

- (i) 1. The person battered the person's spouse or other individual with whom the person resides;
- (ii) 2. There is evidence of physical injury; and
- (iii) 3. Unless the person is immediately arrested:
  - 1. A. The person may not be apprehended;
  - 2. B. The person may cause injury to the person or damage to the property of one or more other persons; or
  - 3. C. The person may tamper with, dispose of, or destroy evidence.] ~~THE PERSON HAS COMMITTED ABUSE AGAINST A PERSON ELIGIBLE FOR RELIEF; and~~

[(2)] (II) A report to the police was made within [12] 48 hours of the alleged incident.

~~(3) (4) (2) IF THE POLICE OFFICER HAS PROBABLE CAUSE TO BELIEVE THAT MUTUAL ABUSE BATTERY OCCURRED AND AN ARREST IS MADE NECESSARY UNDER THIS SUBSECTION, THE OFFICER SHALL CONSIDER WHETHER ONE OF THE PARTIES ACTED IN SELF-DEFENSE WHEN MAKING THE DETERMINATION WHETHER TO ARREST THE PERSON WHOM THE OFFICER BELIEVES TO BE THE PRIMARY PHYSICAL AGGRESSOR.~~

~~(H) IN DETERMINING WHETHER A PERSON IS A PRIMARY PHYSICAL AGGRESSOR, THE OFFICER SHALL CONSIDER:~~

- ~~1. ANY HISTORY OF PRIOR ABUSE;~~
- ~~2. THE RELATIVE SEVERITY OF THE INJURIES INFLICTED ON EACH PERSON;~~
- ~~3. THE POTENTIAL FOR FUTURE INJURY;~~
- ~~4. WHETHER ONE OF THE PARTIES ACTED IN SELF-DEFENSE; AND~~
- ~~5. ANY OTHER FACTOR THAT INDICATES THAT A PERSON IS A PRIMARY PHYSICAL AGGRESSOR.~~

~~[772.~~

~~When a law enforcement officer responds to a request for assistance under § 11F of this article and an incident report is filed, the law enforcement agency shall provide a copy of the report to the Department of State Police and, on request, to the victim without a subpoena.]~~