

1 State of Arkansas  
2 95th General Assembly  
3 Regular Session, 2025  
4

# A Bill

HOUSE BILL 1033

5 By: Representative A. Collins  
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7

## For An Act To Be Entitled

9 AN ACT TO BE KNOWN AS THE "ARKANSAS RED FLAG LAW"; TO  
10 CREATE AN EXTREME RISK PROTECTION ORDER AND WARRANT;  
11 TO PROVIDE A RESTRICTION ON ACCESS TO A FIREARM FOR A  
12 PERSON DEEMED TO POSE A RISK OF IMMINENT PERSONAL  
13 INJURY TO HIMSELF OR HERSELF OR TO THE PUBLIC; AND  
14 FOR OTHER PURPOSES.  
15

## Subtitle

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17  
18 TO CREATE THE "ARKANSAS RED FLAG LAW";  
19 AND TO CREATE AN EXTREME RISK PROTECTION  
20 ORDER AND WARRANT.  
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
23

24 SECTION 1. Arkansas Code § 5-54-122 is amended to read as follows:

25 5-54-122. Filing false report with law enforcement agency.

26 (a) As used in this section, "report" means any communication, either  
27 written or oral, sworn or unsworn.

28 (b) A person commits the offense of filing a false report if he or she  
29 files a report with any law enforcement agency or prosecuting attorney's  
30 office of:

31 (1) ~~any alleged~~ Alleged criminal wrongdoing on the part of  
32 another person knowing that the report is false; or

33 (2) Conduct by another person that the reporting person alleges  
34 should be investigated under the Arkansas Red Flag Law, § 12-15-401 et seq.,  
35 knowing that the report to the law enforcement agency or prosecuting  
36 attorney's office is false.



1 (c)(1) Filing a false report is a Class D felony if:

2 (A) The alleged criminal wrongdoing is a capital offense,  
3 Class Y felony, Class A felony, or Class B felony;

4 (B) The law enforcement agency or prosecuting attorney's  
5 office to whom the false report is made has expended in excess of five  
6 hundred dollars (\$500) in order to investigate the false report, including  
7 the costs of labor;

8 (C) Physical injury results to any person as a result of  
9 the false report;

10 (D) The false report is made in an effort by the person  
11 filing the false report to conceal his or her own criminal activity;

12 (E) The false report results in another person being  
13 arrested or having his or her firearms taken from him or her under the  
14 Arkansas Red Flag Law, § 12-15-401 et seq.; or

15 (F) The false report alleges another person purposely  
16 selected the victim of a crime because the victim was a member of or was  
17 associated with a recognizable and identifiable group or class who share  
18 mental, physical, biological, cultural, political, or religious beliefs or  
19 characteristics, for the purpose of delayed release under § 5-4-405.

20 (2) Otherwise, filing a false report is a Class A misdemeanor.  
21

22 SECTION 2. Arkansas Code § 5-73-103 is amended to read as follows:

23 5-73-103. Possession of firearms by certain persons.

24 (a) Except as provided in subsection (d) of this section or unless  
25 authorized by and subject to ~~such~~ conditions ~~as~~ prescribed by the Governor,  
26 or his or her designee, or by the United States Bureau of Alcohol, Tobacco,  
27 Firearms, and Explosives, or other bureau or office designated by the United  
28 States Department of Justice, ~~no~~ a person shall not possess or own ~~any~~ a  
29 firearm who ~~has been~~:

30 (1) ~~Convicted~~ Has been convicted of a felony;

31 (2) ~~Adjudicated~~ Has been adjudicated mentally ill; ~~or~~

32 (3) ~~Committed~~ Has been committed involuntarily to any mental  
33 institution; or

34 (4) Is currently restricted from possessing a firearm under the  
35 Arkansas Red Flag Law, § 12-15-401 et seq.

36 (b)(1) Except as provided in subdivisions (b)(2) and (3) of this

1 section, a determination by a jury or a court that a person committed a  
2 felony constitutes a conviction for purposes of subsection (a) of this  
3 section even though the court suspended imposition of sentence or placed the  
4 defendant on probation.

5 (2) Subdivision (b)(1) of this section does not apply to a  
6 person whose case was dismissed and expunged or sealed under § 16-93-301 et  
7 seq. or § 16-98-303(g).

8 (3) The determination by the jury or court that the person  
9 committed a felony does not constitute a conviction for purposes of  
10 subsection (a) of this section if the person is subsequently granted a pardon  
11 explicitly restoring the ability to possess a firearm.

12 (c)(1) A person who violates subdivisions (a)(1)-(3) of this section  
13 commits a Class B felony if:

14 (A) The person has a prior violent felony conviction;

15 (B) The person's current possession of a firearm involves  
16 the commission of another crime; or

17 (C) The person has been previously convicted under this  
18 section or a similar provision from another jurisdiction.

19 (2) A person who violates subdivisions (a)(1)-(3) of this  
20 section commits a Class D felony if he or she has been previously convicted  
21 of a felony and his or her present conduct or the prior felony conviction  
22 does not fall within subdivision (c)(1) of this section.

23 (3) Otherwise, ~~the person commits a violation of this section is~~  
24 a Class A misdemeanor.

25 (d) The Governor may restore without granting a pardon the right of a  
26 convicted felon or an adjudicated delinquent to own and possess a firearm  
27 upon the recommendation of the chief law enforcement officer in the  
28 jurisdiction in which the person resides, so long as the underlying felony or  
29 delinquency adjudication:

30 (1) Did not involve the use of a weapon; and

31 (2) Occurred more than eight (8) years ago.

32 (e) As used in this section, "felony" means any state or federal  
33 felony, excluding a federal or state felony offense for which the person  
34 convicted has completed his or her sentence and pertaining to:

35 (1) An antitrust violation;

36 (2) An unfair trade practice;

1           (3) Restraint of trade; or  
2           (4) Another offense relating to the regulation of business  
3 practices.  
4

5           SECTION 3. Arkansas Code Title 12, Chapter 15, is amended to add an  
6 additional subchapter to read as follows:  
7

8                           Subchapter 4 – Arkansas Red Flag Law  
9

10           12-15-401. Title.

11           This subchapter shall be known and may be cited as the "Arkansas Red  
12 Flag Law".  
13

14           12-15-402. Legislative intent.

15           (a) The intent of this subchapter is to provide for a temporary  
16 restriction of access to a firearm for a person who has demonstrated that he  
17 or she poses a risk of imminent personal injury to himself, herself, or to  
18 another person while providing the person with due process to contest the  
19 restriction if the person can show that he or she does not pose a risk of  
20 imminent personal injury to himself, herself, or to another person.

21           (b) Further, the General Assembly intends to provide for the return of  
22 any firearm taken into custody to the person from whom the firearm was taken  
23 either after a definite period of time or after the person has shown that he  
24 or she no longer poses a risk of imminent personal injury to himself,  
25 herself, or to another person.  
26

27           12-15-403. Sworn affidavit required.

28           (a) Any two (2) certified law enforcement officers may swear under  
29 oath by affidavit to a district court judge or circuit court judge that  
30 probable cause exists to believe that:

31                   (1) A person poses a risk of imminent personal injury to  
32 himself, herself, or to another person; and

33                   (2) The person possesses one (1) or more firearms.

34           (b) The certified law enforcement officers under subsection (a) of  
35 this section shall not swear under oath by affidavit unless the certified law  
36 enforcement officers have conducted an independent investigation and have

1 determined that probable cause exists as described in subsection (a) of this  
2 section and that there is no reasonable alternative available to prevent the  
3 person from causing imminent personal injury with a firearm to himself,  
4 herself, or to another person.

5 (c) The independent investigation under this section may be initiated:

6 (1) In response to an application for an emergency risk  
7 protection order and warrant under § 12-15-404; or

8 (2) By one (1) or more law enforcement officers if there is a  
9 belief the investigation is warranted.

10  
11 12-15-404. Filing application and supporting documents.

12 (a) Any person who believes an emergency risk protection order and  
13 warrant is warranted under this subchapter may file an application under this  
14 section.

15 (b)(1) An applicant for an emergency risk protection order and warrant  
16 issued under this subchapter shall file a copy of the application for the  
17 emergency risk protection order and warrant and all affidavits upon which the  
18 emergency risk protection order and warrant are based with the clerk of the  
19 district court or circuit court, as applicable.

20 (2) If an application for an emergency risk protection order and  
21 warrant is filed before obtaining all affidavits upon which the emergency  
22 risk protection order and warrant are based:

23 (A) The application shall be forwarded to the appropriate  
24 law enforcement officers as determined by the clerk of the district court or  
25 circuit court, as applicable; and

26 (B) If an independent investigation occurs and results in  
27 the execution of affidavits under § 12-15-403, the affidavits shall be filed  
28 with the clerk of the district court or circuit clerk, as appropriate, and  
29 attached to the application for an emergency risk protection order and  
30 warrant.

31 (c) Before the execution and return of an emergency risk protection  
32 order and warrant issued under this subchapter, the clerk of the district  
33 court or circuit court, as applicable, shall not disclose any information  
34 pertaining to the application for the emergency risk protection order and  
35 warrant or any affidavits upon which the emergency risk protection order and  
36 warrant are based.

1       (d) An emergency risk protection order and warrant issued under this  
2 subchapter shall be executed and returned with reasonable promptness  
3 consistent with due process of law and shall be accompanied by a written  
4 inventory of all firearms taken into custody.

5  
6       12-15-405. Issuance of emergency risk protection order and warrant by  
7 judge – Grounds and findings.

8       (a) A district court judge or circuit court judge may only issue an  
9 emergency risk protection order and warrant under this subchapter if the  
10 sworn affidavit under § 12-15-403 establishes the required grounds for  
11 issuing the emergency risk protection order and warrant.

12       (b) In determining whether grounds for the emergency risk protection  
13 order and warrant exist or whether there is probable cause to believe the  
14 grounds exist, the district court judge or circuit court judge shall consider  
15 any recent:

16           (1) Threat or act of violence by the person directed toward  
17 another person; and

18           (2) Threat or act of violence by the person directed toward  
19 himself or herself.

20       (c) When evaluating under this section whether the recent threat or  
21 act of violence constitutes probable cause to believe that the person poses a  
22 risk of imminent personal injury to himself, herself, or to another person,  
23 the district court judge or circuit court judge may consider other factors,  
24 including without limitation:

25           (1) The reckless use, display, or brandishing of a firearm by  
26 the person;

27           (2) A history of the use, attempted use, or threatened use of  
28 physical force by the person against another person; and

29           (3) Prior involuntary confinement of the person in a mental  
30 health facility or other medical facility where the person received treatment  
31 for a mental health condition.

32       (d)(1) If the district court judge or circuit court judge is satisfied  
33 that grounds for the emergency risk protection order and warrant under this  
34 subchapter exist or that there is probable cause to believe that the grounds  
35 exist, the district court judge or circuit court judge shall issue an  
36 emergency risk protection order and warrant naming or describing the person,

1 place, or thing to be searched, and what thing or things shall be seized or  
2 otherwise taken into custody.

3 (2) If the search results in the discovery of a firearm  
4 possessed by the person who has been shown to pose a risk of imminent  
5 personal injury to himself, herself, or to another person, the law  
6 enforcement agency conducting the search shall take the firearm into custody.

7  
8 12-15-406. Orders contained in emergency risk protection order and  
9 warrant.

10 An emergency risk protection order and warrant issued under this  
11 subchapter shall:

12 (1) Be directed to any certified law enforcement officer;

13 (2) State the grounds or circumstances constituting probable  
14 cause for issuance of the emergency risk protection order and warrant;

15 (3) Command the certified law enforcement officer to immediately  
16 search the person, place, or thing named in the emergency risk protection  
17 order and warrant for any firearm; and

18 (4) Order the certified law enforcement officer to take any  
19 firearm located or discovered into the certified law enforcement officer's  
20 custody.

21  
22 12-15-407. Copy of emergency risk protection order and warrant to be  
23 given to named person.

24 A copy of an emergency risk protection order and warrant issued under  
25 this subchapter shall be given to the person named in the emergency risk  
26 protection order and warrant together with a notice informing the person that  
27 he or she has the right to a hearing under this subchapter and the right to  
28 be represented by an attorney at the hearing.

29  
30 12-15-408. Hearing required.

31 (a)(1)(A) No later than three (3) days after the execution of an  
32 emergency risk protection order and warrant issued under this subchapter, a  
33 court with jurisdiction shall hold a hearing to determine whether any firearm  
34 taken into custody should be returned to the person named in the emergency  
35 risk protection order and warrant or should continue to be held by the state.

36 (B) The period of three (3) days under subdivision

1 (a)(1)(A) of this section does not include a Saturday, Sunday, or holiday.

2 (2)(A) A hearing is not required under this section if the  
3 person from whom the firearm was taken into custody voluntarily forfeits  
4 possession and ownership of the firearm.

5 (B)(i) A firearm voluntarily forfeited under this  
6 subsection shall be held for thirty (30) days pending a claim of ownership of  
7 the firearm by another person, during which time the person claiming  
8 ownership may file a petition in a court with jurisdiction to determine  
9 whether or not the person claiming ownership is the true owner of the  
10 firearm.

11 (ii) In a hearing to determine the true ownership of  
12 a firearm under this subdivision (a)(2)(B), the prosecuting attorney shall  
13 represent the law enforcement agency that has custody of the firearm.

14 (iii) There is no filing fee required to file a  
15 petition under this subdivision (a)(2)(B).

16 (iv) The court in which a petition is filed under  
17 this subdivision (a)(2)(B) shall return the firearm to the petitioner if the  
18 petitioner can show he or she is the true owner of the firearm by a  
19 preponderance of the evidence.

20 (C) If after thirty (30) days a petition claiming  
21 ownership of the firearm has not been filed in a court with jurisdiction or  
22 if after a hearing on a petition the court with jurisdiction has determined  
23 that the petitioner has not proven true ownership of the firearm, the law  
24 enforcement agency that took the firearm into custody shall within forty-  
25 eight (48) hours destroy the firearm.

26 (b) At a hearing under this section, the state shall be represented by  
27 the prosecuting attorney and has the burden of proving all material facts by  
28 clear and convincing evidence.

29 (c)(1)(A) If, after a hearing under this section, the court finds by  
30 clear and convincing evidence that the person from whom a firearm was taken  
31 into custody poses a risk of imminent personal injury to himself, herself, or  
32 to another person, the court may order that a firearm taken into custody  
33 under this subchapter continue to be held by the state for a period not to  
34 exceed one (1) year.

35 (B) The person from whom the firearm was taken into  
36 custody may petition the court for the return of the firearm before the one-



1 year period of time has elapsed under § 12-15-410.

2 (2) If the court does not find by clear and convincing evidence  
3 that the person from whom a firearm was taken into custody poses a risk of  
4 imminent personal injury to himself, herself, or to another person, the court  
5 shall order the firearm taken into custody to be returned to the person named  
6 in the emergency risk protection order and warrant.

7 (d)(1) If the court finds by clear and convincing evidence that the  
8 person whose firearm has been taken into custody poses a risk of imminent  
9 personal injury to himself, herself, or to another person, the court shall  
10 give notice to the prosecuting attorney and local law enforcement agencies  
11 with jurisdiction that the person may be in need of mental health services or  
12 other medical treatment.

13 (2)(A) Upon receiving notice under this subsection, the  
14 prosecuting attorney may institute commitment proceedings under § 20-47-201  
15 et seq. or § 20-64-801 et seq. if the prosecuting attorney has not done so  
16 already.

17 (B) The findings of the court conducting a hearing under  
18 this section may form the required basis and factual predicate for any  
19 subsequent commitment proceeding under § 20-47-201 et seq. or § 20-64-801 et  
20 seq.

21  
22 12-15-409. Transfer of firearm permitted.

23 (a) As used in this section, "eligible person" means a person who:

24 (1) Does not reside with the person whose firearm has been taken  
25 into custody under this subchapter;

26 (2) Agrees that the firearm shall not be returned to the person  
27 whose firearm has been taken into custody under this subchapter;

28 (3) Swears under oath that the person whose firearm has been  
29 taken into custody shall not have access to the firearm; and

30 (4) May lawfully possess the firearm.

31 (b) A person whose firearm has been taken into custody under this  
32 subchapter, or the person's legal representative, may transfer ownership of  
33 the firearm as provided by law to an eligible person.

34 (c) Upon written notification to the law enforcement agency, state  
35 agency, court, or other entity in possession of the firearm taken into  
36 custody by the person or the person's legal representative and the eligible

1 person to whom ownership of the firearm was transferred, the law enforcement  
2 agency, state agency, court, or other entity holding the firearm taken into  
3 custody shall deliver within ten (10) days the firearm to the eligible person  
4 to whom ownership of the firearm was transferred.

5 (d) An eligible person upon conviction is guilty of a Class A  
6 misdemeanor if he or she knowingly permits the person from whom the firearm  
7 was taken under this subchapter to possess or have access to the firearm  
8 after the transfer of ownership of the firearm within one (1) year of the  
9 transfer of the firearm.

10  
11 12-15-410. Early return of firearm taken into custody.

12 (a) A person who has had his or her firearm taken into custody under  
13 this subchapter may petition the court with jurisdiction for the early return  
14 of his or her firearm.

15 (b) A person who has had his or her firearm taken into custody under  
16 this subchapter may not:

17 (1) File a petition under this section more than two (2) times  
18 within any twelve-month period; or

19 (2) File a petition under this section until at least four (4)  
20 months have passed since the court found that at that time the person posed a  
21 risk of imminent personal injury to himself, herself, or to another person  
22 and ordered the firearm taken into custody.

23 (c)(1) There is no filing fee required for the first petition filed by  
24 a person under this section as to a specific emergency risk protection order  
25 and warrant taking the person's firearm into custody.

26 (2) For a second petition filed under this section as to a  
27 specific emergency risk protection order and warrant taking the person's  
28 firearm into custody, the filing fee shall be as otherwise provided by law.

29 (d)(1) A person may not file a petition under this section if at the  
30 time of filing he or she:

31 (A) Is in custody or incarcerated for any reason or was  
32 arrested since an emergency risk protection order and warrant under this  
33 subchapter was issued against him or her for a felony offense or a  
34 misdemeanor offense involving the use of or threat of violence;

35 (B) Is subject to a protective order under the Domestic  
36 Abuse Act of 1991, § 9-15-101 et seq.; or

1           (C) Has been involuntarily committed under § 20-64-801 et  
2 seq.

3           (2) A pending petition filed under this section shall be  
4 immediately dismissed by the court without a hearing if, after the date the  
5 petition was filed, the person:

6           (A) Was arrested for a felony offense or a misdemeanor  
7 offense involving the use of or threat of violence;

8           (B) Is subject to a protective order under the Domestic  
9 Abuse Act of 1991, § 9-15-101 et seq.; or

10           (C) Has been voluntarily or involuntarily committed under  
11 § 20-64-801 et seq. or admitted to a crisis intervention unit under the  
12 Behavioral Health Crisis Intervention Protocol Act of 2017, § 20-47-801 et  
13 seq.

14           (e) The court shall return the firearm taken into custody to the  
15 person from whom the firearm was taken if the person can show by a  
16 preponderance of the evidence that the person no longer poses a risk of  
17 imminent personal injury to himself, herself, or to another person.

18  
19           12-15-411. Third-party civil liability.

20           (a) As used in this section, "public employee" means a public employee  
21 employed in a law enforcement, judicial, social work, mental health, or  
22 medical capacity who is trained to identify, diagnose, investigate, or to  
23 intervene in threats to the public.

24           (b)(1) A person who is not a public employee may be civilly liable to  
25 a person against whom this subchapter is applied if the person who is not a  
26 public employee knowingly makes a false report to a law enforcement agency or  
27 other governmental body with the purpose of improperly depriving the person  
28 against whom this subchapter is applied of his or her lawfully possessed  
29 firearm, including without limitation submitting an application under § 12-  
30 15-404 with the purpose of improperly depriving a person of his or her  
31 lawfully possessed firearm.

32           (2) Damages in a civil lawsuit under subdivision (b)(1) of this  
33 section are limited to attorney's fees, costs of litigation, and compensatory  
34 damages that result directly from the deprivation of the person's firearm.

35  
36