013 [1501.01.3] of the Revised Code*, a forest officer designated pursuant to *section 1503.29 of the Revised Code*, a preserve officer designated pursuant to *section 1517.10 of the Revised Code*, a wildlife officer designated pursuant to *section 1531.13 of the Revised Code*, a park officer designated pursuant to *section 1541.10 of the Revised Code*, or a state watercraft officer designated pursuant to *section 1547.521 [1547.52.1] of the Revised Code*.

(8) "Portion of any street or highway" means all lanes of the street or highway irrespective of direction of travel, including designated turn lanes, and any berm, median, or shoulder.

LEXSTAT OR. REV. STAT. § 133.055

OREGON REVISED STATUTES

*** THIS DOCUMENT IS CURRENT THROUGH THE 2009 REGULAR SESSION ***
*** OF THE 75TH LEGISLATIVE ASSEMBLY ***
*** ANNOTATIONS CURRENT THROUGH SEPTEMBER 1, 2010 ***

TITLE 14 PROCEDURE IN CRIMINAL MATTERS GENERALLY
Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition
CRIMINAL CITATIONS

GO TO OREGON REVISED STATUTES ARCHIVE DIRECTORY

ORS § 133.055 (2010)

133.055 Criminal citation; exception for domestic disturbance; notice of rights.

(1) A peace officer may issue a criminal citation to a person if the peace officer has probable cause to believe that the person has committed a misdemeanor or has committed any felony that is subject to misdemeanor treatment under *ORS 161.705*. The peace officer shall deliver a copy of the criminal citation to the person. The criminal citation shall require the person to appear at the court of the magistrate before whom the person would be taken pursuant to *ORS 133.450* if the person were arrested for the offense.

(2)(a) Notwithstanding the provisions of subsection (1) of this section, when a peace officer responds to an incident of domestic disturbance and has probable cause to believe that an assault has occurred between family or household members, as defined in *ORS 107.705*, or to believe that one such person has placed the other in fear of imminent serious physical injury, the officer shall arrest and take into custody the alleged assailant or potential assailant.

(b) When the peace officer makes an arrest under paragraph (a) of this subsection, the peace officer is not required to arrest both persons.

(c) When a peace officer makes an arrest under paragraph (a) of this subsection, the peace officer shall make every effort to determine who is the assailant or potential assailant by considering, among other factors:

- (A) The comparative extent of the injuries inflicted or the seriousness of threats creating a fear of physical injury;
- (B) If reasonably ascertainable, the history of domestic violence between the persons involved;
- (C) Whether any alleged crime was committed in self-defense; and
- (D) The potential for future assaults.

(3) Whenever any peace officer has reason to believe that a family or household member, as defined in *ORS 107.705*, has been abused as defined in *ORS 107.705* or that an elderly person or a person with a disability has been abused as defined in *ORS 124.005*, that officer shall use all reasonable means to prevent further abuse, including advising each person of the availability of a shelter or other services in the community and giving each person immediate notice of the legal rights and remedies available. The notice shall consist of handing each person a copy of the following

statement: _____ IF YOU

ARE THE VICTIM OF DOMESTIC VIOLENCE OR ABUSE, you can ask the district attorney to file a criminal complaint. You also have the right to go to the circuit court and file a petition requesting any of the following orders for relief: (a) An order restraining your attacker from abusing you; (b) an order directing your attacker to leave your household; (c) an order preventing your attacker from entering your residence, school, business or place of employment; (d) an order awarding you or the other parent custody of or parenting time with a minor child or children; (e) an order restraining your attacker from molesting or interfering with minor children in your custody; (f) an order awarding you other relief the court considers necessary to provide for your or your children's safety, including emergency monetary assistance. Such orders are enforceable in every state. You may also request an order awarding support for minor children in your care or for your support if the other party has a legal obligation to support you or your children. You also have the right to sue for losses suffered as a result of the abuse, including medical and moving expenses, loss of earnings or support, and other out-of-pocket expenses for injuries sustained and damage to your property. This can be done without an attorney in the small claims department of a court if the total amount claimed is under \$ 7,500. Similar relief may also be available in tribal courts. For further information you may contact:_____.

1 of 2 DOCUMENTS

General Laws of Rhode Island

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***Current through the January 2009 Session ***

*** Annotations current through July 9, 2010 ***

TITLE 12. CRIMINAL PROCEDURE

CHAPTER 7. ARREST

Go to the Rhode Island Code Archive Directory

R.I. Gen. Laws § 12-7-3 (2010)

§ 12-7-3. Arrest without warrant for misdemeanor or petty misdemeanor

A peace officer may, without a warrant, arrest a person if the officer has reasonable cause to believe that the person is committing or has committed a misdemeanor or a petty misdemeanor, and the officer has reasonable ground to believe that person cannot be arrested later or may cause injury to himself or herself or others or loss or damage to property unless immediately arrested.

2 of 2 DOCUMENTS

General Laws of Rhode Island

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***Current through the January 2009 Session ***

*** Annotations current through July 9, 2010 ***

TITLE 12. CRIMINAL PROCEDURE

CHAPTER 29. DOMESTIC VIOLENCE PREVENTION ACT

Go to the Rhode Island Code Archive Directory

R.I. Gen. Laws § 12-29-3 (2010)

§ 12-29-3. Law enforcement officers -- Duties and immunity

(a) The primary duty of law enforcement officers when responding to a domestic violence situation is to enforce the laws allegedly violated and to protect the victim.

(b) (1) When a law enforcement officer responds to a domestic violence situation and has probable cause to believe that a crime has been committed, the officer shall exercise arrest powers pursuant to §§ 12-7-3 and 12-7-4; provided, that the officer shall arrest and take into custody the alleged perpetrator of the crime when the officer has probable cause to believe that any of the following acts has occurred:

(i) A felonious assault;

(ii) An assault which has resulted in bodily injury to the victim, whether or not the injury is observable by the responding officer;

(iii) Physical action which was intended to cause another person reasonably to fear imminent serious bodily injury or death. "Bodily injury" means physical pain, illness, or an impairment of physical condition; or

(iv) Violation of a protective order and the violator has previous knowledge of the order and the terms of it;

(v) Violation of a no-contact order issued pursuant to § 12-29-4.

(2) The decision to arrest and charge shall not:

(i) Be dependent on the specific consent of the victim;

(ii) Consider the relationship of the parties; or

(iii) Be based solely on a request by the victim.

(3) An arrest without warrant made under this section shall be made within twenty-four (24) hours of the alleged crime.

(4) If an arrest without warrant cannot be made pursuant to this section, the officer shall advise the victim of the right to file a criminal complaint and shall seek a warrant for arrest if there is probable cause to do so.

(c) (1) When more than one family or household member involved in a domestic violence incident states a complaint, the officer shall investigate each complaint to determine whether there is probable cause to believe a crime has been committed. The officer shall not dismiss the incident by presuming two (2) party guilt.

(2) When the officer has probable cause to believe that family or household members have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor.

(d) A law enforcement officer shall not be held liable for false arrest in any civil action, for an arrest based on probable cause or for enforcement in good faith of a court order issued pursuant to this chapter or pursuant to § 15-5-19, chapter 15 of title 15, or chapter 8.1 of title 8.

(e) It shall be the responsibility of the law enforcement officer at the scene of a domestic violence incident to provide immediate assistance to the victim. This assistance shall include, but not be limited to:

(1) Assisting the victim to obtain medical treatment if treatment is required, including transportation to an emergency medical treatment facility;

(2) Giving the victim notice of her or his right to obtain a protective order in family court pursuant to chapter 15 of title 15 or district court pursuant to chapter 8.1 of title 8 as appropriate according to the relationship of the parties. This notice shall be provided by handing the victim a copy of the following statement written in English, Portuguese, Spanish, Cambodian, Hmong, Laotian, Vietnamese, and French and by reading the notice to that person when possible:

"If you are in need of medical treatment, you have the right to have the officer present drive you to the nearest hospital or otherwise assist you.

"If you believe that police protection is needed for your physical safety, you have the right to have the officer

present remain at the scene until you and your children can leave or until your safety is otherwise obtained.

"You have the right to file a criminal complaint with the responding officer or your local police department if the officer has not arrested the perpetrator.

"Married/blood relatives/children in common. If your attacker is your spouse, former spouse, person to whom you are related by blood or marriage, or if you are not married to your attacker, but have a child in common, you have the right to go to family court and ask the court to issue:

- (i) An order restraining your attacker from abusing you or your minor child;
- (ii) An order awarding you exclusive use of your domicile; and
- (iii) An order awarding you custody of your minor child(ren).

"Unmarried. If you are not married or related to your attacker, but have resided with him or her within the past three (3) years, or you or your attacker are in or have been in a substantive dating or engagement relationship within the past six (6) months, you have the right to go to district court and request:

- (i) An order restraining your attacker from abusing you; and
- (ii) An order directing your attacker to leave your household, unless he or she has the sole legal interest in the household;"

(3) Informing the victim of available services; and

(4) In cases where the officer has determined that no cause exists for an arrest, assistance shall also include:

(i) Remaining at the scene as long as there is danger to the safety of the person or until the person is able to leave the dwelling. The officer shall transport the person if no reasonable transportation is available; and

(ii) Informing the person that she or he has the right to file a criminal complaint with the responding officer or the local police department.

(f) An officer responding to a domestic violence call shall complete a domestic violence report pursuant to § 12-29-8.

(g) (1) It shall be the responsibility of the attorney general to develop a model Uniform Policy for Police Response to Domestic Violence which is consistent with the provisions of this section. This written policy shall be developed after conferring with the staff of the department of human services' domestic violence unit and with the council on domestic violence and shall be made available to any law enforcement agency.

(2) Each law enforcement agency shall develop a Policy for Police Response to Domestic Violence which is consistent with the Uniform Policy for Police Response to Domestic Violence developed by the attorney general and shall file a copy of the policy with the attorney general within sixty (60) days of receiving the model policy.

LEXSTAT S.C. CODE ANN. § 16-25-70

SOUTH CAROLINA CODE OF LAWS ANNOTATED BY LEXISNEXIS(R)

*** This document is current through all legislation enacted in the 2009 Session ***

*** The most current annotation is dated August 6, 2010 ***

TITLE 16. CRIMES AND OFFENSES
CHAPTER 25. CRIMINAL DOMESTIC VIOLENCE
ARTICLE 1. GENERAL PROVISIONS

GO TO SOUTH CAROLINA ARCHIVE DIRECTORY

S.C. Code Ann. § 16-25-70 (2009)

§ 16-25-70. Warrantless arrest or search; admissibility of evidence.

(A) A law enforcement officer may arrest, with or without a warrant, a person at the person's place of residence or elsewhere if the officer has probable cause to believe that the person is committing or has freshly committed a misdemeanor or felony pursuant to the provisions of *Section 16-25-20(A)* or (D), 16-25-65, or 16-25-125, even if the act did not take place in the presence of the officer. The officer may, if necessary, verify the existence of probable cause related to a violation pursuant to the provisions of this chapter by telephone or radio communication with the appropriate law enforcement agency. A law enforcement agency must complete an investigation of an alleged violation of this chapter even if the law enforcement agency was not notified at the time the alleged violation occurred. If an arrest warrant is sought, the law enforcement agency must present the results of the investigation and any other relevant evidence to a magistrate who may issue an arrest warrant if probable cause is established.

(B) A law enforcement officer must arrest, with or without a warrant, a person at the person's place of residence or elsewhere if physical manifestations of injury to the alleged victim are present and the officer has probable cause to believe that the person is committing or has freshly committed a misdemeanor or felony under the provisions of *Section 16-25-20(A)* or (D), or 16-25-65 even if the act did not take place in the presence of the officer. A law enforcement officer is not required to make an arrest if he determines probable cause does not exist after consideration of the factors set forth in subsection (D) and observance that no physical manifestation of injury is present. The officer may, if necessary, verify the existence of an order of protection by telephone or radio communication with the appropriate law enforcement agency.

(C) In effecting a warrantless arrest under this section, a law enforcement officer may enter the residence of the person to be arrested in order to effect the arrest where the officer has probable cause to believe that the action is reasonably necessary to prevent physical harm or danger to a family or household member.

(D) If a law enforcement officer receives conflicting complaints of domestic or family violence from two or more household members involving an incident of domestic or family violence, the officer must evaluate each complaint separately to determine who was the primary aggressor. If the officer determines that one person was the primary physical aggressor, the officer must not arrest the other person accused of having committed domestic or family violence. In determining whether a person is the primary aggressor, the officer must consider the following factors and any other factors he considers relevant:

(1) prior complaints of domestic or family violence;

(2) the relative severity of the injuries inflicted on each person taking into account injuries alleged which may not

be easily visible at the time of the investigation;

- (3) the likelihood of future injury to each person;
- (4) whether one of the persons acted in self-defense; and
- (5) household member accounts regarding the history of domestic violence.

(E) A law enforcement officer must not threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage a party's requests for intervention by law enforcement.

(F) A law enforcement officer who arrests two or more persons for a crime involving domestic or family violence must include the grounds for arresting both parties in the written incident report, and must include a statement in the report that the officer attempted to determine which party was the primary aggressor pursuant to this section and was unable to make a determination based upon the evidence available at the time of the arrest.

(G) When two or more household members are charged with a crime involving domestic or family violence arising from the same incident and the court finds that one party was the primary aggressor pursuant to this section, the court, if appropriate, may dismiss charges against the other party or parties.

(H) Evidence discovered as a result of a warrantless search administered pursuant to a complaint filed under this article is admissible in a court of law:

(1) if it is found:

(a) in plain view of a law enforcement officer in a room in which the officer is interviewing, detaining, or pursuing a suspect; or

(b) pursuant to a search incident to a lawful arrest for a violation of this article or for a violation of Chapter 3, Title 16; or

(2) if it is evidence of a violation of this article.

An officer may arrest and file criminal charges against a suspect for any offense that arises from evidence discovered pursuant to this section.

Unless otherwise provided for in this section, no evidence of a crime found as a result of a warrantless search administered pursuant to a complaint filed under this article is admissible in any court of law.

(I) In addition to the protections granted to the law enforcement officer and law enforcement agency under the South Carolina Tort Claims Act, a law enforcement officer is not liable for an act, omission, or exercise of discretion under this section unless the act, omission, or exercise of discretion constitutes gross negligence, recklessness, wilfulness, or wantonness.

LEXSTAT S.D. CODIFIED LAWS § 23A-3-2

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*** 85th REGULAR SESSION, INCLUDING SUPREME COURT RULE 09-01 THROUGH 09-09 ***
*** ANNOTATIONS CURRENT THROUGH JULY 22, 2010 ***

TITLE 23A. CRIMINAL PROCEDURE
CHAPTER 23A-3. (RULE 4.1) ARREST

GO TO SOUTH DAKOTA STATUTES ARCHIVE DIRECTORY

S.D. Codified Laws § 23A-3-2 (2010)

§ 23A-3-2. Power of warrantless arrest

A law enforcement officer may, without a warrant, arrest a person:

- (1) For a public offense, other than a petty offense, committed or attempted in his presence; or
- (2) Upon probable cause that a felony or Class 1 misdemeanor has been committed and the person arrested committed it, although not in the officer's presence.

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TENNESSEE CODE ANNOTATED

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*** CURRENT THROUGH THE 2010 REGULAR SESSION ***

*** ANNOTATIONS SUPREME COURT CURRENT THROUGH MAY 24, 2010 ***

Title 36 Domestic Relations

Chapter 3 Marriage

Part 6 --Domestic Abuse

GO TO THE TENNESSEE ANNOTATED STATUTES ARCHIVE DIRECTORY

Tenn. Code Ann. § 36-3-619 (2010)

36-3-619. Officer response -- Primary aggressor -- Factors -- Reports -- Notice to victim of legal rights.

(a) If a law enforcement officer has probable cause to believe that a person has committed a crime involving domestic abuse, whether the crime is a misdemeanor or felony, or was committed within or without the presence of the officer, the preferred response of the officer is arrest.

(b) If a law enforcement officer has probable cause to believe that two (2) or more persons committed a misdemeanor or felony, or if two (2) or more persons make complaints to the officer, the officer shall try to determine who was the primary aggressor. Arrest is the preferred response only with respect to the primary aggressor. The officer shall presume that arrest is not the appropriate response for the person or persons who were not the primary aggressor. If the officer believes that all parties are equally responsible, the officer shall exercise such officer's best judgment in determining whether to arrest all, any or none of the parties.

(c) To determine who is the primary aggressor, the officer shall consider:

- (1) The history of domestic abuse between the parties;
- (2) The relative severity of the injuries inflicted on each person;
- (3) Evidence from the persons involved in the domestic abuse;
- (4) The likelihood of future injury to each person;
- (5) Whether one (1) of the persons acted in self-defense; and
- (6) Evidence from witnesses of the domestic abuse.

(d) A law enforcement officer shall not:

(1) Threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage future requests for intervention by law enforcement personnel; or

(2) Base the decision of whether to arrest on:

- (A) The consent or request of the victim; or

(B) The officer's perception of the willingness of the victim or of a witness to the domestic abuse to testify or participate in a judicial proceeding.

(e) When a law enforcement officer investigates an allegation that domestic abuse occurred, the officer shall make a complete report and file the report with the officer's supervisor in a manner that will permit data on domestic abuse cases to be compiled. If a law enforcement officer decides not to make an arrest or decides to arrest two (2) or more parties, the officer shall include in the report the grounds for not arresting anyone or for arresting two (2) or more parties.

(f) Every month, the officer's supervisor shall forward the compiled data on domestic abuse cases to the administrative director of the courts.

(g) When a law enforcement officer responds to a domestic abuse call, the officer shall:

(1) Offer to transport the victim to a place of safety, such as a shelter or similar location or the residence of a friend or relative, unless it is impracticable for the officer to transport the victim, in which case the officer shall offer to arrange for transportation as soon as practicable;

(2) Advise the victim of a shelter or other service in the community; and

(3) Give the victim notice of the legal rights available by giving the victim a copy of the following statement:

[Click here to view form](#)

(4) Offer to transport the victim to the location where arrest warrants are issued in that city or county and assist the victim in obtaining an arrest warrant against the alleged abuser.

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*** CURRENT THROUGH THE 2010 REGULAR SESSION ***

*** ANNOTATIONS SUPREME COURT CURRENT THROUGH MAY 24, 2010 ***

Title 40 Criminal Procedure

Chapter 7 Arrest

Part 1 --General Provisions

GO TO THE TENNESSEE ANNOTATED STATUTES ARCHIVE DIRECTORY

Tenn. Code Ann. § 40-7-103 (2010)

40-7-103. Grounds for arrest by officer without warrant.

(a) An officer may, without a warrant, arrest a person:

(1) For a public offense committed or a breach of the peace threatened in the officer's presence;

(2) When the person has committed a felony, though not in the officer's presence;

(3) When a felony has in fact been committed, and the officer has reasonable cause for believing the person arrested has committed the felony;

(4) On a charge made, upon reasonable cause, of the commission of a felony by the person arrested;

(5) Who is attempting to commit suicide;

(6) At the scene of a traffic accident who is the driver of a vehicle involved in the accident when, based on personal investigation, the officer has probable cause to believe that the person has committed an offense under the provisions of title 55, chapters 8 and 10. The provisions of this subdivision (a)(6) shall not apply to traffic accidents in which no personal injury occurs or property damage is less than one thousand dollars (\$1,000), unless the officer has probable cause to believe that the driver of the vehicle has committed an offense under § 55-10-401;

(7) Pursuant to § 36-3-619;

(8) Who is the driver of a vehicle involved in a traffic accident either at the scene of the accident or up to four (4) hours after the driver has been transported to a health care facility, if emergency medical treatment for the driver is required and the officer has probable cause to believe that the driver has violated § 55-10-401;

(9) When an officer has probable cause to believe a person has committed the offense of stalking, as prohibited by § 39-17-315; or

(10) Who is the driver of a motor vehicle involved in a traffic accident, who leaves the scene of the accident, who is apprehended within four (4) hours of the accident, and the officer has probable cause to believe the driver has violated § 55-10-401.

(b) If a law enforcement officer has probable cause to believe that a person has violated one (1) or more of the conditions of release imposed pursuant to § 40-11-150, and verifies that the alleged violator received notice of the conditions, the officer shall, without a warrant, arrest the alleged violator regardless of whether the violation was committed in or outside the presence of the officer.

(c) Unless a law enforcement officer has probable cause to believe that an offense has been committed, no officer, except members of the Tennessee highway patrol acting pursuant to § 4-7-104, shall have the authority to stop a motor vehicle for the sole purpose of examining or checking the license of the driver of the vehicle.

LEXSTAT UTAH CODE ANN. § 77-36-2.2

UTAH CODE ANNOTATED

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*** STATUTES CURRENT THROUGH THE 2010 GENERAL SESSION ***

*** ANNOTATIONS CURRENT THROUGH 2010 UT 23 (4/23/2010); 2010 UT App 70 (4/23/2010) AND APRIL
15, 2010 (FEDERAL CASES) ***

TITLE 77. UTAH CODE OF CRIMINAL PROCEDURE
CHAPTER 36. COHABITANT ABUSE PROCEDURES ACT

Go to the Utah Code Archive Directory

Utah Code Ann. § 77-36-2.2 (2010)

§ 77-36-2.2. Powers and duties of law enforcement officers to arrest -- Reports of domestic violence cases -- Reports of parties' marital status

(1) The primary duty of law enforcement officers responding to a domestic violence call is to protect the victim and enforce the law.

(2) (a) In addition to the arrest powers described in *Section 77-7-2*, when a peace officer responds to a domestic violence call and has probable cause to believe that an act of domestic violence has been committed, the peace officer shall arrest without a warrant or shall issue a citation to any person that the peace officer has probable cause to believe has committed an act of domestic violence.

(b) (i) If the peace officer has probable cause to believe that there will be continued violence against the alleged victim, or if there is evidence that the perpetrator has either recently caused serious bodily injury or used a dangerous weapon in the domestic violence offense, the officer shall arrest and take the alleged perpetrator into custody, and may not utilize the option of issuing a citation under this section.

(ii) For purposes of Subsection (2)(b)(i), "serious bodily injury" and "dangerous weapon" mean the same as those terms are defined in *Section 76-1-601*.

(c) If a peace officer does not immediately exercise arrest powers or initiate criminal proceedings by citation or otherwise, the officer shall notify the victim of the right to initiate a criminal proceeding and of the importance of preserving evidence, in accordance with the requirements of *Section 77-36-2.1*.

(3) If a law enforcement officer receives complaints of domestic violence from two or more opposing persons, the officer shall evaluate each complaint separately to determine who the predominant aggressor was. If the officer determines that one person was the predominant physical aggressor, the officer need not arrest the other person alleged to have committed domestic violence. In determining who the predominant aggressor was, the officer shall consider:

- (a) any prior complaints of domestic violence;
- (b) the relative severity of injuries inflicted on each person;
- (c) the likelihood of future injury to each of the parties; and

(d) whether one of the parties acted in self defense.

(4) A law enforcement officer may not threaten, suggest, or otherwise indicate the possible arrest of all parties in order to discourage any party's request for intervention by law enforcement.

(5) (a) A law enforcement officer who does not make an arrest after investigating a complaint of domestic violence, or who arrests two or more parties, shall submit a detailed, written report specifying the grounds for not arresting any party or for arresting both parties.

(b) A law enforcement officer who does not make an arrest shall notify the victim of the right to initiate a criminal proceeding and of the importance of preserving evidence.

(6) (a) A law enforcement officer responding to a complaint of domestic violence shall prepare an incident report that includes the officer's disposition of the case.

(b) From January 1, 2009 until December 31, 2013, any law enforcement officer employed by a city of the first or second class responding to a complaint of domestic violence shall also report, either as a part of an incident report or on a separate form, the following information:

(i) marital status of each of the parties involved;

(ii) social, familial, or legal relationship of the suspect to the victim; and

(iii) whether or not an arrest was made.

(c) The information obtained in Subsection (6)(b):

(i) shall be reported monthly to the department;

(ii) shall be reported as numerical data that contains no personal identifiers; and

(iii) is a public record as defined in *Section 63G-2-103*.

(d) The incident report shall be made available to the victim, upon request, at no cost.

(e) The law enforcement agency shall forward a copy of the incident report to the appropriate prosecuting attorney within five days after the complaint of domestic violence occurred.

(7) Each law enforcement agency shall, as soon as practicable, make a written record and maintain records of all incidents of domestic violence reported to it, and shall be identified by a law enforcement agency code for domestic violence.

LEXSTAT WASHINGTON CODE § 10.31.100

ANNOTATED REVISED CODE OF WASHINGTON
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*** STATUTES CURRENT THROUGH THE 2010 REGULAR AND 1ST SPECIAL SESSIONS. ***

*** ANNOTATIONS CURRENT THROUGH MAY 24, 2010. ***

TITLE 10. CRIMINAL PROCEDURE
CHAPTER 10.31. WARRANTS AND ARRESTS

GO TO REVISED CODE OF WASHINGTON ARCHIVE DIRECTORY

Rev. Code Wash. (ARCW) § 10.31.100 (2010)

§ 10.31.100. Arrest without warrant

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of the officer, except as provided in subsections (1) through (10) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty-one years under *RCW 66.44.270*, or involving criminal trespass under *RCW 9A.52.070* or *9A.52.080*, shall have the authority to arrest the person.

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) An order has been issued of which the person has knowledge under *RCW 26.44.063*, or chapter 7.90, 10.99, 26.09, 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence, or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location or, in the case of an order issued under *RCW 26.44.063*, imposing any other restrictions or conditions upon the person; or

(b) A foreign protection order, as defined in *RCW 26.52.010*, has been issued of which the person under restraint has knowledge and the person under restraint has violated a provision of the foreign protection order prohibiting the person under restraint from contacting or communicating with another person, or excluding the person under restraint from a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or a violation of any provision for which the foreign protection order specifically indicates that a violation will be a crime; or

(c) The person is sixteen years or older and within the preceding four hours has assaulted a family or household member as defined in *RCW 10.99.020* and the officer believes: (i) A felonious assault has occurred; (ii) an assault has

occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that family or household members have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (i) The intent to protect victims of domestic violence under *RCW 10.99.010*; (ii) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (iii) the history of domestic violence of each person involved, including whether the conduct was part of an ongoing pattern of abuse.

(3) Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

- (a) *RCW 46.52.010*, relating to duty on striking an unattended car or other property;
- (b) *RCW 46.52.020*, relating to duty in case of injury to or death of a person or damage to an attended vehicle;
- (c) *RCW 46.61.500* or *46.61.530*, relating to reckless driving or racing of vehicles;
- (d) *RCW 46.61.502* or *46.61.504*, relating to persons under the influence of intoxicating liquor or drugs;
- (e) *RCW 46.20.342*, relating to driving a motor vehicle while operator's license is suspended or revoked;
- (f) *RCW 46.61.5249*, relating to operating a motor vehicle in a negligent manner.

(4) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

(5) Any police officer having probable cause to believe that a person has committed or is committing a violation of *RCW 79A.60.040* shall have the authority to arrest the person.

(6) An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer shall give an officer the authority to take appropriate action under the laws of the state of Washington.

(7) Any police officer having probable cause to believe that a person has committed or is committing any act of indecent exposure, as defined in *RCW 9A.88.010*, may arrest the person.

(8) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under chapter 10.14 RCW and the person has violated the terms of that order.

(9) Any police officer having probable cause to believe that a person has, within twenty-four hours of the alleged violation, committed a violation of *RCW 9A.50.020* may arrest such person.

(10) A police officer having probable cause to believe that a person illegally possesses or illegally has possessed a firearm or other dangerous weapon on private or public elementary or secondary school premises shall have the authority to arrest the person.

For purposes of this subsection, the term "firearm" has the meaning defined in *RCW 9.41.010* and the term "dangerous weapon" has the meaning defined in *RCW 9.41.250* and *9.41.280(1)(c)* through (e).

(11) Except as specifically provided in subsections (2), (3), (4), and (6) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

(12) No police officer may be held criminally or civilly liable for making an arrest pursuant to subsection (2) or (8) of this section if the police officer acts in good faith and without malice.

LEXSTAT WIS. STAT. § 968.075

LEXISNEXIS (R) WISCONSIN ANNOTATED STATUTES

*** THIS DOCUMENT IS CURRENT THROUGH ACT 406, DATED JUNE 30, 2009 ***

***ALL ACTS OF THE 2009 LEGISLATURE ***

*** THE MOST CURRENT ANNOTATION IS DATED SEPTEMBER 3, 2009 ***

CRIMINAL PROCEDURE
CHAPTER 968. COMMENCEMENT OF CRIMINAL PROCEEDINGS

Go to the Wisconsin Code Archive Directory

Wis. Stat. § 968.075 (2010)

968.075. Domestic abuse incidents; arrest and prosecution.

(1) DEFINITIONS.

In this section:

(a) "Domestic abuse" means any of the following engaged in by an adult person against his or her spouse or former spouse, against an adult with whom the person resides or formerly resided or against an adult with whom the person has a child in common:

1. Intentional infliction of physical pain, physical injury or illness.
2. Intentional impairment of physical condition.
3. A violation of *s. 940.225 (1), (2) or (3)*
4. A physical act that may cause the other person reasonably to fear imminent engagement in the conduct described under subd. 1., 2. or 3. (b) "Law enforcement agency" has the meaning specified in *s. 165.83 (1) (b) (c)* "Predominant aggressor" means the most significant, but not necessarily the first, aggressor in a domestic abuse incident.

(d) "Party" means a person involved in a domestic abuse incident.

(2) CIRCUMSTANCES REQUIRING ARREST; PRESUMPTION AGAINST CERTAIN ARRESTS.

(a) Notwithstanding *s. 968.07 (1)* and except as provided in pars. (am) and (b), a law enforcement officer shall arrest and take a person into custody if:

1. The officer has reasonable grounds to believe that the person is committing or has committed domestic abuse and that the persons actions constitute the commission of a crime; and
2. Any of the following apply:
 - a. The officer has a reasonable basis for believing that continued domestic abuse against the alleged victim is likely.
 - b. There is evidence of physical injury to the alleged victim.
 - c. The person is the predominant aggressor.

(am) Notwithstanding *s. 968.07 (1)*, unless the persons arrest is required under *s. 813.12 (7)*, *813.122 (10)*, *813.125 (6)*, or *813.128 (1) (b)* or sub. (5) (e), if a law enforcement officer identifies the predominant aggressor, it is generally not appropriate for a law enforcement officer to arrest anyone under par. (a) other than the predominant aggressor.

(ar) In order to protect victims from continuing domestic abuse, a law enforcement officer shall consider all of the following in identifying the predominant aggressor:

1. The history of domestic abuse between the parties, if it can be reasonably ascertained by the officer, and any information provided by witnesses regarding that history.

2. Statements made by witnesses.

3. The relative degree of injury inflicted on the parties.

4. The extent to which each person present appears to fear any party.

5. Whether any party is threatening or has threatened future harm against another party or another family or household member.

6. Whether either party acted in self-defense or in defense of any other person under the circumstances described in *s. 939.48 (b)* If the officers reasonable grounds for belief under par. (a) 1. are based on a report of an alleged domestic abuse incident, the officer is required to make an arrest under par. (a) only if the report is received, within 28 days after the day the incident is alleged to have occurred, by the officer or the law enforcement agency that employs the officer.

(2m) IMMEDIATE RELEASE PROHIBITED.

Unless *s. 968.08* applies, a law enforcement officer may not release a person whose arrest was required under sub. (2) until the person posts bail under *s. 969.07* or appears before a judge under *s. 970.01 (1)*

(3) LAW ENFORCEMENT POLICIES.

(a) Each law enforcement agency shall develop, adopt and implement written policies regarding arrest procedures for domestic abuse incidents. The policies shall include, but not be limited to, the following:

1.

a. A statement emphasizing that in most circumstances, other than those under sub. (2), a law enforcement officer should arrest and take a person into custody if the officer has reasonable grounds to believe that the person is committing or has committed domestic abuse and that the persons actions constitute the commission of a crime.

b. A policy reflecting the requirements of subs. (2) and (2m)

c. A statement emphasizing that a law enforcement officers decision as to whether or not to arrest under this section may not be based on the consent of the victim to any subsequent prosecution or on the relationship of the parties.

d. A statement emphasizing that a law enforcement officers decision not to arrest under this section may not be based solely upon the absence of visible indications of injury or impairment.

e. A statement discouraging, but not prohibiting, the arrest of more than one party.

f. A statement emphasizing that a law enforcement officer, in determining whether to arrest a party, should consider whether he or she acted in self-defense or in defense of another person.

2. A procedure for the written report and referral required under sub. (4)

3. A procedure for notifying the alleged victim of the incident of the provisions in sub. (5), the procedure for releasing the arrested person and the likelihood and probable time of the arrested persons release.

(b) In the development of these policies, each law enforcement agency is encouraged to consult with community organizations and other law enforcement agencies with expertise in the recognition and handling of domestic abuse incidents.

(c) This subsection does not limit the authority of a law enforcement agency to establish policies that require arrests under more circumstances than those set forth in sub. (2), but the policies may not conflict with the presumption under sub. (2) (am)

(4) REPORT REQUIRED WHERE NO ARREST.

If a law enforcement officer does not make an arrest under this section when the officer has reasonable grounds to believe that a person is committing or has committed domestic abuse and that persons acts constitute the commission of a crime, the officer shall prepare a written report stating why the person was not arrested. The report shall be sent to the district attorneys office, in the county where the acts took place, immediately after investigation of the incident has been completed. The district attorney shall review the report to determine whether the person involved in the incident should be charged with the commission of a crime.

(5) CONTACT PROHIBITION.

(a)

1. Unless there is a waiver under par. (c), during the 72 hours immediately following an arrest for a domestic abuse incident, the arrested person shall avoid the residence of the alleged victim of the domestic abuse incident and, if applicable, any premises temporarily occupied by the alleged victim, and avoid contacting or causing any person, other than law enforcement officers and attorneys for the arrested person and alleged victim, to contact the alleged victim.

2. An arrested person who intentionally violates this paragraph shall be required to forfeit not more than 1,000.

(b)

1. Unless there is a waiver under par. (c), a law enforcement officer or other person who releases a person arrested for a domestic abuse incident from custody less than 72 hours after the arrest shall inform the arrested person orally and in writing of the requirements under par. (a), the consequences of violating the requirements and the provisions of s. 939.621 The arrested person shall sign an acknowledgment on the written notice that he or she has received notice of, and understands the requirements, the consequences of violating the requirements and the provisions of s. 939.621 If the arrested person refuses to sign the notice, he or she may not be released from custody.

2. If there is a waiver under par. (c) and the person is released under subd. 1., the law enforcement officer or other person who releases the arrested person shall inform the arrested person orally and in writing of the waiver and the provisions of s. 939.621

3. Failure to comply with the notice requirement under subd. 1. regarding a person who is lawfully released from custody bars a prosecution under par. (a), but does not affect the application of s. 939.621 in any criminal prosecution.

(c) At any time during the 72-hour period specified in par. (a), the alleged victim may sign a written waiver of the requirements in par. (a) The law enforcement agency shall have a waiver form available.

(d) The law enforcement agency responsible for the arrest of a person for a domestic abuse incident shall notify the alleged victim of the requirements under par. (a) and the possibility of, procedure for and effect of a waiver under par.

(c) (e) Notwithstanding s. 968.07 (1), a law enforcement officer shall arrest and take a person into custody if the officer

has reasonable grounds to believe that the person has violated par. (a)

(6) CONDITIONAL RELEASE.

A person arrested and taken into custody for a domestic abuse incident is eligible for conditional release. Unless there is a waiver under sub. (5) (c), as part of the conditions of any such release that occurs during the 72 hours immediately following such an arrest, the person shall be required to comply with the requirements under sub. (5) (a) and to sign the acknowledgment under sub. (5) (b). The arrested person's release shall be conditioned upon his or her signed agreement to refrain from any threats or acts of domestic abuse against the alleged victim or other person.

(6m) OFFICER IMMUNITY.

A law enforcement officer is immune from civil and criminal liability arising out of a decision by the officer to arrest or not arrest an alleged offender, if the decision is made in a good faith effort to comply with this section.

(7) PROSECUTION POLICIES.

Each district attorney's office shall develop, adopt and implement written policies encouraging the prosecution of domestic abuse offenses. The policies shall include, but not be limited to, the following:

(a) A policy indicating that a prosecutor's decision not to prosecute a domestic abuse incident should not be based:

1. Solely upon the absence of visible indications of injury or impairment;
2. Upon the victim's consent to any subsequent prosecution of the other person involved in the incident; or
3. Upon the relationship of the persons involved in the incident.

(b) A policy indicating that when any domestic abuse incident is reported to the district attorney's office, including a report made under sub. (4), a charging decision by the district attorney should, absent extraordinary circumstances, be made not later than 2 weeks after the district attorney has received notice of the incident.

(8) EDUCATION AND TRAINING.

Any education and training by the law enforcement agency relating to the handling of domestic abuse complaints shall stress enforcement of criminal laws in domestic abuse incidents and protection of the alleged victim. Law enforcement agencies and community organizations with expertise in the recognition and handling of domestic abuse incidents shall cooperate in all aspects of the training.

(9) ANNUAL REPORT.

(a) Each district attorney shall submit an annual report to the department of justice listing all of the following:

1. The number of arrests for domestic abuse incidents in his or her county as compiled and furnished by the law enforcement agencies within the county.
2. The number of subsequent prosecutions and convictions of the persons arrested for domestic abuse incidents.

(b) The listing of the number of arrests, prosecutions and convictions under par. (a) shall include categories by statutory reference to the offense involved and include totals for all categories.