



**THE UNIFORM INTERSTATE ENFORCEMENT OF DOMESTIC VIOLENCE
PROTECTION ORDERS ACT**

-SUMMARY-

Domestic violence is a concern in every state in the United States. The sad historical legacy of death and personal injury have led every state to provide for domestic violence protection orders. Protection orders are meant to prevent domestic violence by putting an enforceable shield around its potential victims against those who would harm them. The order, which generally prohibits the victimizer's personal contact and proximity to potential victims, gives law enforcement and the courts a means of either warning off victimizers by weight of the law or by getting them into custody before actual harm occurs.

The Violence against Women Act of 1994 provides a federal component of law against domestic violence. One of its provisions clarifies the status of such orders under the Full Faith and Credit Clause of the U.S. Constitution. It makes it abundantly clear that domestic violence protection orders from one state are entitled to full faith and credit in another state. Entitlement to full faith and credit means, generally, that an order from one state must be enforced in another state as if it is an original order issued by the enforcing state.

Interstate enforcement of orders always encounters some difficulties, however. Domestic violence protection orders are no different in this respect from other judgments and official acts entitled to full faith and credit. Until there is in each state a set of recognizable, uniform procedures and authorities, the implementation of full faith and credit suffers. States have addressed enforcement of foreign (meaning other state) protection orders, but have done so in non-uniform ways that obscure interstate enforcement rather than promote it. The result is confusion rather than enforcement.

The National Conference of Commissioners on Uniform State Laws (NCCUSL) has had success over many years in addressing issues that arise in the context of interstate enforcement of judgments. The Uniform Enforcement of Foreign Judgments Act, the Uniform Interstate Family Support Act, and the Uniform Child Custody Jurisdiction and Enforcement Act have been successful efforts at solving interstate enforcement problems and in implementing the mandate of full faith and credit. In 2000, NCCUSL promulgated the **Uniform Interstate Enforcement of Domestic-Violence Protection Orders Act** to address the interstate enforcement of protective orders arising from a domestic-violence and family-violence context; in 2002, in consultation and cooperation with the U.S. Department of Justice's Violence Against Women Office, the Act was substantively amended to also cover orders arising under an issuing state's anti-stalking laws.

Because domestic violence and stalking protection orders are not necessarily uniform in character (as is the usual case with other judgments and orders of courts from state to state), an enforceable order must be defined broadly enough to ensure that any kind of order that prohibits personal contact or proximity when there is a threat of domestic violence is enforced. The Act

defines “protection order” to be “an injunction or other order, issued by a tribunal under the domestic-violence, family-violence, or anti-stalking laws of the issuing State, to prevent an individual from engaging in violent or threatening acts against, harassment of, contact or communication with, or physical proximity to another individual.” The fact that the order has terms and conditions that are different from orders issued in the enforcing state, or come from tribunals that are not organized in the same fashion as the tribunals of the enforcing state, does not mean that the enforcing state may refuse enforcement. Any kind of a foreign order that is intended to prevent violence must be enforced.

There are essentially three enforcement tracks which a foreign protection order may take in any enforcing state under the Act. There is direct enforcement by a tribunal, direct enforcement by law enforcement officers, and there is registration of foreign protection orders as a prelude to enforcement. The term ‘tribunal’ is used in the Act, consistent with the usage of the Uniform Interstate Family Support Act, which has been enacted in every U.S. jurisdiction. Whether the enforcing body is a court or an agency, the term tribunal includes both within its scope.

A “tribunal” with jurisdiction to enforce may enforce a foreign protection order without any other prior perfecting or validating procedure. A valid foreign protection order must be enforced. A valid protection order is one that identifies the protected individual (the potential victim) and the respondent (the potential victimizer), is currently in effect, and was issued by a tribunal with full jurisdiction. An order must meet due process standards. An ex parte order is enforceable if the respondent was provided notice and has had or will have opportunity to be heard within a reasonable time after the order was issued. Terms of an order respecting custody and visitation must be enforced, if the issuing state has jurisdiction. An order valid on its face establishes a prima facie case for its validity.

However, it is not necessary to petition a tribunal to enforce a valid foreign protection order. A law enforcement officer with “probable cause to believe that a valid foreign protection order exists and that the order has been violated,” must enforce the order “as if it were the order of a tribunal of this State.” The presence of an order that identifies the protected individual and the respondent that is current constitutes probable cause to believe that a valid foreign protection order exists. Law enforcement officers who are not presented with an actual order, may still act to enforce upon other information that provides probable cause to believe that a valid order exists. Even if an order appears not to have been served on the respondent, a law enforcement officer must inform the respondent of the order and make a reasonable effort to serve it. The respondent must then have a reasonable time to comply, before further enforcement is initiated. Registration is not a pre-condition for enforcement by a law enforcement officer.

Registration of orders and judgments for enforcement purposes has long been a part of American law. Registration is provided for in the Uniform Enforcement of Foreign Judgments Act and the Uniform Interstate Family Support Act. Registration is an assist to enforcement. A registered order, that is certified in the issuing state, sets aside possible challenges to the order. A registered order provides substantial assurance to a tribunal or law enforcement officer in an enforcing state that the order is valid. Registration allows a protected individual to prepare for enforcement of an order before there is any actual threat from the named respondent.

The Act provides for registration—a fairly simple procedure that requires a certified order and an affidavit from the protected individual that the order is current. The protected individual may receive a certified copy of the order which then may be presented for enforcement either in a tribunal or by a law enforcement officer.

The last important provision of the Act is an immunity provision that provides a liability shield for any agency, law enforcement officer, prosecuting attorney, clerk of court, or other official who enforces an order under the Act in good faith.

The Uniform Interstate Enforcement of Domestic-Violence Protection Orders Act is an important step towards improving the interstate enforcement of protection orders. A uniform act will make enforcement more efficient and certain. It will make implementation of full faith and credit for these orders more feasible. This Act does not attempt to solve all the problems of domestic violence. It takes on only the interstate enforcement aspect, and NCCUSL's intention is to make prevention of violence a greater reality as a result. Every state should give this Act serious and immediate consideration in its legislature.