

50 State Survey: Mandatory Arrests for Domestic Violence Cases

Color Code:

1. Discretionary, 21 States
 2. Mandatory, 22 States & Washington, D.C.
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***Washington, D.C. Mandatory Arrest § 16-1031(a)(2)**

- A. A law enforcement officer **shall** arrest a person if the law enforcement officer has probable cause to believe that the person:
- 1) Committed an intrafamily offense that resulted in physical injury, including physical pain or illness, regardless of whether or not the intrafamily offense was committed in the presence of the law enforcement officer; or
 - 2) Committed an intrafamily offense that caused or was intended to cause reasonable fear of imminent serious physical injury or death.
- (c)(1) Notwithstanding subsections (a) and (b) of this section, a law enforcement officer shall not be required to arrest a person who is under 18 years of age when there is probable cause to believe that the person has committed an intrafamily offense, where the victim of that offense is not an intimate partner, as that term is defined in § 16-1001(6A).
- B. Definitions D.C. Code §16-1001:**
- (5A) "Family member" means a person:
- (A) To whom the offender is related by blood, adoption, legal custody, marriage, or domestic partnership; or
 - (B) Who is the child of an intimate partner.
- (5B)(A) "Household member" means a person with whom, in the past year, the offender:
- (i) Shares or has shared a mutual residence; and
 - (ii) Has maintained a close relationship, beyond mere acquaintances, rendering application of the statute appropriate.
- (B) For the purposes of this paragraph, the term "close relationship" does not include a relationship based solely on a landlord-tenant relationship.
- (6A) "Intimate partner" means a person:
- (A) To whom the offender is or was married;
 - (B) With whom the offender is or was in a domestic partnership;
 - (C) With whom the offender has a child in common; or
 - (D) With whom the offender is, was, or is seeking to be in a romantic, dating, or sexual relationship.
- (8) "Intrafamily offense" means:
- (A) An offense punishable as a criminal offense against an intimate partner, a family member, or a household member; or
 - (B) An offense punishable as cruelty to animals, under § 22-1001 or § 22-1002, against an animal that an intimate partner, family member, or household member owns, possesses, or controls.

C. Definition of Domestic Partner, Partnership, and Family Member §32-701:

- a. (3) "Domestic partner" means a person with whom an individual maintains a committed relationship as defined in paragraph (1) of this section and who has registered under § 32-702(a) or whose relationship is recognized under § 32-702(i). Each partner shall:
- (A) Be at least 18 years old and competent to contract;
 - (B) Be the sole domestic partner of the other person; and
 - (C) Not be married.
- (4) "Domestic partnership" means the relationship between 2 persons who become domestic partners by registering in accordance with § 32-702 or whose relationship is recognized under § 32-702(i).
- (7) "Family member" means:
- (A) A domestic partner; or
 - (B) A dependent child of a domestic partner, which shall include, for the purposes of this section, an unmarried person under 22 years of age, an unmarried person under 25 years of age who is a full-time student, or an unmarried person regardless of age who is incapable of self-support because of a mental or physical disability that existed before age 22. A dependent child of a domestic partner shall include a natural child, adopted child, stepchild, foster child, or child in the legal custody of a domestic partner.

1. Alabama: Discretionary §15-10-3 (8)

- A. **Summary:** An officer may arrest a person without a warrant, on any day and at any time in any of the following instances:
- 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. **§15-10-3(8): Arrest Without Warrant - Generally; Written Report; Protection Orders.** When an offense involves a crime of domestic violence, including domestic violence in the first degree, pursuant to Section [13A-6-130](#), domestic violence in the second degree, pursuant to Section [13A-6-131](#), domestic violence in the third degree, pursuant to Section [13A-6-132](#), interference with a domestic violence emergency call, in violation of Section [13A-6-137](#), or domestic violence by strangulation or suffocation, pursuant to Section [13A-6-138](#), or elder abuse as defined in Section 38-9F-3, and the arrest is based on probable cause.
- (b) When a law enforcement officer investigates an allegation of domestic violence or elder abuse, 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.
- (c) If the defendant is arrested under this section for committing an act of domestic violence, including domestic violence in the first degree, pursuant to Section [13A-6-130](#), domestic violence in the second degree, pursuant to Section [13A-6-131](#), domestic violence in the third degree, pursuant to Section [13A-6-132](#), interference with a domestic violence emergency call, in violation of Section [13A-6-137](#), or domestic violence by

strangulation or suffocation, pursuant to Section [13A-6-138](#), in violation of a domestic violence protection order, or an act of elder abuse in violation of an elder abuse protection order, the defendant shall be held in custody until brought before the court within 48 hours for the purpose of enforcing the protection order and for consideration of bail in accordance with Section [15-13-190](#) and the applicable rules of criminal procedure, pending a hearing. If the defendant is not brought before the court within 48 hours, the defendant shall be subject to bail according to the Alabama Rules of Criminal Procedure.

C. [§13A-134](#): Arrest without warrant - Determination of predominant aggressor.

(a) If a law enforcement officer receives complaints of domestic violence from two or more opposing persons, or if both parties have injuries, the officer shall evaluate each complaint separately to determine who was the predominant aggressor. If the officer determines that one person was the predominant physical aggressor, that person may be arrested; however, a person who acts in a reasonable manner to protect himself or herself or another family or household member from domestic violence, as defined in Section [13A-6-139.1](#), may not be arrested for a violation of [Section 13A-6-130](#), [13A-6-131](#), or [13A-6-132](#). In determining whether a person is the predominant aggressor the officer shall consider all of the following:

- (1) Prior complaints of domestic violence.
- (2) The relative severity of the injuries inflicted on each person, including whether the injuries are offensive versus defensive in nature.
- (3) The likelihood of future injury to each person.
- (4) Whether the person had reasonable cause to believe he or she was in imminent danger of becoming a victim of any act of domestic violence, as the terms are defined in Section [13A-6-139.1](#).
- (5) Whether one of the persons acted in self-defense.

(b) A law enforcement officer shall not threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage the request for intervention by law enforcement by any party or base the decision to arrest or not to arrest on either of the following:

- (1) The specific consent or request of the victim.
- (2) The officer's perception of the willingness of a victim or witness to the domestic violence to testify or otherwise participate in a judicial proceeding.

(c)(1) In addition to victim information services required pursuant to Section [15-23-62](#), a law enforcement officer, at the time of initial investigation, shall give a victim of domestic violence, as those terms are defined in Section [13A-6-139.1](#), notice of the legal rights and remedies available on a standard form developed and distributed by the Alabama Law Enforcement Agency pursuant to subdivision (2) The agency shall develop a "Legal Rights and Remedies Notice to Victims" that includes a general summary of the provisions of the Protection From Domestic Violence Act using language a layperson may understand and the statewide domestic violence hotline number, and shall distribute the notice to be used by all law enforcement agencies throughout the state.

(d) A law enforcement officer is not liable in any civil action filed by any party for an arrest based on probable cause, enforcement of a court order, or service of process arising from an alleged incident of domestic violence, pursuant to Sections 36-1-12 and 6-5-338, as applicable.

D. Definition of Domestic Violence

a. [§13A-6-130: First Degree](#)

(a) A person commits the crime of domestic violence in the first degree if the person commits the crime of assault in the first degree pursuant to Section 13A-6-20 or aggravated stalking pursuant to Section 13A-6-91, and the victim is a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating relationship, as defined in Section [13A-6-139.1](#), with the defendant. Domestic violence in the first degree is a Class A felony, except that the defendant shall serve a minimum term of imprisonment of one year without consideration of probation, parole, good time credits, or any other reduction in time for any second or subsequent conviction under this subsection.

b. [§13A-6-131: Second Degree](#)

(a) A person commits the crime of domestic violence in the second degree if the person commits the crime of assault in the second degree pursuant to Section 13A-6-21; the crime of intimidating a witness pursuant to Section 13A-10-123; the crime of stalking pursuant to Section 13A-6-90; the crime of burglary in the second or third degree pursuant to Sections 13A-7-6 and 13A-7-7; or the crime of criminal mischief in the first degree pursuant to Section 13A-7-21 and the victim is a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating relationship, as defined in Section [13A-6-139.1](#), with the defendant. Domestic violence in the second degree is a Class B felony, except the defendant shall serve a minimum term of imprisonment of six months without consideration of probation, parole, good time credits, or any reduction in time for any second or subsequent conviction under this subsection.

c. [§13A-6-132: Third Degree](#)

(a) A person commits domestic violence in the third degree if the person commits the crime of assault in the third degree pursuant to Section 13A-6-22; the crime of menacing pursuant to Section 13A-6-23; the crime of reckless endangerment pursuant to Section 13A-6-24; the crime of criminal coercion pursuant to Section 13A-6-25; the crime of harassment pursuant to subsection (a) of Section 13A-11-8; the crime of criminal surveillance pursuant to Section 13A-11-32; the crime of harassing communications pursuant to subsection (b) of Section 13A-11-8; the crime of criminal trespass in the third degree pursuant to Section 13A-7-4; the crime of criminal mischief in the second or third degree pursuant to

Sections 13A-7-22 and 13A-7-23; or the crime of arson in the third degree pursuant to Section 13A-7-43; and the victim is a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating relationship, as defined in [Section 13A-6-139.1](#), with the defendant. Domestic violence in the third degree is a Class A misdemeanor.

d. [§13A-6-139.1: Definitions](#)

(1) DATING RELATIONSHIP.

- a. A significant relationship of a romantic or intimate nature characterized by the expectation of affectionate or sexual involvement over a period of time and on a continuing basis during the course of the relationship.
- b. A dating relationship includes the period of engagement to be married.
- c. A dating relationship does not include a casual or business relationship or a relationship that ended more than 12 months prior to the filing of the petition for a protection order.

(3) VICTIM.

An individual who is related to the person who commits an act of domestic violence in any of the following ways:

- a. Is related by marriage to the defendant, including a common law marriage.
- b. Had a former marriage or common law marriage with the defendant.
- c. Has a child in common with the defendant regardless of whether the victim and defendant have ever been married and regardless of whether they are currently residing or have in the past resided together in the same household.
- d. Has or had a dating relationship with the defendant.
- e. Is a current or former household member. A household member is a person maintaining or having maintained a living arrangement with the defendant where he or she is in, or was engaged in, a romantic or sexual relationship.
- f. A relative of a current or former household member as defined in paragraph e. who also lived with the defendant.
- g. An individual who is a parent, stepparent, child, or stepchild and who is in or has maintained a living arrangement with the defendant.

E. [Alabama Coalition Against Domestic Violence](#)

2. Alaska: Mandatory Arrest §18.65.530(A)and(B)

A. [§18.65.530 Mandatory Arrests for crimes Involving Domestic Violence:](#)

(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;

(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.

B. Definitions [§18.66.990](#)

(3) **"domestic violence"** and **"crime involving domestic violence"** mean one or more of the following offenses or an offense under a law or ordinance of another jurisdiction having elements similar to these offenses, or an attempt to commit the offense, by a household member against another household member

- (A) a crime against the person under AS 11.41;
- (B) burglary under AS 11.46.300 - 11.46.310;
- (C) criminal trespass under AS 11.46.320 - 11.46.330;
- (D) arson or criminally negligent burning under AS 11.46.400 - 11.46.430;
- (E) criminal mischief under AS 11.46.475 - 11.46.486;
- (F) terrorist threatening under AS 11.56.807 or 11.56.810;
- (G) violating a protective order under AS 11.56.740(a)(1);
- (H) harassment under AS 11.61.120(a)(2) - (4); or
- (I) [Effective January 17, 2017]. =ro cruelty to animals under AS 11.61.140(a)(5) if the animal is a pet;

(5) **"household member"** includes

- (A) adults or minors who are current or former spouses;
- (B) adults or minors who live together or who have lived together;
- (C) adults or minors who are dating or who have dates;
- (D) adults or minors who are engaged in or who have engaged in a sexual relationship;
- (E) adults or minors who are related to each other up to the fourth degree of consanguinity, whether of the whole or half blood or by adoption, computed under the rules of civil law;
- (F) adults or minors who are related or formerly related by marriage;
- (G) persons who have a child of the relationship; and
- (H) minor children of a person in a relationship that is described in (A) - (G) of this paragraph;

C. [Alaska Network on Domestic and Sexual Violence](#)

3. Arizona: Mandatory arrest, discretionary if arrest both Ariz. Rev. Stat. Ann. §13-3601 (B)

- A. **§13-3601(B)** A peace officer, with or without a warrant, **may** arrest a person if the officer has probable cause to believe that domestic violence has been committed and the officer has probable cause to believe that the person to be arrested has committed the offense, whether the offense is a felony or a misdemeanor and whether the offense was committed within or without the presence of the peace officer.

In cases of domestic violence involving the infliction of physical injury or involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument, the peace officer **shall** arrest a person who is at least fifteen years of age, with or without a warrant, if the officer has probable cause to believe that the offense has been committed and the officer has probable cause to believe that the person to be arrested has committed the offense, whether the offense was committed within or without the presence of the peace officer, unless the officer has reasonable grounds to believe that the circumstances at the time are such that the victim will be protected from further injury. Failure to make an arrest does not give rise to civil liability except pursuant to section **12-820.02**. In order to arrest both parties, the peace officer shall have probable cause to believe that both parties independently have committed an act of domestic violence. An act of self-defense that is justified under chapter 4 of this title is not deemed to be an act of domestic violence. The release procedures available under section **13-3883**, subsection A, paragraph 4 and section **13-3903** are not applicable to arrests made pursuant to this subsection.

C. A peace officer may question the persons who are present to determine if a firearm is present on the premises. On learning or observing that a firearm is present on the premises, the peace officer may temporarily seize the firearm if the firearm is in plain view or was found pursuant to a consent to search and if the officer reasonably believes that the firearm would expose the victim or another person in the household to a risk of serious bodily injury or death. A firearm that is owned or possessed by the victim shall not be seized unless there is probable cause to believe that both parties independently have committed an act of domestic violence.

B. Definition 13-3601(A)

(A) "Domestic violence" means any act that is a dangerous crime against children as defined in section 13-705 or an offense prescribed in section 13-1102, 13-1103, 13-1104, 13-1105, 13-1201, 13-1202, 13-1203, 13-1204, 13-1302, 13-1303, 13-1304, 13-1406, 13-1425, 13-1502, 13-1503, 13-1504, 13-1602 or 13-2810, section 13-2904, subsection A, paragraph 1, 2, 3 or 6, section 13-2910, subsection A, paragraph 8 or 9, section 13-2915, subsection A, paragraph 3 or section 13-2916, 13-2921, 13-2921.01, 13-2923, 13-3019, 13-3601.02 or 13-3623, if any of the following applies:

1. The relationship between the victim and the defendant is one of marriage or former marriage or of persons residing or having resided in the same household.
2. The victim and the defendant have a child in common.
3. The victim or the defendant is pregnant by the other party.
4. The victim is related to the defendant or the defendant's spouse by blood or court order as a parent, grandparent, child, grandchild, brother or

sister or by marriage as a parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law or sister-in-law.

5. The victim is a child who resides or has resided in the same household as the defendant and is related by blood to a former spouse of the defendant or to a person who resides or who has resided in the same household as the defendant.

6. The relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship. The following factors may be considered in determining whether the relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship:

(a) The type of relationship.

(b) The length of the relationship.

(c) The frequency of the interaction between the victim and the defendant.

(d) If the relationship has terminated, the length of time since the termination.

4. Arkansas: Preferred Arrest Ark. Code Ann. [§16-81-113 \(a\)\(1\)\(A\) and \(a\)\(2\)\(A\)](#)

- A. [§16-81-113 \(a\)\(1\)\(A\) and \(a\)\(2\)\(A\)](#) The arrest of the person shall be considered the preferred action by the law enforcement officer when evidence indicates that domestic abuse has occurred in addition to a violation of the Arkansas Criminal Code, § 5-1-101 et seq.

B. Definitions [§9-15-103](#)

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

(i) The length of the relationship;

(ii) The type of the relationship; and

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

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

(4) **“Domestic abuse”** means:

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

(B) Any sexual conduct between family or household members, whether minors or adults, that constitutes a crime under the laws of this state;

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

5. California: Preferred Arrest Cal. Penal Code §243(e)(1) & §273.5

A. [§16-81-113 \(a\)\(1\)\(A\)](#) and [\(a\)\(2\)\(A\)](#): The written policies shall encourage the arrest of domestic violence offenders if there is probable cause that an offense has been committed.

B. Definition of Domestic Violence California Penal Code § 6203:

- (1) To intentionally or recklessly cause or attempt to cause bodily injury.
 - (2) Sexual assault.
 - (3) To place a person in reasonable apprehension of imminent serious bodily injury to that person or to another.
 - (4) To engage in any behavior that has been or could be enjoined pursuant to Section 6320.
- (b) Abuse is not limited to the actual infliction of physical injury or assault.

C. Definition of Dating Relationship §16-81-113(10)

- (10) "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement independent of financial considerations.

6. Colorado: Mandatory Arrest Colo. Rev. Stat. §18-6-803.6(1)

A. [§18-6-803.6\(1\)](#) 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

B. [§18-6-800.3\(1\) Definitions:](#)

(1) "**Domestic violence**" means an act or threatened act of violence upon a person with whom the actor is or has been involved in an intimate relationship. "Domestic violence" also includes any other crime against a person, or against property, including an animal, or any municipal ordinance violation against a person, or against property, including an animal, when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an intimate relationship.

(2) “**Intimate relationship**” means a relationship between spouses, former spouses, past or present unmarried couples, or persons who are both the parents of the same child regardless of whether the persons have been married or have lived together at any time.

7. Connecticut: Mandatory Arrest, Conn. Gen. Stat. §46b-38b(a)

- a. **Summary:** Peace officers shall arrest the dominant aggressor after evaluation of situation.
- b. [§46-38\(b\)](#) Sec. 46b-38b. Investigation of family violence crime by peace officers. Arrest: (b) When complaints of family violence are made by two or more opposing persons, a peace officer is not required to arrest both persons. The peace officer shall evaluate each complaint separately to determine which person is the dominant aggressor. In determining which person is the dominant aggressor, the peace officer shall consider the need to protect victims of domestic violence, whether one person acted in defense of self or a third person, the relative degree of any injury, any threats creating fear of physical injury, and any history of family violence between such persons, if such history can reasonably be obtained by the peace officer. The peace officer shall arrest the person whom the officer believes to be the dominant aggressor.
- c. [§46b-38a](#) & [§46-38\(b\)](#) amended in June 2021 under [Public Act §21-78](#)
Speedy information that family violence was committed in jurisdiction.
- d. **Definition Public Act §21-78**
(b) As used in this title, "domestic violence" means: (1) A continuous threat of present physical pain or physical injury against a family or household member, as defined in section 46b-38a, as amended by this act; (2) stalking, including but not limited to, stalking as described in section 53a-181d, of such family or household member; (3) a pattern of threatening, including but not limited to, a pattern of threatening as described in section 53a-62, of such family or household member or a third party that intimidates such family or household member; or (4) coercive control of such family or household member, which is a pattern of behavior that in purpose or effect unreasonably interferes with a person's free will and personal liberty. "Coercive control" includes, but is not limited to, unreasonably engaging in any of the following:
 - (A) Isolating the family or household member from friends, relatives or other sources of support;
 - (B) Depriving the family or household member of basic necessities;
 - (C) Controlling, regulating or monitoring the family or household member's movements, communications, daily behavior, finances, economic resources or access to services;
 - (D) Compelling the family or household member by force, threat or intimidation, including, but not limited to, threats based on actual or suspected immigration status, to (i) engage in conduct from which such family or household member has a right to abstain, or (ii) abstain from conduct that such family or household member has a right to pursue;
 - (E) Committing or threatening to commit cruelty to animals that intimidates the family or household member; or

(F) Forced sex acts, or threats of a sexual nature, including, but not limited to, threatened acts of sexual conduct, threats based on a person's sexuality or threats to release sexual images

8. Delaware: Discretionary Del. Code. Ann. Title 11 §1904 (A)(4)

- A. **Summary:** Whenever a law enforcement officer has reasonable grounds to believe a person has committed a misdemeanor involving physical injury or the threat thereof or any misdemeanor involving illegal sexual contact or attempted sexual contact.
- B. **§ 1904 Arrest Without Warrant:** (a) An arrest by a peace officer without a warrant for a misdemeanor is lawful whenever the officer has reasonable ground to believe that the person to be arrested has committed a misdemeanor:
- (1) In the officer's presence;
 - (4) Out of the officer's presence and within the State for any misdemeanor involving physical injury or the threat thereof or any misdemeanor involving illegal sexual contact or attempted sexual contact;
- c. The person to be arrested is still present.
- C. **Definitions Title 13 §703A**
- (a) **"Domestic violence"** includes but is not limited to physical or sexual abuse or threats of physical or sexual abuse and any other offense against the person committed by 1 parent against the other parent, against any child living in either parent's home, or against any other adult living in the child's home. "Domestic violence" does not include reasonable acts of self-defense by 1 parent for self-protection or in order to protect the child from abuse or threats of abuse by the other parent or other adult living in the child's home.
- (b) **"Perpetrator of domestic violence"** means any individual who has been convicted of committing any of the following criminal offenses in the State, or any comparable offense in another jurisdiction, against the child at issue in a custody or visitation proceeding, against the other parent of the child, or against any other adult or minor child living in the home:
- (1) Any felony level offense.
 - (2) Assault in the third degree.
 - (3) Reckless endangering in the second degree.
 - (4) Reckless burning or exploding.
 - (5) Unlawful imprisonment in the second degree.
 - (6) Unlawful sexual contact in the third degree.
 - (7) Criminal contempt of Family Court protective order based on an assault or other physical abuse, threat of assault or other physical abuse or any other actions placing the petitioner in immediate risk or fear of bodily harm.
 - (8) Child abuse in the third degree.

D. Delaware Coalition Against Domestic Violence

9. Florida: Discretionary Fla. Stat. 741.29(3) 4(a) & 4(b) & §901.15 (7)

- A. **741.29(3) 4(a) & 4(b): Domestic Violence; Investigation of Incidents; Notice to Victims of Legal Rights and Remedies; Reporting.**
- (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.

B. [§901.15](#) When arrest by officer without warrant is lawful.

(7) There is probable cause to believe that the person has committed an act of domestic violence, as defined in s. [741.28](#), or dating violence, as provided in s. [784.046](#). The decision to arrest shall not require consent of the victim or consideration of the relationship of the parties. It is the public policy of this state to strongly discourage arrest and charges of both parties for domestic violence or dating violence on each other and to encourage training of law enforcement and prosecutors in these areas. A law enforcement officer who acts in good faith and exercises due care in making an arrest under this subsection, under s. [741.31\(4\)](#) or s. [784.047](#), or pursuant to a foreign order of protection accorded full faith and credit pursuant to s. [741.315](#), is immune from civil liability that otherwise might result by reason of his or her action.

C. Definitions [§741.28](#) :

(2) **“Domestic violence”** means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.

(3) **“Family or household member”** means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

D. Dating Violence definition [§748.046](#):

(d) **“Dating violence”** means violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:

1. A dating relationship must have existed within the past 6 months;
2. The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
3. The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship. [901.15\(7\)](#): There is probable cause to believe that the person has committed an act of domestic violence, as defined in s. [741.28](#), or dating violence, as provided in s. [784.046](#).
4. The decision to arrest shall not require consent of the victim or consideration of the relationship of the parties. It is the public policy of this state to strongly discourage arrest and charges of both parties for domestic violence or dating violence on each other and to encourage training of law enforcement and prosecutors in these areas. A law enforcement officer who acts in good faith and exercises due care in making an arrest under this subsection, under s. [741.31\(4\)](#)

or s. [784.047](#), or pursuant to a foreign order of protection accorded full faith and credit pursuant to s. [741.315](#), is immune from civil liability that otherwise might result by reason of his or her action.

5. 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.

E. [Florida Coalition Against Domestic Violence](#)

10. Georgia: Discretionary Ga. Code. Ann. [§17-4-20\(A\)](#)

A. [§ 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**
An arrest for a crime may be made by a law enforcement officer:

- a. Under a warrant; or
- b. Without a warrant if:
 - i. The offense is committed in such officer's presence or within such officer's immediate knowledge;
 - ii. The offender is endeavoring to escape;
 - iii. The officer has probable cause to believe that an act of family violence, as defined in Code Section 19-13-1, has been committed;
 - iv. The officer has probable cause to believe that the offender has violated a criminal family violence order, as defined in Code Section 16-5-95; provided, however, that such officer shall not have any prior or current familial relationship with the alleged victim or the offender;
 - v. 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
 - vi. For other cause there is likely to be failure of justice for want of a judicial officer to issue a warrant.

B. **Definitions [§19-13-1](#):**

"Family Violence" As used in this article, the term "family violence" means the occurrence of one or more of the following acts between past or present spouses, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons living or formerly living in the same household;

- i. Any felony; or
- ii. Commission of offenses of battery, simple battery, simple assault, assault, stalking, criminal damage to property, unlawful restraint, or criminal trespass.

The term "family violence" shall not be deemed to include reasonable

discipline administered by a parent to a child in the form of corporal punishment, restraint, or detention.

11. Hawaii: Discretionary Haw. Rev. Stat. §709-906

A. **§709-906:** 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.

B. Arrest by a Police Officer Without a Warrant §803-5

(a) A police officer or other officer of justice, may, without warrant, arrest and detain for examination any person when the officer has probable cause to believe that such person has committed any offense, whether in the officer's presence or otherwise.

(b) For purposes of this section, a police officer has probable cause to make an arrest when the facts and circumstances within the officer's knowledge and of which the officer has reasonably trustworthy information are sufficient in themselves to warrant a person of reasonable caution in the belief that a crime has been or is being committed. [PC 1869, c 49, §5; RL 1925, §3971; RL 1935, §5404; RL 1945, §10705; RL 1955, §255-5; HRS §708-5; ren L 1972, c 9, pt of §1; am L 1980, c 105, §1; am L 1981, c 186, §1; am L 1982, c 221, §1]

C. Definition Title 31 § 31-586:

a. **"Domestic abuse"** means:

(1) Physical harm, bodily injury, assault, or the threat of imminent physical harm, bodily injury, or assault, extreme psychological abuse or malicious property damage between family or household members; or

(2) Any act which would constitute an offense under section 709-906, or under part V or VI of chapter 707 committed against a minor family or household member by an adult family or household member.

"Extreme psychological abuse" means an intentional or knowing course of conduct directed at an individual that seriously alarms or disturbs consistently or continually bothers the individual, and that serves no legitimate purpose; provided that such course of conduct would cause a reasonable person to suffer extreme emotional distress.

12. Idaho: Discretionary Idaho Code §19-603 (6)

A. **Arrests without a Warrant §19-603 (6):** A peace officer may make an arrest 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).

B. Definitions §18-918:

(a) **"Household member"** means a person who is a spouse, former spouse, or a person who has a child in common regardless of whether they have been married or a person with whom a person is cohabiting, whether or not they have married or have held themselves out to be husband or wife.

(b) **"Traumatic injury"** means a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by physical force.

(2) (a) Any household member who, in committing a battery, as defined in section [18-903](#), Idaho Code, inflicts a traumatic injury upon any other household member is guilty of a felony.

(b) A conviction of felony domestic battery is punishable by imprisonment in the state prison for a term not to exceed ten (10) years or by a fine not to exceed ten thousand dollars (\$10,000) or by both fine and imprisonment.

(3) (a) A household member who commits an assault, as defined in section [18-901](#), Idaho Code, against another household member which does not result in traumatic injury is guilty of a misdemeanor domestic assault.

(b) A household member who commits a battery, as defined in section [18-903](#), Idaho Code, against another household member which does not result in traumatic injury is guilty of a misdemeanor domestic battery.

13. Illinois: Discretionary [725 Ill. Comp Stat 5/112A-30](#)

A. **Summary:** 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 arresting the abusing party, where appropriate.

B. [725 Ill. Comp Stat 5/112A-30](#):(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;

Sec. 107-2. Arrest by Peace Officer.

(1) A peace officer may arrest a person when:

(a) He has a warrant commanding that such person be arrested; or

(b) He has reasonable grounds to believe that a warrant for the person's arrest has been issued in this State or in another jurisdiction; or

(c) He has reasonable grounds to believe that the person is committing or has committed an offense.

C. **Definitions [750 60/103](#):**

(1) **"Abuse"** means physical abuse, harassment, intimidation of a dependent, interference with personal liberty or willful deprivation but does not include reasonable direction of a minor child by a parent or person in loco parentis.

(3) **"Domestic violence"** means abuse as defined in paragraph (1).

(6) **"Family or household members"** include spouses, former spouses, parents, children, stepchildren and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly have a child in common, persons who share or allegedly

share a blood relationship through a child, persons who have or have had a dating or engagement relationship, persons with disabilities and their personal assistants, and caregivers as defined in Section 12-4.4a of the Criminal Code of 2012. For purposes of this paragraph, neither a casual acquaintanceship nor ordinary fraternization between 2 individuals in business or social contexts shall be deemed to constitute a dating relationship. In the case of a high-risk adult with disabilities, "family or household members" includes any person who has the responsibility for a high-risk adult as a result of a family relationship or who has assumed responsibility for all or a portion of the care of a high-risk adult with disabilities voluntarily, or by express or implied contract, or by court order.

D. **Relevant Links:** [750 ILCS 60/103](#), Illinois Domestic Violence Act of 1986

14. Indiana: Discretionary Ind. Code. Ann. §35-33-1-1(A)(5)(C)

A. **Summary:** A law enforcement officer **may** arrest a person when the officer has probable cause to believe the person has committed a domestic battery under [IC 35-42-2-1.3](#).

B. **Arrests without a Warrant:** [IC §35-33-1-1](#): Sec. 1. (a) A law enforcement officer may arrest a person when the officer has:

(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](#).

(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](#));

C. **Definitions IC §34-6-2-34.5:**

Sec. 34.5. "Domestic or family violence" means, except for an act of self-defense, the occurrence of at least one (1) of the following acts committed by a family or household member:

(1) Attempting to cause, threatening to cause, or causing physical harm to another family or household member.

(2) Placing a family or household member in fear of physical harm.

(3) Causing a family or household member to involuntarily engage in sexual activity by force, threat of force, or duress.

(4) Beating (as described in IC 35-46-3-0.5(2)), torturing (as described in IC 35-46-3-0.5(5)), mutilating (as described in IC 35-46-3-0.5(3)), or killing a vertebrate animal without justification with the intent to threaten, intimidate, coerce, harass, or terrorize a family or household member.

For purposes of IC 34-26-5, domestic and family violence also includes stalking (as defined in IC 35-45-10-1) or a sex offense under IC 35-42-4, whether or not the stalking or sex offense is committed by a family or household member.

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 arresting the abusing party, where appropriate.

15. Iowa: Mandatory Arrest Iowa Code [§236.12\(2\)\(a\) and \(2\)\(b\)](#)

- A. Summary:** Probable cause to believe that domestic abuse assault committed that resulted in bodily injury, or was committed with intent to inflict serious injury, or with use or display of dangerous weapon.
- B. [§236.12\(2\)\(a\) and \(2\)\(b\)](#)**
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 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.
- e. 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 “d”, 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 by knowingly impeding the normal breathing or circulation of the blood of another by applying pressure to the throat or neck of the other person or by obstructing the nose or mouth of the other person.
- f. Except as otherwise provided in subsection 3, a peace officer shall, with or without a warrant, arrest a person under section [708.2A](#), subsection 5, 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 by knowingly impeding the normal breathing or circulation of the blood of another by applying pressure to the throat or neck of the other person or by obstructing the nose or mouth of the other person, and causing bodily injury.

C. **Sentencing §708.2A:** Domestic abuse assault — mandatory minimums, penalties enhanced —extension of no-contact order

D. **Iowa combines Two Codes to Define Domestic Violence**

1. **Criminal Code §708: Assault**

- a. Physical contact that is insulting or can cause an injury.
- b. The threat of physical contact and the apparent ability to carry the threat out.
- c. Using a weapon in a threatening manner.

2. **Criminal Code §236: The Domestic Abuse Act**

- a. Two individuals that are married, divorced or separated.
- b. Two individuals that have lived together at some point in the past year.
- c. Two individuals that have a child in common, whether or not they have been married, divorced or living together at some point in the past year.
- d. Two individuals in an intimate relationship or have been within the past year.
- e. If an individual is convicted of a domestic abuse assault they are likely to face the following consequences:
 - i. Mandated jail time
 - ii. Attendance of a Batterer's Education Program

16. Kansas Kan. Stat. Ann §22-2307(b)(1)

A. **§22-2307(b)(1):** An officer **shall, without undue delay**, arrest the person for which the officer has probable cause to believe committed the crime or offense if such person's actions were not an act of defense of a person or property.

B. **Definition in K.S. Supp 21-5111**

(i) **"Domestic violence"** means an act or threatened act of violence against a person with whom the offender is involved or has been involved in a dating relationship, or an act or threatened act of violence against a family or household member by a family or household member. Domestic violence also includes any other crime committed against a person or against property, or any municipal ordinance violation against a person or against property, when directed against a person with whom the offender is involved or has been involved in a dating relationship or when directed against a family or household member by a family or household member. For the purposes of this definition:

(1) **"Dating relationship"** means a social relationship of a romantic nature. In addition to any other factors the court deems relevant, the trier of fact may consider the following when making a determination of whether a relationship exists or existed: Nature of the relationship, length of time the relationship existed, frequency of interaction between the parties and time since termination of the relationship, if applicable.

(2) **"Family or household member"** means persons 18 years of age or older who are spouses, former spouses, parents or stepparents and children or stepchildren, and persons who are presently residing together or have resided together in the past, and persons who have a child in common regardless of

whether they have been married or have lived together at any time. Family or household member also includes a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time.

(j) **"Domestic violence offense"** means any crime committed whereby the underlying factual basis includes an act of domestic violence.

17. Kentucky: Discretionary Ky. Rev. Stat. Ann. [§431.005\(2\)\(a\)](#)

- A. **Summary:** Any peace officer **may** arrest a person without a warrant when he 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. **[§431.005\(2\)\(a\)](#) Arrest by peace officers -- By private persons.**
 (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, member of an unmarried couple, or another person with whom the person was or is in a dating relationship.
 (b) As used in this subsection, "dating relationship," "family member," and "member of an unmarried couple" have the same meanings as defined in KRS [403.720](#) and [456.010](#).
 (c) For the purpose of this subsection, the term "member of an unmarried couple" has the same meaning as set out in KRS [403.720](#)
- C. **Definitions [§403.720](#)**
 (1) **"Domestic violence and abuse"** means physical injury, serious physical injury, stalking, sexual abuse, strangulation, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, strangulation, or assault between family members or members of an unmarried couple;
 (2) **"Family member"** means a spouse, including a former spouse, a grandparent, a grandchild, a parent, a child, a stepchild, or any other person living in the same household as a child if the child is the alleged victim;
- D. **Definitions [§456.010](#)**
 (1) **"Dating relationship"** means a relationship between individuals who have or have had a relationship of a romantic or intimate nature. It does not include a casual acquaintanceship or ordinary fraternization in a business or social context. The following factors may be considered in addition to any other relevant factors in determining whether the relationship is or was of a romantic or intimate nature:
 (a) Declarations of romantic interest;
 (b) The relationship was characterized by the expectation of affection;
 (c) Attendance at social outings together as a couple;
 (d) The frequency and type of interaction between the persons, including whether the persons have been involved together over time and on a continuous basis during the course of the relationship;
 (e) The length and recency of the relationship; and

(f) Other indications of a substantial connection that would lead a reasonable person to understand that a dating relationship existed;

(2) **"Dating violence and abuse"** means physical injury, serious physical injury, stalking, sexual assault, strangulation, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, strangulation, or assault occurring between persons who are or have been in a dating relationship;

18. Louisiana: Mandatory Arrest La. Rev. Stat. Ann. § 46-2140 A(1) A(2) B(1)

A. [§ 46-2140 A\(1\) A\(2\) B\(1\)](#): Reason to believe family or household members have been abused and (1) probable cause exists to believe that aggravated/second degree battery was committed or (2) aggravated or simple assault or simple battery committed and reasonable belief in impending danger to be abused.

B. [Definition §46-2132](#)

(3) **"Domestic abuse"** includes but is not limited to physical or sexual abuse and any offense against the person, physical or non-physical, as defined in the Criminal Code of Louisiana, except negligent injury and defamation, committed by one family member, household member, or dating partner against another. "Domestic abuse" also includes abuse of adults as defined in R.S. 15:1503 when committed by an adult child or adult grandchild.

(4) **"Family members"** means spouses, former spouses, parents and children, stepparents, stepchildren, foster parents, foster children, other ascendants, and other descendants. "Family member" also means the other parent or foster parent of any child or foster child of the offender. "Household members" means any person presently or formerly living in the same residence with the defendant and who is involved or has been involved in a sexual or intimate relationship with the defendant, or any child presently or formerly living in the same residence with the defendant, or any child of the defendant regardless of where the child resides. "Dating partner" means any person protected from violence under R.S. 46:2151. If a parent or grandparent is being abused by an adult child, adult foster child, or adult grandchild, the provisions of this Part shall apply to any proceeding brought in district court.

19. Maine: Mandatory Arrest Title §19-A 4012(5)

A. [§19-A 4012\(5\) 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-D](#), [208-E](#) or [208-F](#) has occurred, that enforcement officer shall arrest and take into custody the alleged offender.

B. [Definition Title §19-A-4002](#):

Abuse: "Abuse" means the occurrence of the following acts between family or household members or dating partners or by a family or household member or dating partner upon a minor child of a family or household member or dating partner:

(a) Attempting to cause or causing bodily injury or offensive physical contact, including sexual assaults under [Title 17-A, chapter 11](#), except that contact as

described in [Title 17-A, section 106](#), subsection 1 is excluded from this definition;

(b) Attempting to place or placing another in fear of bodily injury through any course of conduct, including, but not limited to, threatening, harassing or tormenting behavior;

(C) Compelling a person by force, threat of force or intimidation to engage in conduct from which the person has a right or privilege to abstain or to abstain from conduct in which the person has a right to engage;

(d) Knowingly restricting substantially the movements of another person without that person's consent or other lawful authority by:

(1) Removing that person from that person's residence, place of business or school;

(2) Moving that person a substantial distance from the vicinity where that person was found; or

(3) Confining that person for a substantial period either in the place where the restriction commences or in a place to which that person has been moved;

Communicating to a person a threat to commit, or to cause to be committed, a crime of violence dangerous to human life against the person to whom the communication is made or another, and the natural and probable consequence of the threat, whether or not that consequence in fact occurs, is to place the person to whom the threat is communicated, or the person against whom the threat is made, in reasonable fear that the crime will be committed;

Repeatedly and without reasonable cause:

(1) Following the plaintiff; or

(2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment;

Engaging in the unauthorized dissemination of certain private images as prohibited pursuant to [Title 17-A, section 511-A](#); or

Engaging in aggravated sex trafficking or sex trafficking as described in [Title 17-A, section 852](#) or [853](#), respectively.

3-A Dating Partners: "Dating partners" means individuals currently or formerly involved in dating each other, whether or not the individuals are or were sexual partners.

3-B Economic Abuse: Economic abuse. "Economic abuse" means causing or attempting to cause an individual to be financially dependent by maintaining control over the individual's financial resources, including, but not limited to, unauthorized or coerced use of credit or property, withholding access to money or credit cards, forbidding attendance at school or employment, stealing from or defrauding of money or assets, exploiting the individual's resources for personal gain of the defendant or withholding physical resources such as food, clothing, necessary medications or shelter.

(4)**Family or Household Members:** Family or household members. "Family or household members" means spouses or domestic partners or former spouses or former domestic partners, individuals presently or formerly living together as spouses, parents of the same child, adult household members related by consanguinity or affinity or minor children of a household member when the defendant is an adult household member and, for the purposes of [Title 15, section 1023, subsection 4, paragraph B-1](#) and [Title 15, section 1094-B](#), this chapter and Title 17-A, sections 15, [207-A](#), [208-D](#), [208-E](#), [208-F](#), [209-A](#), [210-B](#), [210-C](#), [211-A](#), [1802](#), [1804](#) and [2301](#), subsection 1 only, includes individuals presently or formerly living together and individuals who are or were sexual partners. Holding oneself out to be a spouse is not necessary to constitute "living as spouses." For purposes of this subsection, "domestic partners" means 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare.

20. Maryland: Discretionary Md. Code Ann §2-204(A)(1), (A) (2) and (B)

- A. [§2-204\(A\)\(1\), \(A\) \(2\) and \(B\)](#): **Arrest Without a Warrant:** A police officer without a warrant may arrest a person if (s)he 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 a report to the police was made within 48 hours of the alleged incident
- B. **Definitions §4-501:**
- (1) **"Abuse"** means any of the following acts:
 - (i) an act that causes serious bodily harm;
 - (ii) an act that places a person eligible for relief in fear of imminent serious bodily harm;
 - (iii) assault in any degree;
 - (iv) rape or sexual offense under § 3-303, § 3-304, § 3-307, or § 3-308 of the Criminal Law Article or attempted rape or sexual offense in any degree;
 - (v) false imprisonment;
 - (vi) stalking under § 3-802 of the Criminal Law Article; or
 - (vii) revenge porn under § 3-809 of the Criminal Law Article.
 - (2) (i) If the person for whom relief is sought is a child, **"abuse"** may also include abuse of a child, as defined in Title 5, Subtitle 7 of this article.
 - (ii) Nothing in this subtitle shall be construed to prohibit reasonable punishment, including reasonable corporal punishment, in light of the age and condition of the child, from being performed by a parent or stepparent of the child.

(3) If the person for whom relief is sought is a vulnerable adult, "**abuse**" may also include abuse of a vulnerable adult, as defined in Title 14, Subtitle 1 of this article.

(d) Cohabitant. -- "**Cohabitant**" means a person who has had a sexual relationship with the respondent and resided with the respondent in the home for a period of at least 90 days within 1 year before the filing of the petition.

21. Massachusetts: Preferred Arrests Mass. Gen. Laws Ann. [ch. 209A § 6 \(7\)](#)

A. [ch. 209A § 6 \(7\)](#): 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.

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.

B. Definitions [Ch. 209A\(1\)](#)

Section 1. As used in this chapter the following words shall have the following meanings:

"Abuse", the occurrence of one or more of the following acts between family or household members:

- (a) attempting to cause or causing physical harm;
- (b) placing another in fear of imminent serious physical harm;
- (c) causing another to engage involuntarily in sexual relations by force, threat or duress.

"Court", the superior, probate and family, district or Boston municipal court departments of the trial court, except when the petitioner is in a dating relationship when "Court" shall mean district, probate, or Boston municipal courts.

"Family or household members", persons who:

- (a) are or were married to one another;
- (b) are or were residing together in the same household;
- (c) are or were related by blood or marriage;
- (d) having a child in common regardless of whether they have ever married or lived together; or
- (e) are or have been in a substantive dating or engagement relationship, which shall be adjudged by district, probate or Boston municipal courts consideration of the following factors:
 - (1) the length of time of the relationship; (2) the type of relationship; (3) the frequency of interaction between the parties; and (4) if the relationship has been terminated by either person, the length of time elapsed since the termination of the relationship.

Preferred response whenever the officer has witnessed or has probable cause to believe that a person has committed a felony, a misdemeanor involving abuse, or an assault and (7) battery.

22. Michigan: Discretionary Mich. Comp. Law §764.15(a)

- A. **Arrest §764.15(a)**: A peace officer may arrest an individual regardless of whether (s) he has a warrant or whether the violation was committed in presence of 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.
- B. **§750.81** Assault or assault and battery; penalties; previous convictions; exception; "dating relationship" defined.

(7) As used in this section, "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.

23. Minnesota: Discretionary Minn. Stat. Ann. §629.341 Subd. 1

- A. **Arrests [§629.341 Subd. 1](#):** A peace officer **may** arrest a person anywhere without a warrant, including at the person's residence, if the peace officer has probable cause to believe that within the preceding 24 hours the person has committed domestic abuse.
- B. **Definitions [§518B.01](#) Domestic Abuse Act**
- (a) **"Domestic abuse"** means the following, if committed against a family or household member by a family or household member:
- (1) physical harm, bodily injury, or assault;
 - (2) the infliction of fear of imminent physical harm, bodily injury, or assault;
- or
- (3) terroristic threats, within the meaning of section [609.713](#), subdivision 1; criminal sexual conduct, within the meaning of section [609.342](#), [609.343](#), [609.344](#), [609.345](#), or [609.3451](#); sexual extortion within the meaning of section [609.3458](#); or interference with an emergency call within the meaning of section [609.78, subdivision 2](#).
- (b) **"Family or household members"** means:
- (1) spouses and former spouses;
 - (2) parents and children;
 - (3) persons related by blood;
 - (4) persons who are presently residing together or who have resided together in the past;
 - (5) persons who have a child in common regardless of whether they have been married or have lived together at any time;
 - (6) a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and
 - (7) persons involved in a significant romantic or sexual relationship.
- Issuance of an order for protection on the ground in clause (6) does not affect a determination of paternity under sections [257.51](#) to [257.74](#). In determining whether persons are or have been involved in a significant romantic or sexual relationship under clause (7), the court shall consider the length of time of the relationship; type of relationship; frequency of interaction between the parties; and, if the relationship has terminated, length of time since the termination.
- (c) **"Qualified domestic violence-related offense"** has the meaning given in section [609.02, subdivision 16](#).

24. Mississippi: Mandatory Arrest Miss. Code. Ann. [§99-3-7\(3\)](#)

- A. **[§99-3-7\(3\)](#):** (a) Any law enforcement officer shall arrest a person with or without a warrant when he has probable cause to believe that the person has, within twenty-four (24) hours of such arrest, knowingly committed a misdemeanor or felony that is an act of domestic violence or knowingly violated provisions of a criminal domestic violence or sexual assault protection order issued pursuant to Section 97-3-7(11), 97-3-65(6) or 97-3-101(5) or an ex parte protective order, protective order after hearing or court-approved consent agreement entered by a chancery, circuit, county, justice or municipal court pursuant to the Protection from Domestic Abuse Law, Sections 93-21-1

through 93-21-29, Mississippi Code of 1972, or a restraining order entered by a foreign court of competent jurisdiction to protect an applicant from domestic violence.

(b) If a law enforcement officer has probable cause to believe that two (2) or more persons committed an act of domestic violence as defined herein, or if two (2) or more persons make complaints of domestic violence to the officer, the officer shall attempt to determine who was the principal aggressor. The term principal aggressor is defined as the party who poses the most serious ongoing threat, or who is the most significant, rather than the first, aggressor. The officer shall presume that arrest is not the appropriate response for the person or persons who were not the principal aggressor. If the officer affirmatively finds more than one (1) principal aggressor was involved, the officer shall document those findings.

(c) To determine which party was the principal aggressor, the officer shall consider the following factors, although such consideration is not limited to these factors:

- (i) Evidence from the persons involved in the domestic abuse;
- (ii) The history of domestic abuse between the parties, the likelihood of future injury to each person, and the intent of the law to protect victims of domestic violence from continuing abuse;
- (iii) Whether one (1) of the persons acted in self-defense; and
- (iv) Evidence from witnesses of domestic violence.

(d) A law enforcement officer shall not base the decision of whether to arrest on the consent or request of the victim. To determine which party was the principal aggressor, the officer shall consider the following factors, although such consideration is not limited to these factors:

- (i) Evidence from the persons involved in the domestic abuse;
- (ii) The history of domestic abuse between the parties, the likelihood of future injury to each person, and the intent of the law to protect victims of domestic violence from continuing abuse;
- (iii) Whether one (1) of the persons acted in self-defense; and
- (iv) Evidence from witnesses of domestic violence.

(d) A law enforcement officer shall not base the decision of whether to arrest on the consent or request of the victim.

(e) A law enforcement officer's determination regarding the existence of probable cause or the lack of probable cause shall not adversely affect the right of any party to independently seek appropriate remedies.

(5) As used in subsection (3) of this section, the phrase "misdemeanor or felony that is an act of domestic violence" shall mean one or more of the following acts between current or former spouses or a child of current or former spouses, persons living as spouses or who formerly lived as spouses or a child of persons living as spouses or who formerly lived as spouses, a parent, grandparent, child, grandchild or someone similarly situated to the defendant, persons who have a current or former dating relationship, or persons who have a biological or legally adopted child together:

- (a) Simple or aggravated domestic violence within the meaning of Section 97-3-7;
- (b) Disturbing the family or public peace within the meaning of Section 97-35-9, 97-35-11, 97-35-13 or 97-35-15; or
- (c) Stalking within the meaning of Section 97-3-107.

(6) Any arrest made pursuant to subsection (3) of this section shall be designated as domestic assault or domestic violence on both the arrest docket and the incident report. Any officer investigating a complaint of a misdemeanor or felony that is a crime of domestic violence who finds probable cause that such an offense has occurred within the past twenty-four (24) hours shall file an affidavit on behalf of the victim(s) of the crime, regardless of whether an arrest is made within that time period. If the crime is reported or investigated outside of that twenty-four-hour period, the officer may file the affidavit on behalf of the victim. In the event the officer does not file an affidavit on behalf of the victim, the officer shall instruct the victim of the procedure for filing on his or her own behalf.

B. Definition §93-21-3

- (a) (i) Attempting to cause or intentionally, knowingly or recklessly causing bodily injury or serious bodily injury with or without a deadly weapon;
- (ii) Placing, by physical menace or threat, another in fear of imminent serious bodily injury;
- (iii) Criminal sexual conduct committed against a minor within the meaning of Section 97-5-23;
- (iv) Stalking within the meaning of Section 97-3-107;
- (v) Cyberstalking within the meaning of Section 97-45-15; or
- (vi) Sexual offenses within the meaning of Section 97-3-65 or 97-3-95.

“**Abuse**” does not include any act of self-defense.

“**Dating relationship**” means a social relationship of a romantic or intimate nature between two (2) individuals; it does not include a casual relationship or ordinary fraternization between two (2) individuals in a business or social context. Whether a relationship is a “dating relationship” shall be determined by examining the following factors:

- (i) The length of the relationship;
- (ii) The type of relationship; and
- (iii) The frequency of interaction between the two (2) individuals involved in the relationship.

25. Missouri: Mandatory Arrest Mo.Rev. Stat. §455.085

A. §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 domestic violence, 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 non arrest 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.

3. When an officer makes an arrest, the officer 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 the officer 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 from continuing domestic violence;
 - (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 domestic 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 the officer should seek a warrant for an arrest.

B. Definition §455.010

- (5) "**Domestic violence**", abuse or stalking committed by a family or household member, as such terms are defined in this section;
- (7) "**Family**" or "**household member**", spouses, former spouses, any person related by blood or marriage, persons who are presently residing together or have resided together in the past, any person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, and anyone who has a child in common regardless of whether they have been married or have resided together at any time;

26. Montana: Preferred Arrests Mont. Code Ann. §46-6-311 (2)(A) and (2)(B)

- A. **Summary:** Preferred response in partner or family member assault cases involving injury to the victim, use or threatened use of a weapon, ... or other imminent danger to the victim.
- B. **§46-6-311 (2)(A) and (2)(B) 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.

C. [§46-6-601: Written Report When No Arrest Made in DV Situation](#)

D. [§45-5-209: Partner Or Family Member Assault -- No Contact Order -- Notice -- Violation Of Order -- Penalty](#)

E. **Definitions** [§45-5-206:](#)

Domestic Violence: (a) purposely or knowingly causes bodily injury to a partner or family member;

(b) negligently causes bodily injury to a partner or family member with a weapon; or

(c) purposely or knowingly causes reasonable apprehension of bodily injury in a partner or family member.

(a) **"Family member"** means mothers, fathers, children, brothers, sisters, and other past or present family members of a household. These relationships include relationships created by adoption and remarriage, including stepchildren, stepparents, in-laws, and adoptive children and parents. These relationships continue regardless of the ages of the parties and whether the parties reside in the same household.

(b) **"Partners"** means spouses, former spouses, persons who have a child in common, and persons who have been or are currently in a dating or ongoing intimate relationship.

27. Nebraska: Discretionary Neb. Rev. Stat. [§29-404.02\(1\)\(C\)](#)

A. **Summary:** A peace officer **may** arrest a person without a warrant if (s) he has reasonable cause to believe that such person has committed one or more of the following acts to one or more household members: (a) Attempting to cause or intentionally, knowingly, or recklessly causing bodily injury with or without a deadly weapon; or another in a menacing manner.

B. [§29-404.02\(1\)\(C\)](#) **Arrest without warrant;** when.

(1) Except as provided in sections [28-311.11](#) and [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 includes 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.

C. **Definition §28-323:**

(1) A person commits the offense of **domestic assault** in the third degree if he or she:

(a) Intentionally and knowingly causes bodily injury to his or her intimate partner;

(b) Threatens an intimate partner with imminent bodily injury; or

(c) Threatens an intimate partner in a menacing manner.

(2) A person commits the offense of domestic assault in the second degree if he or she intentionally and knowingly causes bodily injury to his or her intimate partner with a dangerous instrument.

(3) A person commits the offense of domestic assault in the first degree if he or she intentionally and knowingly causes serious bodily injury to his or her intimate partner.

(4) Violation of subdivision (1)(a) or (b) of this section is a Class I misdemeanor, except that for any subsequent violation of subdivision (1)(a) or (b) of this section, any person so offending is guilty of a Class IIIA felony.

(5) Violation of subdivision (1)(c) of this section is a Class I misdemeanor.

(6) Violation of subsection (2) of this section is a Class IIIA felony, except that for any second or subsequent violation of such subsection, any person so offending is guilty of a Class IIA felony.

(7) Violation of subsection (3) of this section is a Class IIA felony, except that for any second or subsequent violation under such subsection, any person so offending is guilty of a Class II felony.

(8) For purposes of this section, intimate partner means a spouse; a former spouse; persons who have a child in common whether or not they have been married or lived together at any time; and persons who are or were involved in a

dating relationship. For purposes of this subsection, 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.

28. Nevada: Mandatory Arrest Nev. Rev. Stat. Ann. §171.137(1)

A. NRS 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 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, his or her minor child or a person who is the custodian or guardian of 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. Nothing in this section shall be construed to impose liability upon a peace officer or his or her employer for a determination made in good faith by the peace officer not to arrest a person pursuant to this section.

5. The provisions of this section do not apply to:

- (a) Siblings, except those siblings who are in a custodial or guardianship relationship with each other; or
- (b) Cousins, except those cousins who are in a custodial or guardianship relationship with each other.

6. 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.

B. [Definition under §228.030](#)

“Domestic violence” defined. (NRS [228.470](#)) “Domestic violence” has the meaning ascribed to it in NRS [33.018](#) and may include, without limitation, physical, sexual or psychological violence.

[NRS 33.018: Acts which Constitute Domestic Violence](#)

1. Domestic violence occurs when a person commits one of the following acts against or upon the person’s spouse or former spouse, any other person to whom the person is related by blood or marriage, any other person with whom the person has had or is having a dating relationship, any other person with whom the person has a child in common, the minor child of any of those persons, the person’s minor child or any other person who has been appointed the custodian or legal guardian for the person’s minor child:

- (a) A battery.
- (b) An assault.
- (c) Coercion pursuant to [NRS 207.190](#).
- (d) A sexual assault.
- (e) A knowing, purposeful or reckless course of conduct intended to harass the other person. Such conduct may include, but is not limited to:
 - (1) Stalking.
 - (2) Arson.
 - (3) Trespassing.
 - (4) Larceny.
 - (5) Destruction of private property.
 - (6) Carrying a concealed weapon without a permit.
 - (7) Injuring or killing an animal
 - (8) Burglary.
 - (9) An invasion of the home.
- (f) A false imprisonment.
- (g) Pandering.

2. The provisions of this section do not apply to:

- (a) Siblings, except those siblings who are in a custodial or guardianship relationship with each other; or
- (b) Cousins, except those cousins who are in a custodial or guardianship relationship with each other.

3. 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.

29. New Hampshire: Mandatory Arrest N.H Rev. Stat. Ann [§594.10 \(I\)\(B\)](#); N.H. Rev. Stat. Ann §173-B.9

- A. **§594.10 (l)(B) Arrest Without a Warrant:** (b) He has probable cause to believe that the person to be arrested has within the past 12 hours committed abuse as defined in **RSA 173-B:1**, I against a person eligible for protection from domestic violence as defined in **RSA 173-B:1**, has within the past 12 hours violated a temporary or permanent protective order issued under **RSA 173-B** or **RSA 458:16** by committing assault, criminal trespass, criminal mischief or another criminal act, or has within the last 12 hours violated stalking provisions under **RSA 633:3-a**.
- B. **Definition 173-B.1**
1. **"Abuse"** means the commission or attempted commission of one or more of the acts described in subparagraphs (a) through (h) by a family or household member or by a current or former sexual or intimate partner, where such conduct is determined to constitute a credible present threat to the petitioner's safety. The court may consider evidence of such acts, regardless of their proximity in time to the filing of the petition, which, in combination with recent conduct, reflects an ongoing pattern of behavior which reasonably causes or has caused the petitioner to fear for his or her safety or well-being:
 - (a) Assault or reckless conduct as defined in RSA 631:1 through RSA 631:3.
 - (b) Criminal threatening as defined in RSA 631:4.
 - (c) Sexual assault as defined in RSA 632-A:2 through RSA 632-A:5.
 - (d) Interference with freedom as defined in RSA 633:1 through RSA 633:3-a.
 - (e) Destruction of property as defined in RSA 634:1 and RSA 634:2.
 - (f) Unauthorized entry as defined in RSA 635:1 and RSA 635:2.
 - (g) Harassment as defined in RSA 644:4.
 - (h) Cruelty to animals as defined in RSA 644:8.
 2. **"Domestic violence"** means abuse as defined in RSA 173-B:1, I.
 3. **"Family or household member"** means:
 - (a) Spouses, ex-spouses, persons cohabiting with each other, and persons who cohabited with each other but who no longer share the same residence.
 - (b) Parents and other persons related by consanguinity or affinity, other than minor children who reside with the defendant.

30. New Jersey: Mandatory Arrests N.J. Stat. Ann. §2c:25-21

- A. **§2c:25-21 Arrest of Alleged Attacker; Seizure of Weapons, etc.:** (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.
- B. **Definition 2C:25-19**
- a. **"Domestic violence"** means the occurrence of one or more of the following acts inflicted upon a person protected under this act by an adult or an emancipated minor:
 - (1) Homicide N.J.S.2C:11-1 et seq.
 - (2) Assault N.J.S.2C:12-1
 - (3) Terroristic threats N.J.S.2C:12-3
 - (4) Kidnapping N.J.S.2C:13-1
 - (5) Criminal restraint N.J.S.2C:13-2
 - (6) False imprisonment N.J.S.2C:13-3

- (7) Sexual assault N.J.S.2C:14-2
- (8) Criminal sexual contact N.J.S.2C:14-3
- (9) Lewdness N.J.S.2C:14-4
- (10) Criminal mischief N.J.S.2C:17-3
- (11) Burglary N.J.S.2C:18-2
- (12) Criminal trespass N.J.S.2C:18-3
- (13) Harassment N.J.S.2C:33-4
- (14) Stalking P.L.1992, c.209 (C.2C:12-10)
- (15) Criminal coercion N.J.S.2C:13-5
- (16) Robbery N.J.S.2C:15-1
- (17) Contempt of a domestic violence order pursuant to subsection b. of N.J.S.2C:29-9 that constitutes a crime or disorderly persons offense
- (18) Any other crime involving risk of death or serious bodily injury to a person protected under the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et al.)
- (19) Cyber-harassment P.L.2013, c.272 (C.2C:33-4.1) When one or more of these acts is inflicted by an unemancipated minor upon a person protected under this act, the occurrence shall not constitute "domestic violence," but may be the basis for the filing of a petition or complaint pursuant to the provisions of section 11 of P.L.1982, c.77 (C.2A:4A-30).

d. **"Victim of domestic violence"** means a person protected under this act and shall include any person who is 18 years of age or older or who is an emancipated minor and who has been subjected to domestic violence by a spouse, former spouse, or any other person who is a present household member or was at any time a household member. "Victim of domestic violence" also includes any person, regardless of age, who has been subjected to domestic violence by a person with whom the victim has a child in common, or with whom the victim anticipates having a child in common, if one of the parties is pregnant. "Victim of domestic violence" also includes any person who has been subjected to domestic violence by a person with whom the victim has had a dating relationship.

31. New Mexico: Discretionary N.M.S.A §31-1-7(A)

- A. **§31-1-7(A) Arrest without warrant; Liability:** Notwithstanding the provisions of any other law to the contrary, a peace officer may arrest a person and take that person into custody without a warrant when the officer is at the scene of a domestic disturbance and has probable cause to believe that the person has committed an assault or a battery upon a household member. As used in this section, "household member" means a spouse, former spouse, family member, including a relative, parent, present or former step-parent, present or former in-law, child or co-parent of a child, or a person with whom the victim has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member for purposes of this section.
- B. **Definitions §30-3-11:**
As used in the Crimes Against Household Members Act:
 - A. **"Household member"** means a spouse, former spouse, parent, present or former stepparent, present or former parent in-law, grandparent, grandparent-in-law, a co-parent

of a child or a person with whom a person has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member for the purposes of the Crimes Against Household Members Act;

B. **"Continuing personal relationship"** means a dating or intimate relationship;

C. **Related Laws:**

[§30-3-12: Assault Against a Household Member](#)

[§30-3-13: Aggravated Assault Against a Household Member](#)

[§30-3-14: Assault Against a Household Member with Intent to Commit a Violent Felony.](#)

[§30-5-15: Battery Against A Household Member](#)

[§30-3-16: Aggravated Battery Against a Household Member.](#)

32. New York: Mandatory Arrest N.Y. Crim. Proc. Law §140.10 (1), (4)(a),(b)

- A. [§140.10 \(1\), \(4\)\(a\),\(b\)](#): * 4. 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 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

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 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.

The protected party in whose favor the order of protection or temporary order of protection is issued may not be held to violate an order issued in his or her favor nor may such protected party be arrested for violating such order.

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.

B. (See *also*) Procedures for Family Offense Matters [§530.11](#)

C. Definition

33. North Carolina: Discretionary N.C.G.S.A [§15a-401\(b\)\(1\)\(2\)](#)

A. [§15a-401\(b\)\(1\)\(2\)](#): 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 or G.S. 15A-534.1(a)(2).

B. Definition of [Domestic Violence §50B-1](#)

(a) Domestic violence means the commission of one or more of the following acts upon an aggrieved party or upon a minor child residing with or in the custody of the aggrieved party by a person with whom the aggrieved party has or has had a personal relationship, but does not include acts of self-defense:

- (1) Attempting to cause bodily injury, or intentionally causing bodily injury; or
- (2) Placing the aggrieved party or a member of the aggrieved party's family or household in fear of imminent serious bodily injury or continued harassment, as defined in G.S. 14-277.3A, that rises to such a level as to inflict substantial emotional distress; or
- (3) Committing any act defined in G.S. 14-27.21 through G.S. 14-27.33.

(b) For purposes of this section, the term "personal relationship" means a relationship

wherein the parties involved:

- (1) Are current or former spouses;
- (2) Are persons of opposite sex who live together or have lived together;
- (3) Are related as parents and children, including others acting in loco parentis to a minor child, or as grandparents and grandchildren. For purposes of this subdivision, an aggrieved party may not obtain an order of protection against a child or grandchild under the age of 16;
- (4) Have a child in common;

- (5) Are current or former household members;
- (6) Are persons of the opposite sex who are in a dating relationship or have been in a dating relationship. For purposes of this subdivision, a dating relationship is one wherein the parties are romantically involved over time and on a continuous basis during the course of the relationship. A casual acquaintance or ordinary fraternization between persons in a business or social context is not a dating relationship.
- (c) As used in this Chapter, the term "protective order" includes any order entered pursuant to this Chapter upon hearing by the court or consent of the parties.

34. North Dakota: Preferred Arrest N.D. Cent. Code. [§14-07.1-10\(1\)](#) & [§14-07.1-11.](#)

- A. Summary:** If 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, then the law enforcement officer shall presume that arresting the person is the appropriate response.
- B. [§14-07.1-10. Arrest Procedures:](#)** 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.
- C. [§14-07.1-11. Arrest Without Warrant:](#)**
 - 1. A law enforcement officer **shall** arrest a person without a warrant if the person has committed the offense of violating a protection order under section [14-07.1-06](#), whether or not the violation was committed in the presence of the officer.
 - 2. A law enforcement officer **may** arrest a person without a warrant if the arrest is made within twelve hours from the time the officer determines there is probable cause to arrest

for an assault of a family or household member as defined in section [14-07.1-01](#), whether or not the assault took place in the presence of the officer. After twelve hours has elapsed, the officer must secure an arrest warrant before making an arrest. A law enforcement officer may not arrest a person pursuant to this subsection without first observing that there has been recent physical injury to, or impairment of physical condition of, the alleged victim.

3. A law enforcement officer may not be held criminally or civilly liable for making an arrest pursuant to this section if the officer acts in good faith on probable cause and without malice.

D. Definitions [§14-07.1-01](#)

1. **"Domestic violence"** includes physical harm, bodily injury, sexual activity compelled by physical force, assault, or the infliction of fear of imminent physical harm, bodily injury, sexual activity compelled by physical force, or assault, not committed in self-defense, on the complaining family or household members.
2. **"Domestic violence sexual assault organization"** means a private, nonprofit organization whose primary purpose is to provide emergency housing, twenty-four-hour crisis lines, advocacy, supportive peer counseling, community education, and referral services for victims of domestic violence and sexual assault.
4. **"Family or household member"** means a spouse, family member, former spouse, parent, child, persons related by blood or marriage, persons who are in a dating relationship, persons who are presently residing together or who have resided together in the past, persons who have a child in common regardless of whether they are or have been married or have lived together at any time, and, for the purpose of the issuance of a domestic violence protection order, any other person with a sufficient relationship to the abusing person as determined by the court under section [14-07.1-02](#).

35. Ohio: Mandatory Arrest Ohio Rev. Code Ann. [§2935.032\(A\)\(1\)\(a\)\(i\)](#)

- A. [§2935.032\(A\)\(1\)\(a\)\(i\)](#): (1) Provisions specifying that, if a peace officer who serves the agency, instrumentality, or political subdivision responds to an alleged incident of the offense of domestic violence, an alleged incident of the offense of violating a protection order, or an alleged incident of any other offense, both of the following apply:

(1) Provisions specifying that, if a peace officer who serves the agency, instrumentality, or political subdivision responds to an alleged incident of the offense of domestic violence, an alleged incident of the offense of violating a protection order, or an alleged incident of any other offense, both of the following apply:

(a) If the officer determines that there are reasonable grounds to believe that a person knowingly caused serious physical harm to another or to another's unborn or knowingly caused or attempted to cause physical harm to another or to another's unborn by means of a deadly weapon or dangerous ordnance, then, regardless of whether the victim of the offense was a family or household member of the offender, the officer shall treat the incident as felonious assault, shall consider the offender to have committed and the victim to have been the victim of felonious assault, shall consider the offense that was

committed to have been felonious assault in determining the manner in which the offender should be treated, and shall comply with whichever of the following is applicable:

(i) Unless the officer has reasonable cause to believe that, during the incident, the offender who committed the felonious assault and one or more other persons committed offenses against each other, the officer shall arrest the offender who committed the felonious assault pursuant to section 2935.03 of the Revised Code and shall detain that offender pursuant to that section until a warrant can be obtained, and the arrest shall be for felonious assault.

(ii) If the officer has reasonable cause to believe that, during the incident, the offender who committed the felonious assault and one or more other persons committed offenses against each other, the officer shall determine in accordance with division (B)(3)(d) of section 2935.03 of the Revised Code which of those persons is the primary physical aggressor. If the offender who committed the felonious assault is the primary physical aggressor, the officer shall arrest that offender for felonious assault pursuant to section 2935.03 of the Revised Code and shall detain that offender pursuant to that section until a warrant can be obtained, and the officer is not required to arrest but may arrest pursuant to section 2935.03 of the Revised Code any other person who committed an offense but who is not the primary physical aggressor. If the offender who committed the felonious assault is not the primary physical aggressor, the officer is not required to arrest that offender or any other person who committed an offense during the incident but may arrest any of them pursuant to section 2935.03 of the Revised Code and detain them pursuant to that section until a warrant can be obtained.

(b) If the officer determines that there are reasonable grounds to believe that a person, while under the influence of sudden passion or in a sudden fit of rage, either of which is brought on by serious provocation occasioned by the victim that is reasonably sufficient to incite the person into using deadly force, knowingly caused serious physical harm to another or to another's unborn or knowingly caused or attempted to cause physical harm to another or to another's unborn by means of a deadly weapon or dangerous ordnance, then, regardless of whether the victim of the offense was a family or household member of the offender, the officer shall treat the incident as aggravated assault, shall consider the offender to have committed and the victim to have been the victim of aggravated assault, shall consider the offense that was committed to have been aggravated assault in determining the manner in which the offender should be treated, and shall comply with whichever of the following is applicable:

(i) Unless the officer has reasonable cause to believe that, during the incident, the offender who committed the aggravated assault and one or more other persons committed offenses against each other, the officer shall arrest the offender who committed the aggravated assault pursuant to section 2935.03 of the Revised Code and shall detain that offender pursuant to that section until a warrant can be obtained, and the arrest shall be for aggravated assault.

(ii) If the officer has reasonable cause to believe that, during the incident, the offender who committed the aggravated assault and one or more other persons committed offenses against each other, the officer shall determine in accordance with division (B)(3)(d) of section 2935.03 of the Revised Code which of those persons is the primary physical aggressor. If the offender who committed the aggravated assault is the primary physical aggressor, the officer shall arrest that offender for aggravated assault pursuant to section 2935.03 of the Revised Code and shall detain that offender pursuant to that section until a warrant can be obtained, and the officer is not required to arrest but may arrest pursuant to section 2935.03 of the Revised Code any other person who committed an offense but who is not the primary physical aggressor. If the offender who committed the aggravated assault is not the primary physical aggressor, the officer is not required to arrest that offender or any other person who committed an offense during the incident but may arrest any of them pursuant to section 2935.03 of the Revised Code and detain them pursuant to that section until a warrant can be obtained.

B. [Definition §3113.31](#)

(1) "**Domestic violence**" means any of the following:

(a) The occurrence of one or more of the following acts against a family or household member:

- (i) Attempting to cause or recklessly causing bodily injury;
- (ii) Placing another person by the threat of force in fear of imminent serious physical harm or committing a violation of section 2903.211 or 2911.211 of the Revised Code;
- (iii) Committing any act with respect to a child that would result in the child being an abused child, as defined in section 2151.031 of the Revised Code;
- (iv) Committing a sexually oriented offense.

(b) The occurrence of one or more of the acts identified in divisions (A)(1)(a)(i) to (iv) of this section against a person with whom the respondent is or was in a dating relationship.

(3) "**Family or household member**" means any of the following:

(a) Any of the following who is residing with or has resided with the respondent:

- (i) A spouse, a person living as a spouse, or a former spouse of the respondent;
- (ii) A parent, a foster parent, or a child of the respondent, or another person related by consanguinity or affinity to the respondent;
- (iii) A parent or a child of a spouse, person living as a spouse, or former spouse of the respondent, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the respondent.

(b) The natural parent of any child of whom the respondent is the other natural parent or is the putative other natural parent.

(4) **"Person living as a spouse"** means a person who is living or has lived with the respondent in a common law marital relationship, who otherwise is cohabiting with the respondent, or who otherwise has cohabited with the respondent within five years prior to the date of the alleged occurrence of the act in question.

36. Oklahoma: Discretionary Okl. Stat. §22-60.16

- A. [§22-60.16](#) : A peace officer **may** arrest without a warrant a person anywhere, including a place of residence, if the peace officer has probable cause to believe the person within the preceding seventy-two (72) hours has committed an act of domestic abuse as defined by

Section 60.1 of this title, although the assault did not take place in the presence of the peace officer. A peace officer may not arrest a person pursuant to this section without first observing a recent physical injury to, or an impairment of the physical condition of, the alleged victim.

2. An arrest, when made pursuant to this section, shall be based on an investigation by the peace officer of the circumstances surrounding the incident, past history of violence between the parties, statements of any children present in the residence, and any other relevant factors. A determination by the peace officer shall be made pursuant to the investigation as to which party is the dominant aggressor in the situation. A peace officer may arrest the dominant aggressor.

- B. **Definition [§22-60.1](#)**

As used in the Protection from Domestic Abuse Act and in the Domestic Abuse Reporting Act, Sections 40.5 through 40.7 of this title and Section 150.12B of Title 74 of the Oklahoma Statutes:

1. **"Dating relationship"** means intimate association, primarily characterized by affectionate or sexual involvement. For purposes of this act, a casual acquaintance or ordinary fraternization between persons in a business or social context shall not constitute a dating relationship;
2. **"Domestic abuse"** means any act of physical harm, or the threat of imminent physical harm which is committed by an adult, emancipated minor, or minor child thirteen (13) years of age or older against another adult, emancipated minor or minor child who is currently or was previously an intimate partner or family or household member;
3. **"Family or household members"** means:
 - a. parents, including grandparents, stepparents, adoptive parents and foster parents,
 - b. children, including grandchildren, stepchildren, adopted children and foster children, and
 - c. persons otherwise related by blood or marriage living in the same household;

Relevant Links:

Also See: [§21-644](#)-Assault and Battery–Domestic Violence

Also See: [§21-644.1](#)-Domestic abuse with a prior pattern of physical abuse

37. Oregon: Mandatory Arrests Or. Rev. Stat. § 133.055(2)(a)

- A. [§ 133.055\(2\)\(a\)](#) **Criminal Citation-exception for domestic disturbance,notice of rights:** (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](#) (Definitions for [ORS 107.700 to 107.735](#)), 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. [Definitions §135.230](#)

(3)“**Domestic violence**” means abuse between family or household members.

(1)“**Abuse**” means the occurrence of one or more of the following acts between family or household members:

(a)Attempting to cause or intentionally, knowingly or recklessly causing bodily injury.

(b)Intentionally, knowingly or recklessly placing another in fear of imminent bodily injury.

(c)Causing another to engage in involuntary sexual relations by force or threat of force.

(4)“**Family or household members**” means any of the following:

(a)Spouses.

(b)Former spouses.

(c)Adult persons related by blood, marriage or adoption.

(d)Persons who are cohabiting or who have cohabited with each other.

(e)Persons who have been involved in a sexually intimate relationship with each other within two years immediately preceding the filing by one of them of a petition under ORS 107.710 (Petition to circuit court for relief).

[38. Pennsylvania: Discretionary 18 PA. Cons. Stat. Ann. §2711\(a\)](#)

A. **Summary:** A police officer **may** arrest a person where there is probable cause to believe the person has committed simple assault, aggravated assault, reckless endangerment of another person, or harassment or stalking against a family or household member.

B. [§2711\(a\)](#) Probable Cause Arrests in Domestic Violence Cases:

(a) General rule.--A police officer shall have the same right of arrest without a warrant as in a felony whenever he has probable cause to believe the defendant has violated section 2504 (relating to involuntary manslaughter), 2701 (relating to simple assault), 2702(a)(3), (4) and (5) (relating to aggravated assault), 2705 (relating to recklessly endangering another person), 2706 (relating to terroristic threats), 2709.1 (relating to stalking) or 2718 (relating to strangulation) against a family or household member although the offense did not take place in the presence of the police officer. A police officer may not arrest a person pursuant to this section without first observing recent physical injury to the victim or other corroborative evidence. For the purposes of this subsection, the term "family or household member" has the meaning given that term in 23 Pa.C.S. § 6102 (relating to definitions).

C. Definition of Abuse [§6102](#):

"Abuse." The occurrence of one or more of the following acts between family or household members, sexual or intimate partners or persons who share biological parenthood:

(1) Attempting to cause or intentionally, knowingly or recklessly causing bodily injury, serious bodily injury, rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault,

indecent assault or incest with or without a deadly weapon. (2) Placing another in reasonable fear of imminent serious bodily injury.

(3) The infliction of false imprisonment pursuant to 18 Pa.C.S. § 2903 (relating to false imprisonment).

(4) Physically or sexually abusing minor children, including such terms as defined in Chapter 63 (relating to child protective services).

(5) Knowingly engaging in a course of conduct or repeatedly committing acts toward another person, including following the person, without proper authority, under circumstances which place the person in reasonable fear of bodily injury. The definition of this paragraph applies only to proceedings commenced under this title and is inapplicable to any criminal prosecutions commenced under Title 18 (relating to crimes and offenses).

39. Rhode Island: Mandatory Arrest R.I. Gen. Laws §12-29-3(c)(1)

- A. **§12-29-3 Domestic Violence Prevention Act:** (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:

Probable cause to believe the following: felonious assault, assault resulting in injury: action was intended to cause fear of imminent serious bodily injury or death.

B. Definition §12-29-2

(a) "**Domestic violence**" includes, but is not limited to, any of the following crimes when committed by one family or household member against another:

- (1) Simple assault (§ 11-5-3);
- (2) Felony assaults (§§ 11-5-1, 11-5-2, and 11-5-4);
- (3) Vandalism (§ 11-44-1);
- (4) Disorderly conduct (§ 11-45-1);
- (5) Trespass (§ 11-44-26);
- (6) Kidnapping (§ 11-26-1);
- (7) Child-snatching (§ 11-26-1.1);
- (8) Sexual assault (§§ 11-37-2, 11-37-4);
- (9) Homicide (§§ 11-23-1 and 11-23-3);
- (10) Violation of the provisions of a protective order entered pursuant to § 15-5-19, chapter 15 of title 15, or chapter 8.1 of title 8 where the respondent has

knowledge of the order and the penalty for its violation or a violation of a no contact order issued pursuant to § 12-29-4;

(11) Stalking (§§ 11-59-1 et seq.);

(12) Refusal to relinquish or to damage or to obstruct a telephone (§ 11-35-14);

(13) Burglary and Unlawful Entry (§ 11-8-1 et seq.);

(14) Arson (§ 11-4-2 et seq.);

(15) Cyberstalking and cyberharassment (§ 11-52-4.2);

(16) Domestic assault by strangulation § 11-5-2.3; and

(17) Electronic tracking of motor vehicles (§ 11-69-1).

(b) **"Family or household member"** means spouses, former spouses, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past three (3) years, and persons who have a child in common regardless of whether they have been married or have lived together, or if persons who are or have been in a substantive dating or engagement relationship within the past one year which shall be determined by the court's consideration of the following factors:

(1) The length of the relationship;

(2) the type of the relationship;

(3) The frequency of the interaction between the parties.

(c) "Protective order" means an order issued pursuant to § 15-5-19, chapter 15 of title 15, or chapter 8.1 of title 8.

(d) "Victim" means a family or household member who has been subjected to domestic violence.

40. South Carolina: Mandatory Arrest S.C. Code Ann. [§16-25-70\(B\)](#)

A. Section [§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, 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. The investigation must be documented on an incident report form which must be maintained by the investigating agency. 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 **may** 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 or 16-25-65 even if the act did not take place in the presence of the

officer. A law enforcement officer may not 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.

B. Definitions §16-25-10:

(3) **"Household member"** means:

- (a) a spouse;
- (b) a former spouse;
- (c) persons who have a child in common; or
- (d) a male and female who are cohabiting or formerly have cohabited.

C. §16-25-20 Acts Prohibited:

(A) It is unlawful to:

- (1) cause physical harm or injury to a person's own household member; or
- (2) offer or attempt to cause physical harm or injury to a person's own household member with apparent present ability under circumstances reasonably creating fear of imminent peril.

(B) Except as otherwise provided in this section, a person commits the offense of domestic violence in the first degree if the person violates the provisions of subsection (A) and:

(A) and:

- (1) great bodily injury to the person's own household member results or the act is accomplished by means likely to result in great bodily injury to the person's own household member;
- (2) the person violates a protection order and in the process of violating the order commits domestic violence in the second degree;

(3) has two or more prior convictions of domestic violence within ten years of the current offense;

(4) the person uses a firearm in any manner while violating the provisions of subsection (A); or

(5) in the process of committing domestic violence in the second degree one of the following also results:

(a) the offense is committed in the presence of, or while being perceived by a minor;

(b) the offense is committed against a person known, or who reasonably should have been known, by the offender to be pregnant;

(c) the offense is committed during the commission of a robbery, burglary, kidnapping, or theft;

(d) the offense is committed by impeding the victim's breathing or air flow; or

(e) the offense is committed using physical force or the threatened use of force against another to block that person's access to any cell phone, telephone, or electronic communication device with the purpose of preventing, obstructing, or interfering with:

(i) the report of any criminal offense, bodily injury, or property damage to a law enforcement agency; or

(ii) a request for an ambulance or emergency medical assistance to any law enforcement agency or emergency medical provider.

A person who violates this subsection is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years.

Domestic violence in the first degree is a lesser included offense of domestic violence of a high and aggravated nature, as defined in Section 16-25-65.

(C) A person commits the offense of domestic violence in the second degree if the person violates subsection (A) and:

(1) moderate bodily injury to the person's own household member results or the act is accomplished by means likely to result in moderate bodily injury to the person's own household member;

(2) the person violates a protection order and in the process of violating the order commits domestic violence in the third degree;

(3) the person has one prior conviction for domestic violence in the past ten years from the current offense; or

(4) in the process of committing domestic violence in the third degree one of the following also results:

(a) the offense is committed in the presence of, or while being perceived by, a minor;

(b) the offense is committed against a person known, or who reasonably should have been known, by the offender to be pregnant;

(c) the offense is committed during the commission of a robbery, burglary, kidnapping, or theft;

(d) the offense is committed by impeding the victim's breathing or air flow; or

(e) the offense is committed using physical force or the threatened use of force against another to block that person's access to any cell phone, telephone, or electronic communication device with the purpose of preventing, obstructing, or interfering with:

- (i) the report of any criminal offense, bodily injury, or property damage to a law enforcement agency; or
- (ii) a request for an ambulance or emergency medical assistance to any law enforcement agency or emergency medical provider.

A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than two thousand five hundred dollars nor more than five thousand dollars or imprisoned for not more than three years, or both.

Domestic violence in the second degree is a lesser-included offense of domestic violence in the first degree, as defined in subsection (B), and domestic violence of a high and aggravated nature, as defined in Section 16-25-65.

Assault and battery in the second degree pursuant to Section 16-3-600(D) is a lesser-included offense of domestic violence in the second degree as defined in this subsection.

(D) A person commits the offense of domestic violence in the third degree if the person violates subsection (A)

- (a) First Degree
- (b) Second Degree
- (c) Third Degree

41. South Dakota: Mandatory Arrest S.D. Codified Laws [§23A-3-2.1](#)

- A. [§23A-3-2.1](#): If a police officer has probable cause to believe that within the previous 4 hours there has been an aggravated assault, an assault resulting in bodily injury, or an attempt by physical menace to place in fear of imminent serious bodily injury.
- B. [Definitions §25-10-1](#)
 - 1. **"Domestic abuse,"** physical harm, bodily injury, or attempts to cause physical harm or bodily injury, or the infliction of fear of imminent physical harm or bodily injury when occurring between persons in a relationship described in § 25-10-3.1. Any violation of § 25-10-13 or chapter 22-19A or any crime of violence as defined in subdivision 22-1-2(9) constitutes domestic abuse if the underlying criminal act is committed between persons in such a relationship;

42. Tennessee: Preferred Arrest Tenn. Code. Ann. [§36-3-619](#)

- A. (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.

B. Definition [§36-3-601](#):

- (1) “**Abuse**” means inflicting, or attempting to inflict, physical injury on an adult or minor by other than accidental means, placing an adult or minor in fear of physical harm, physical restraint, malicious damage to the personal property of the abused party, including inflicting, or attempting to inflict, physical injury on any animal owned, possessed, leased, kept, or held by an adult or minor, or placing an adult or minor in fear of physical harm to any animal owned, possessed, leased, kept, or held by the adult or minor;

Domestic Violence Victim [§39-13-111](#):

(a) As used in this section, “domestic abuse victim” means any person who falls within the following categories:

- (1) Adults or minors who are current or former spouses;
- (2) Adults or minors who live together or who have lived together;
- (3) Adults or minors who are dating or who have dated or who have or had a sexual relationship, but does not include fraternization between two (2) individuals in a business or social context;
- (4) Adults or minors related by blood or adoption;
- (5) Adults or minors who are related or were formerly related by marriage; or
- (6) Adult or minor children of a person in a relationship that is described in subdivisions (a)(1)-(5).

(b) A person commits domestic assault who commits an assault as defined in [§ 39-13-101](#) against a domestic abuse victim.

C. Relevant Links:

Domestic Violence [§39-13-101](#)

[43. Texas: Discretionary Tex. Rev. Civ. Stat. Ann.art §14.03](#)

- A. [§14.03 Authority of Peace Officers](#): (a) Any peace officer may arrest, without warrant:
 - (2) persons who the peace officer has probable cause to believe have committed an assault resulting in bodily injury to another person and the peace officer has probable cause to believe that there is danger of further bodily injury to that person;
 - (3) persons who the peace officer has probable cause to believe have committed an offense defined by [Section 25.07](#), Penal Code, if the offense is not committed in the presence of the peace officer;

- (4) persons who the peace officer has probable cause to believe have committed an offense involving family violence;
- (5) persons who the peace officer has probable cause to believe have prevented or interfered with an individual's ability to place a telephone call in an emergency, as defined by [Section 42.062\(d\)](#), Penal Code, if the offense is not committed in the presence of the peace officer; or
- (6) a person who makes a statement to the peace officer that would be admissible against the person under [Article 38.21](#) and establishes probable cause to believe that the person has committed a felony.

(b) A peace officer shall arrest, without a warrant, a person the peace officer has probable cause to believe has committed an offense under [Section 25.07](#), Penal Code, if the offense is committed in the presence of the peace officer.

(c) If reasonably necessary to verify an allegation of a violation of a protective order or of the commission of an offense involving family violence, a peace officer shall remain at the scene of the investigation to verify the allegation and to prevent the further commission of the violation or of family violence.

Probable cause to believe that an act of domestic violence was committed and there will be continued violence or evidence perpetrator has recently caused serious bodily injury or used a dangerous weapon.

B. Definitions Title 4, Chapter 71:

1. **Sec. 71.0021. DATING VIOLENCE.** (a) **"Dating violence"** means an act, other than a defensive measure to protect oneself, by an actor that:
 - (1) is committed against a victim or applicant for a protective order:
 - (A) with whom the actor has or has had a dating relationship; or
 - (B) because of the victim's or applicant's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage; and
 - (2) is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim or applicant in fear of imminent physical harm, bodily injury, assault, or sexual assault.
 - (b) For purposes of this title, "dating relationship" means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of:
 - (1) the length of the relationship;
 - (2) the nature of the relationship; and
 - (3) the frequency and type of interaction between the persons involved in the relationship.
 - (c) A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a "dating relationship" under Subsection (b).
2. **Sec. 71.003. FAMILY.** "Family" includes individuals related by consanguinity or affinity, as determined under Sections 573.022 and 573.024, Government Code, individuals who are former spouses of each other, individuals who are the parents of the same child,

without regard to marriage, and a foster child and foster parent, without regard to whether those individuals reside together.

3. **Sec. 71.004. FAMILY VIOLENCE.**

"Family violence" means: (1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself; (2) abuse, as that term is defined by Sections 261.001(1)(C), (E), (G), (H), (I), (J), (K), and (M), by a member of a family or household toward a child of the family or household; or (3) dating violence, as that term is defined by Section 71.0021.

44. Vermont: Discretionary Vt.R. CR. P. Rule 3

- A. An officer may be arrested for a misdemeanor where the officer has probable cause to believe that the person to be arrested has committed an assault against a family or household member, or a child of a family or household member.

45. Virginia: Mandatory Arrest §19.2-81.3(B)

- A. **§19.2-81.3(B)**: A law-enforcement officer having probable cause to believe that a violation of **§18.2-57.2** or **§16.1-253.2** has occurred shall arrest and take into custody the person he has probable cause to believe, based on the totality of the circumstances, was the predominant physical aggressor unless there are special circumstances which would dictate a course of action other than an arrest. The standards for determining who is the predominant physical aggressor shall be based on the following considerations: (i) who was the first aggressor, (ii) the protection of the health and safety of family and household members, (iii) prior complaints of family abuse by the allegedly abusing person involving the family or household members, (iv) the relative severity of the injuries inflicted on persons involved in the incident, (v) whether any injuries were inflicted in self-defense, (vi) witness statements, and (vii) other observations.
- B. (Also See) **§ 9.1-1300**: Domestic violence policies and procedures for law-enforcement agencies in the Commonwealth.
- C. **Definitions §16.1-228**:
1. **"Family or household member"** means (i) the person's spouse, whether or not he or she resides in the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time, or (vi) any individual who cohabits or who, within the previous 12 months, cohabited with the person, and any children of either of them then residing in the same home with the person.

46. Utah: Mandatory Arrests Utah Code Ann. §77-36-2.2(2)(a)

- A. [§77-36-2.2\(2\)\(a\)](#): If a police officer has probable cause to believe that an act of domestic violence was committed and there will be continued violence or evidence perpetrator has recently caused serious bodily injury or used a dangerous weapon.

B. Definitions [§77-36-1](#)

(4) "**Domestic violence**" or "**domestic violence offense**" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another. "Domestic violence" or "domestic violence offense" includes commission or attempt to commit, any of the following offenses by one cohabitant against another:

- (a) aggravated assault, as described in Section [76-5-103](#);
- (b) aggravated cruelty to an animal, as described in Subsection [76-9-301\(4\)](#), with the intent to harass or threaten the other cohabitant;
- (c) assault, as described in Section [76-5-102](#);
- (d) criminal homicide, as described in Section [76-5-201](#);
- (e) harassment, as described in Section [76-5-106](#);
- (f) electronic communication harassment, as described in Section [76-9-201](#);
- (g) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections [76-5-301](#), [76-5-301.1](#), and [76-5-302](#);
- (h) mayhem, as described in Section [76-5-105](#);
- (i) sexual offenses, as described in [Title 76, Chapter 5, Part 4, Sexual Offenses](#), and Section [76-5b-201](#), Sexual exploitation of a minor -- Offenses;
- (j) stalking, as described in Section [76-5-106.5](#);
- (k) unlawful detention or unlawful detention of a minor, as described in Section [76-5-304](#);
- (l) violation of a protective order or ex parte protective order, as described in Section [76-5-108](#);
- (m) any offense against property described in [Title 76, Chapter 6, Part 1, Property Destruction](#), [Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass](#), or [Title 76, Chapter 6, Part 3, Robbery](#);
- (n) possession of a deadly weapon with criminal intent, as described in Section [76-10-507](#);
- (o) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle, as described in Section [76-10-508](#);
- (p) disorderly conduct, as defined in Section [76-9-102](#), if a conviction or adjudication of disorderly conduct is the result of a plea agreement in which the perpetrator was originally charged with a domestic violence offense otherwise described in this Subsection (4), except that a conviction or adjudication of disorderly conduct as a domestic violence offense, in the manner described in this Subsection (4)(p), does not

constitute a misdemeanor crime of domestic violence under 18 U.S.C. Sec. 921, and is exempt from the federal Firearms Act, 18 U.S.C. Sec. 921 et seq.;

(q) child abuse, as described in Section [76-5-109.1](#);

(r) threatening use of a dangerous weapon, as described in Section [76-10-506](#);

(s) threatening violence, as described in Section [76-5-107](#);

(t) tampering with a witness, as described in Section [76-8-508](#);

(u) retaliation against a witness or victim, as described in Section [76-8-508.3](#);

(v) unlawful distribution of an intimate image, as described in Section [76-5b-203](#), or unlawful distribution of a counterfeit intimate image, as described in Section [76-5b-205](#);

(w) sexual battery, as described in Section [76-9-702.1](#);

(x) voyeurism, as described in Section [76-9-702.7](#);

(y) damage to or interruption of a communication device, as described in Section [76-6-108](#); or

(z) an offense described in Subsection [78B-7-806\(1\)](#).

47. Washington: Mandatory Arrest Wash. Rev. Code [§10.31.100\(1\), \(2\)\(a\)\(b\),\(c\)](#)

A. [§10.31.100\(1\), \(2\)\(a\)\(b\),\(c\)](#): If an officer has probable cause to believe a person 16 years or older within the previous 4 hours assaulted a family or household member and believes (1) felonious assault occurred, or (2) assault resulting in bodily injury occurred whether injury is visible or not, or (3) any physical action occurred which was intended to cause reasonable fear of imminent serious bodily injury or death.

B. (See also) [Law Enforcement Officers—Training, Powers, Duties—Domestic Violence Reports](#)

a. **6(a)**: When a peace officer responds to a domestic violence call and has probable cause to believe that a crime has been committed, the peace officer shall exercise arrest powers with reference to the criteria in [RCW 10.31.100](#). The officer shall notify the victim of the victim's right to initiate a criminal proceeding in all cases where the officer has not exercised arrest powers or decided to initiate criminal proceedings by citation or otherwise. The parties in such cases shall also be advised of the importance of preserving evidence.

6(b): A peace officer responding to a domestic violence call shall take a complete offense report including the officer's disposition of the case.

C. **Definition [§10.99.020](#)**:

(4) "**Domestic violence**" includes but is not limited to any of the following crimes when committed either by (a) one family or household member against another family or household member, or (b) one intimate partner against another intimate partner:

(i) Assault in the first degree ([RCW 9A.36.011](#));

(ii) Assault in the second degree ([RCW 9A.36.021](#));

(iii) Assault in the third degree ([RCW 9A.36.031](#));

(iv) Assault in the fourth degree ([RCW 9A.36.041](#));

- (v) Drive-by shooting ([RCW 9A.36.045](#));
 - (vi) Reckless endangerment ([RCW 9A.36.050](#));
 - (vii) Coercion ([RCW 9A.36.070](#));
 - (viii) Burglary in the first degree ([RCW 9A.52.020](#));
 - (ix) Burglary in the second degree ([RCW 9A.52.030](#));
 - (x) Criminal trespass in the first degree ([RCW 9A.52.070](#));
 - (xi) Criminal trespass in the second degree ([RCW 9A.52.080](#));
 - (xii) Malicious mischief in the first degree ([RCW 9A.48.070](#));
 - (xiii) Malicious mischief in the second degree ([RCW 9A.48.080](#));
 - (xiv) Malicious mischief in the third degree ([RCW 9A.48.090](#));
 - (xv) Kidnapping in the first degree ([RCW 9A.40.020](#));
 - (xvi) Kidnapping in the second degree ([RCW 9A.40.030](#));
 - (xvii) Unlawful imprisonment ([RCW 9A.40.040](#));
 - (xviii) Violation of the provisions of a restraining order, no-contact order, or protection order restraining or enjoining the person 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 ([RCW 10.99.040](#), [10.99.050](#), [26.09.300](#), * [26.10.220](#), [26.26B.050](#), [26.44.063](#), [26.44.150](#), [26.50.060](#), [26.50.070](#), [26.50.130](#), [26.52.070](#), or [74.34.145](#));
 - (xix) Rape in the first degree ([RCW 9A.44.040](#));
 - (xx) Rape in the second degree ([RCW 9A.44.050](#));
 - (xxi) Residential burglary ([RCW 9A.52.025](#));
 - (xxii) Stalking ([RCW 9A.46.110](#)); and
 - (xxiii) Interference with the reporting of domestic violence ([RCW 9A.36.150](#)).
- (7) **"Family or household members"** means the same as in [RCW 26.50.010](#).
- (8) **"Intimate partners"** means the same as in [RCW 26.50.010](#).
- (10) **"Victim"** means a family or household member or an intimate partner who has been subjected to domestic violence

48. West Virginia: Discretionary W. VA. Code §48-27-1002 (a), (b)

- A. **Summary:** A law enforcement officer **may** arrest a person if the officer has observed credible corroborative evidence that an offense has occurred and either the law-enforcement officer has received from the victim or a witness an oral or written allegation of facts constituting a violation of section 28, article 2, chapter 61 of this code (domestic violence offense) or law-enforcement officer has observed credible evidence that the accused committed the offense.
- B. **§48-27-1002(a),(b) Arrest in Domestic Violence Matters; Conditions:**
- (a) Notwithstanding any provision of this code to the contrary, if a person is alleged to have committed a violation of the provisions of subsection (a) or (b), section twenty-eight, article two, chapter sixty-one of this code against a family or household member, in addition to any other authority to arrest granted by this code, a law-enforcement officer has authority to arrest that person without first obtaining a warrant if:
- (1) The law-enforcement officer has observed credible corroborative evidence that an offense has occurred; and either:

- (2) The law-enforcement officer has received, from the victim or a witness, an oral or written allegation of facts constituting a violation of section twenty-eight, article two, chapter sixty-one of this code; or
 - (3) The law-enforcement officer has observed credible evidence that the accused committed the offense.
- (b) For purposes of this section, credible corroborative evidence means evidence that is worthy of belief and corresponds to the allegations of one or more elements of the offense and may include, but is not limited to, the following:
- (1) Condition of the alleged victim. — One or more contusions, scratches, cuts, abrasions, or swellings; missing hair; torn clothing or clothing in disarray consistent with a struggle; observable difficulty in breathing or breathlessness consistent with the effects of choking or a body blow; observable difficulty in movement consistent with the effects of a body blow or other unlawful physical contact.
 - (2) Condition of the accused. -- Physical injury or other conditions similar to those set out for the condition of the victim which are consistent with the alleged offense or alleged acts of self-defense by the victim.
 - (3) Condition of the scene. -- Damaged premises or furnishings; disarray or misplaced objects consistent with the effects of a struggle.
 - (4) Other conditions. -- Statements by the accused admitting one or more elements of the offense; threats made by the accused in the presence of an officer; audible evidence of a disturbance heard by the dispatcher or other agent receiving the request for police assistance; written statements by witnesses.

C. **Definitions §61-2-28:**

- (a) Domestic battery. — Any person who unlawfully and intentionally makes physical contact of an insulting or provoking nature with his or her family or household member, or unlawfully and intentionally causes physical harm to his or her family or household member, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than twelve months or fined not more than \$500, or both fined and confined.
- (b) Domestic assault. — Any person who unlawfully attempts to commit a violent injury against his or her family or household member, or unlawfully commits an act that places his or her family or household member in reasonable apprehension of immediately receiving a violent injury, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than six months or fined not more than \$100, or both fined and confined.

49. Wisconsin: Mandatory Arrest Wis. Stat. §968.075(2)(a)

A. Reasonable cause to believe that offender committing or has committed domestic abuse and either evidence of physical injury or reasonable basis for believing continued abuse is likely

C. Definitions §968.075(a)(1):

1(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.

50. Wyoming: Discretionary Wyo. Stat. §7-20-102

A. (a) In addition to arrests specified in W.S. [7-2-102](#), any peace officer who has probable cause to believe that a violation of W.S. [6-2-510\(a\)](#) or [6-2-511\(a\)](#) has taken place within the preceding twenty-four (24) hours or is taking place or that a violation of W.S. [6-2-502\(a\)](#) or [6-2-504\(a\) or \(b\)](#) has taken place within the preceding twenty-four (24) hours or is taking place and that the person who committed or is committing the violation is a household member as defined by W.S. [35-21-102\(a\)\(iv\)](#), may arrest the violator without a warrant for that violation, regardless of whether the violation was committed in the presence of the peace officer.

B. Definitions §35-21-102:

a. (iii) **Domestic Abuse:**

"Domestic abuse" means the occurrence of one (1) or more of the following acts by a household member but does not include acts of self defense:

- (A) Physically abusing, threatening to physically abuse, attempting to cause or causing physical harm or acts which unreasonably restrain the personal liberty of any household member;
- (B) Placing a household member in reasonable fear of imminent physical harm; or
- (C) Causing a household member to engage involuntarily in sexual activity by force, threat of force or duress.

(iv) "Household member" includes:

- (A) Persons married to each other;
- (B) Persons living with each other as if married;
- (C) Persons formerly married to each other;
- (D) Persons formerly living with each other as if married;
- (E) Parents and their adult children;
- (F) Other adults sharing common living quarters;
- (G) Persons who are the parents of a child but who are not living with each other; and

(H) Persons who are in, or have been in, a dating relationship.

(v) "Order of protection" means a court order granted for the protection of victims of domestic abuse;

(vi) "Financial responsibility" means an obligation to pay to a provider service fees and other costs and charges associated with the provision of commercial mobile services;

(vii) "Provider" means a person or entity that provides commercial mobile services as defined in 47 U.S.C. § 332(d);

b. Domestic Assault [§6-2-510](#)

(a) A household member is guilty of domestic assault if, having the present ability to do so, he unlawfully attempts to cause bodily injury to another household member.

c. Domestic Battery [§6-2-511](#)

(a) A household member is guilty of domestic battery if he knowingly or recklessly causes bodily injury to another household member by use of physical force.

d. Abuse, neglect, abandonment, intimidation or exploitation of a vulnerable adult; penalties [§6-2-502\(a\)](#)

(a) Except under circumstances constituting a violation of W.S. [6-2-502](#), a person is guilty of abuse, neglect, abandonment or exploitation of a vulnerable adult if the person intentionally or recklessly abuses, neglects, abandons, intimidates or exploits a vulnerable adult.

(e) As used in this section:

(i) "Abandonment" means as defined in W.S. [35-20-102\(a\)\(i\)](#);

(ii) "Abuse" means as defined in W.S. [35-20-102\(a\)\(ii\)](#);

(iii) Repealed by Laws 2020, ch. 87, § 3.

(iv) "Central registry" means the registry established under W.S. [35-20-115](#);

(v) "Exploitation" means as defined in W.S. [35-20-102\(a\)\(ix\)](#);

(vi) "Neglect" means as defined in W.S. [35-20-102\(a\)\(xi\)](#);

(vii) "Vulnerable adult" means as defined in W.S.

[35-20-102\(a\)\(xviii\)](#).