

DRAFT  
FOR DISCUSSION ONLY

# RECOGNITION AND ENFORCEMENT OF CANADIAN DOMESTIC VIOLENCE PROTECTION ORDERS

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NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

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March 21 – 22, 2014 Drafting Committee Meeting

*WITH PREFATORY NOTE AND COMMENTS*

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March 5, 2014

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**RECOGNITION AND ENFORCEMENT OF CANADIAN DOMESTIC VIOLENCE  
PROTECTION ORDERS ACT**

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1                                   **UNIFORM RECOGNITION AND ENFORCEMENT OF CANADIAN**  
2                                   **DOMESTIC VIOLENCE PROTECTION ORDERS ACT**

3  
4                                   **Prefatory Note**

5  
6                   The Uniform Recognition and Enforcement of Canadian Domestic Violence Protection  
7 Orders Act (“the Act”) provides for the enforcement of domestic violence protection orders  
8 issued by Canadian courts. Reflecting the friendship between the United States and Canada,  
9 citizens move freely between the two countries, freedom that can work against potential victims  
10 of domestic violence. Canada has granted recognition to protection orders of the United States  
11 and other countries in the Uniform Enforcement of Canadian Judgments and Decrees Act  
12 (UECJDA). By this Act, enacting states accord similar recognition to protection orders from  
13 Canada.  
14

15                   Both the UECJDA and this Act are part of state, federal, and international efforts to  
16 recognize domestic violence protection orders across jurisdictions. The United States has been a  
17 part of these efforts since 1994 with the enactment of the Violence Against Women Act, or  
18 VAWA,<sup>1</sup> in which Congress required states to grant full faith and credit to the protection orders  
19 of other states.<sup>2</sup> Many states enacted legislation recognizing the domestic violence orders of  
20 sister states,<sup>3</sup> and in 2000, the Uniform Laws Commission (ULC) approved the Uniform  
21 Interstate Enforcement of Domestic-Violence Protection Orders Act (UIEDVPOA), encouraging  
22 states to recognize and enforce the domestic violence orders of other states.<sup>4</sup> In 2011, the  
23 Uniform Law Conference of Canada (ULCC) approved the UECJDA, which provides for the  
24 recognition of foreign protection orders – including those of the United States – unless the  
25 foreign state of origin has been expressly excluded from the provisions of the act.  
26

27                   The Hague Conference on Private International Law is also studying the recognition of  
28 domestic violence protection orders across jurisdictions. In March, 2012, the Conference issued  
29 the *Recognition and Enforcement of Foreign Civil Protection Orders: A Preliminary Note*.  
30 Through case studies based on actual incidents, the work illustrates the problems and dangers  
31 created in a world without cross-border recognition of domestic violence protection orders. The  
32 note also summarizes national protection order regimes and describes proposed and existing  
33 models of cross-border recognition, including VAWA, the UIEDVPOA, and the UECJDA. The  
34 Conference has released the responses to its *Questionnaire on the Recognition of Foreign Civil*  
35 *Protection Orders* in a *Summary of Member Responses and Possible Ways Forward*.  
36

37                   The Hague Conference on Private International Law continues to study the advisability of  
38 drafting a convention on cross-jurisdictional recognition of domestic violence protection orders.  
39 In the meantime, this Act takes step towards recognition and enforcement of protection orders

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<sup>1</sup> Pub. L. No. 103-322, 108 Stat. 1902-55 (codified at various Sections of 8 U.S.C., 18 U.S.C. and 42 U.S.C.).

<sup>2</sup> 18 U.S.C § 2265.

<sup>3</sup> For a discussion of the various features of these statutes, see E. Sack, *Domestic Violence Across State Lines: The Full Faith and Credit Clause, Congressional Power, and the Interstate Enforcement of Protection Orders*, 98 Northwestern U. L. Rev. 827, 841-45 (Spring 2004).

<sup>4</sup> Unif. Interstate Enforcement of Domestic Violence Prot. Orders Act (amended 2002), 9 U.L.A. 28 (Supp. 2003) [hereinafter UIEDVPOA].

1 from other countries by providing for the recognition and enforcement of Canadian domestic  
2 violence protection orders.

3  
4 This Act draws from the UIEDVPOA and the UECJDA in its recognition and  
5 enforcement of Canadian domestic violence protection orders. The two acts are similar in  
6 several important respects. Both recognize domestic violence protection orders without  
7 requiring that the party seeking enforcement to register the foreign order. Likewise, both provide  
8 that a court or law enforcement agency should respect a facially valid order until successfully  
9 challenged after the request for emergency relief has passed.

10  
11 The UIEDVPOA and UECJDA differ in other respects, with the UECJDA providing  
12 more narrow recognition and enforcement of protection orders from other countries than the  
13 UIEDVPOA provides for orders from sister states. The more limited goal of the UECJDA  
14 explains its more limited approach. The UECJDA seeks merely to separate temporarily an  
15 individual at risk from another individual to avoid “the possibility of violence arising from a  
16 failure to act...”<sup>5</sup> In other words, the UECJDA focuses only on the emergency presented by the  
17 threat of violence from a person who has been ordered to stay away from the person who is now  
18 the subject of the threat. The UECJDA seeks to empower law enforcement in that emergency to  
19 take “cautious preventive action” that may be challenged by the parties “if subsequently viewed  
20 as inappropriate or inaccurate by either party.”<sup>6</sup>

21  
22 Because the UECJDA focuses on emergencies in which one party threatens violence to  
23 the other party, it recognizes and enforces only those parts of a foreign order that deal with

- 24  
25 (a) being in physical proximity to a specified person or following a specified person  
26 from place to place;  
27 (b) contacting or communicating with, either directly or indirectly, a specified person;  
28 (c) attending at or with a certain distance of a specified place or location; or  
29 (d) engaging in molesting, annoying, harassing or threatening conduct directed at a  
30 specified person.<sup>7</sup>

31  
32 The UIEDVPOA, on the other hand, recognizes all parts of the sister state protection order,  
33 including parts of the order relating to custody and visitation.<sup>8</sup>

34  
35 This Act follows the approach of the UECJDA, recognizing and enforcing only the parts  
36 of the Canadian protection order requiring no contact. Other acts and conventions deal with  
37 issues of custody between countries, specifically, the UCCJEA and its article implementing the  
38 Hague Convention on Protection of Children. This Act, like the UECJDA, pursues the narrower  
39 goal of addressing the emergency of threatened violence.

40  
41 Similarly, this Act also follows the UECJDA and its more limited approach on other  
42 issues. Because of the limits on enforcing the criminal orders of another country, this Act

---

<sup>5</sup> Unif. Enforcement of Canadian Decrees and Judgments Act, note [8], p. 3 [hereinafter UECJDA].

<sup>6</sup> *Id.*, note [6], p. 3.

<sup>7</sup> UECJDA, § 9.1.

<sup>8</sup> UIEDVPOA, Introduction. The UIEDVPOA does not enforce provisions related to support, however. *Id.*

1 enforces only Canadian *civil* orders. While the UIEDVPOA’s definition of protection orders  
2 includes certain criminal orders, such as anti-stalking orders, other sections of the UIEDVPOA  
3 recognize the problems inherent in enforcing the criminal law of a sister state.<sup>9</sup> The international  
4 setting only multiplies the questions; therefore, the Act recognizes and enforces only Canadian  
5 civil protection orders.

6  
7 The Act also limits recognition of Canadian protection orders to those orders that issue  
8 from courts. The UIEDVPOA recognizes protection orders issued not by *courts*, but by  
9 *tribunals*, including an “agency...or other entity authorized by law to issue or modify a  
10 protection order.”<sup>10</sup> Following the lead of the UECJDA, this Act provides for narrower  
11 recognition, limiting the recognition of Canadian protection orders to orders issued by Canadian  
12 courts.<sup>11</sup>

13  
14 The Act defines protection orders more broadly than the UIEDVPOA only in one way.  
15 The UIEDVPOA limits recognition to orders “issued... under the domestic-violence [or] family-  
16 violence, or anti-stalking laws” of the state that issued the order.<sup>12</sup> In this way, the act excludes  
17 orders that issue under more general statutes. The UECJDA has no such limitation, providing  
18 for the recognition of foreign protection orders “made by a court of a foreign state.”<sup>13</sup> The  
19 drafters concluded that specifying the type of statute authorizing the order was unnecessary in  
20 light of other limitations. Since this Act recognizes and enforces only no-contact provisions in a  
21 civil order, further specificity seemed unnecessary and unwise. In light of the emergency setting  
22 in which enforcement questions arise, this complicated determination of Canadian statutory  
23 authority could defeat the purpose of the Act.

24  
25 The Act also provides uniform procedures for the cross-border enforcement of Canadian  
26 domestic violence protection orders. The Act envisions that the enforcement of Canadian  
27 protection orders will require law enforcement officers of enforcing States to rely on probable  
28 cause judgments that a valid order exists and has been violated. The Act, however, provides that  
29 if a protected individual can provide direct proof of the existence of a facially valid order, by, for  
30 example, presenting a paper copy or through an electronic registry, probable cause is  
31 conclusively established. If no such proof is forthcoming, the Act requires enforcement if  
32 officers, relying on the totality of the circumstances, determine that there is probable cause to  
33 believe that a valid protection order exists and has been violated. The individual against whom  
34 the order is enforced will have sufficient opportunity to demonstrate that the order is invalid  
35 when the case is brought before the enforcing tribunal. Law enforcement officers, as well as  
36 other government agents, will be encouraged to rely on probable cause judgments by the Act’s  
37 inclusion of an immunity provision, protecting agents of the government acting in good faith.

38  
39 The Act does not require individuals seeking enforcement of a protection order to register  
40 or file the order with the enforcing State. It does, however, include an optional registration

---

<sup>9</sup> In another section, 3(a), the UIEDVPOA limits the enforcement of criminal provisions, however, by requiring that a person (not just the state) have authority to seek enforcement of the protection order.

<sup>10</sup> UIEDVPOA, § 2 (8).

<sup>11</sup> UECJDA, § 9.1.

<sup>12</sup> UIEDVPOA, § 2 (5). For some of the criticism, *see* Sacks, *supra* note 3, at p. 846.

<sup>13</sup> UECJDA, § 9.1.

1 process. This process permits individuals to register a Canadian protection order by presenting a  
2 copy of the order to a responsible state agency or any state officer or agency. The issuing  
3 Province must certify the copy presented for registration. The purpose of these procedures is to  
4 make it as easy as possible for the protected individual to register the protection order and thus  
5 facilitate its enforcement.

1                   **UNIFORM RECOGNITION AND ENFORCEMENT OF CANADIAN**  
2                   **DOMESTIC VIOLENCE PROTECTION ORDERS ACT**

3  
4           **SECTION 1. SHORT TITLE.** This [Act] may be cited as the Uniform Recognition  
5 and Enforcement of Canadian Domestic Violence Protection Orders Act.

6           **SECTION 2. DEFINITIONS.** In this [Act]:

7           (1) “Canadian protection order” means a civil protection order issued by a court of  
8 Canada.

9           (2) “Issuing Province” means the Canadian Province or Territory whose court issues a  
10 protection order.

11           (3) “Canadian mutual protection order” means a Canadian protection order that includes  
12 provisions in favor of both the protected individual seeking enforcement of the order and the  
13 respondent.

14           (4) “Protected individual” means an individual protected by a protection order.

15           (5) “Protection order” means a judgment, a portion of a judgment, an injunction, or other  
16 order, issued by a tribunal under the laws of the issuing State that prohibits a specified person  
17 from:

18                   (A) being in physical proximity to a specified person or following a specified  
19 person from place to place;

20                   (B) contacting or communicating with, either directly or indirectly, a specified  
21 person;

22                   (C) attending at or within a certain distance of a specified place or location; or

23                   (D) engaging in molesting, annoying, harassing or threatening conduct directed at  
24 a specified person.

1 (6) “Respondent” means the individual against whom enforcement of a protection order  
2 is sought.

3 (7) “State” means a State of the United States, the District of Columbia, Puerto Rico, the  
4 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of  
5 the United States. The term includes an Indian tribe or band with jurisdiction to issue protection  
6 orders.

7 (8) “Tribunal” means a court, agency, or other entity authorized by law to issue or modify  
8 a protection order.

9 **Comment**

10 The term “Canadian protection order” includes an order modifying a previous order.  
11 Thus, a modified order is enforceable under the Act in the same manner as a newly issued order.  
12

13 The terms “protected individual” and “respondent” refer to the relief sought by a party in  
14 the action brought in the enforcing State. The Act recognizes that neither the protected  
15 individual nor the respondent may have been a named party in the action brought in the issuing  
16 Province; the Act applies to individuals meeting the definition of protected individual or  
17 respondent whether they were named in the caption or the body of the protection order. The Act  
18 also recognizes that the parties may have been called by different terms, e.g. plaintiff, defendant,  
19 or petitioner, in the issuing Province.  
20

21 The term “Canadian mutual protection orders” refers to protection orders that include  
22 provisions protecting both parties. Section 3(e) governs enforcement of these foreign protection  
23 orders.  
24

25 **SECTION 3. JUDICIAL ENFORCEMENT OF ORDER.**

26 (a) A person authorized by the law of this State to seek enforcement of a protection order  
27 may seek enforcement of a valid Canadian protection order in a tribunal of this State. In a  
28 proceeding to enforce a Canadian protection order, the tribunal shall follow the procedures of  
29 this State for the enforcement of protection orders.

30 (b) A Canadian protection order is valid if it:

31 (1) identifies the protected individual and the respondent;

1 (2) is currently in effect;  
2 (3) was issued by a court that had jurisdiction over the parties and subject matter  
3 under the law of the issuing Province; and

4 (4) was issued after the respondent was given reasonable notice and had an  
5 opportunity to be heard before the tribunal issued the order or, in the case of an order ex parte,  
6 the respondent was given notice and has had or will have an opportunity to be heard within a  
7 reasonable time after the order was issued, in a manner consistent with the rights of the  
8 respondent to due process.

9 (c) A Canadian protection order valid on its face is prima facie evidence of its validity.

10 (d) Absence of any of the criteria for validity of a Canadian protection order is an  
11 affirmative defense in an action seeking enforcement of the order.

12 (e) A tribunal of this State may enforce provisions of a mutual Canadian protection order  
13 that favor a respondent only if:

14 (1) the respondent filed a written pleading seeking a protection order from the  
15 court of the issuing Province; and

16 (2) the court of the issuing Province made specific findings in favor of the  
17 respondent.

18 **Comment**

19  
20 Subsection (a) implements the core purpose of the Act. Effective cross-border  
21 enforcement of protection orders is founded on the principle that enforcing States must enforce  
22 the substantive terms of a Canadian protection order dealing with no contact. In limited  
23 circumstances, the tribunals of enforcing States must enforce the specific terms of a Canadian  
24 protection order even if their state law would not allow the relief in question. For example, if the  
25 law of the issuing Province allows protection orders to remain effective for a longer period than  
26 is allowed by the enforcing State, the tribunal of the enforcing State should enforce the order for  
27 the time specified in the order of the issuing Province. In a proceeding to enforce the substantive  
28 terms of the Canadian protection order, however, the tribunal of the enforcing State shall follow  
29 its own procedures.

1 Subsection (a) provides that any person authorized by the law of the enforcing State to  
2 seek enforcement of a protection order may seek enforcement of a valid Canadian protection  
3 order in the enforcing State. This provision recognizes that States frequently authorize public  
4 agencies and officers, such as a local prosecutor, to bring enforcement actions on behalf of a  
5 protected individual. The Act, however, in recognizing the importance of these agencies and  
6 officers, should not be interpreted to mean that States, and their agencies and officers, are  
7 required to bring these actions when possible.  
8

9 Subsection (b) requires that, to be valid for the purpose of enforcement under this Act, a  
10 Canadian protection order must be “currently in effect.” This provision includes orders that have  
11 been modified; the modified order is the one currently in effect. While the Act requires that a  
12 Canadian protection order, to be valid, identify the protected individual and respondent, merely  
13 technical errors, such as an incorrect spelling of a name, should not preclude enforcement of the  
14 order. The question of the validity of an order is a question of law for the court of the enforcing  
15 State. Once an order is adjudged valid, the proceeding shall be governed by the established  
16 procedures of the enforcing State.  
17

18 The respondent’s constitutional right to due process is protected by the opportunity to  
19 raise defenses in the enforcement proceeding, as provided in subsection (b)(4). If, for example,  
20 the respondent was not provided with reasonable notice and opportunity to be heard by the  
21 Provincial court that issued the protection order, the enforcing tribunal may not enforce the  
22 order. Thus, the cross-border enforcement of a valid Canadian protection order, even without a  
23 prior hearing, does not deprive the respondent of any rights to due process because the  
24 respondent was provided with reasonable notice and opportunity to be heard when the order was  
25 issued.  
26

27 The enforcement mechanisms established by the Act do not require the presentation by  
28 the protected individual of an authenticated copy of the Canadian protection order. By adopting  
29 this Act, States have chosen to recognize and enforce Canadian protection orders.  
30

31 Subsection (e), adapted from VAWA, 18 U.S.C. Sec. 2265(c), addresses the enforcement  
32 of Canadian mutual protection orders, which contain provisions protecting both the protected  
33 individual and the respondent. Provisions of a Canadian mutual protection order issued in favor  
34 of the respondent will not be enforced without proof that the respondent filed a written pleading  
35 seeking a protection order. If a respondent can prove that he or she made a specific request for  
36 relief and that the issuing tribunal made specific findings that the respondent was entitled to the  
37 requested relief, the protection orders will be enforced against the protected individual.  
38

#### 39 **SECTION 4. NONJUDICIAL ENFORCEMENT OF ORDER.**

40 (a) A law enforcement officer of this State, upon determination of probable cause to  
41 believe that a valid Canadian protection order exists and that the order has been violated, shall  
42 enforce the order as if it were an order of a tribunal of this State. Presentation of a protection

1 order that identifies both the protected individual and the respondent and, on its face, is currently  
2 in effect constitutes probable cause to believe that a valid Canadian protection order exists. For  
3 the purposes of this section, the protection order may be inscribed on a tangible medium or may  
4 have been stored in an electronic or other medium if it is retrievable in perceivable form.

5 Presentation of a certified copy of a protection order is not required for enforcement.

6 (b) If a Canadian protection order is not presented, a law enforcement officer of this State  
7 may consider other information in determining whether there is probable cause to believe that a  
8 valid Canadian protection order exists.

9 (c) If a law enforcement officer of this State determines that an otherwise valid Canadian  
10 protection order cannot be enforced because the respondent has not been notified or served with  
11 the order, the officer shall inform the respondent of the order, make a reasonable effort to serve  
12 the order upon the respondent, and allow the respondent a reasonable opportunity to comply with  
13 the order before enforcing the order.

14 (d) Registration or filing of an order in this State is not required for the enforcement of a  
15 valid Canadian protection order pursuant to this [Act].

16 **Comment**

17  
18 The enforcement procedures in subsections (a) and (b) rely on the sound exercise of the  
19 judgment of law enforcement officers to determine whether there exists probable cause to  
20 believe that a valid Canadian protection order exists and has been violated. These procedures  
21 anticipate that there will be many instances in which the protected individual does not have, or  
22 cannot, under the circumstances, produce a paper copy of the Canadian protection order.  
23 Subsection (a) establishes a per se rule for determining probable cause of the existence of an  
24 order. If the protected individual presents, whether by providing a paper copy (which need not be  
25 certified) of a Canadian protection order or through an electronic medium, such as access to a  
26 registry of orders, proof of a facially valid order, the order should be enforced. In determining  
27 whether there is proof of a facially valid order, a law enforcement officer should search a registry  
28 of orders, if possible, using an electronic or other medium.

29  
30 Subsection (b) concerns the situation in which the protected individual cannot present  
31 direct proof of the Canadian protection order. In this situation, law enforcement officers are

1 expected to obtain information from all available sources, including interviewing the parties and  
2 contacting other law enforcement agencies, to determine whether a valid protection order is in  
3 effect. If the officer finds, after considering the totality of the circumstances, that there is  
4 probable cause to believe that a valid Canadian protection order exists and has been violated, he  
5 or she should enforce the order. This probable cause determination must meet the constitutional  
6 standards for determining probable cause. If it is later determined that no such order was in  
7 place or the order was otherwise unenforceable, Section 6 protects law enforcement agencies,  
8 officers, or other state officials for actions taken in good faith.

9  
10 Subsection (c) provides that if a law enforcement officer discovers in the course of a  
11 probable cause investigation that the respondent has not been notified of the issuance of or  
12 served with an otherwise valid Canadian protection order, the officer must then inform the  
13 respondent of the terms and conditions of the protection order and make a reasonable effort to  
14 serve the order upon the respondent. The respondent must be allowed a reasonable opportunity  
15 to comply with the order before the order is enforced.

16  
17 Subsection (d) makes clear that, if a State either adopts its own process for the  
18 registration or filing of Canadian protection orders or adopts the process provided in Section 5,  
19 the State shall not require the registration or filing of a Canadian protection order for  
20 enforcement.

21  
22 **[SECTION 5. REGISTRATION OF ORDER.]**

23 (a) Any individual may register a Canadian protection order in this State. To register a  
24 Canadian protection order, an individual shall:

25 (1) present a certified copy of the order to [the state agency responsible for the  
26 registration of such orders]; or

27 (2) present a certified copy of the order to [an agency designated by the State] and  
28 request that the order be registered with [the agency responsible for the registration of such  
29 orders].

30 (b) Upon receipt of a Canadian protection order, [the agency responsible for the  
31 registration of such orders] shall register the order in accordance with this section. After the  
32 order is registered, [the responsible agency] shall furnish to the individual registering the order a  
33 certified copy of the registered order.

1 (c) [The agency responsible for the registration of Canadian protection orders] shall  
2 register an order upon presentation of a copy of a protection order which has been issued by the  
3 issuing Province. A registered Canadian protection order that is inaccurate or is not currently in  
4 effect must be corrected or removed from the registry in accordance with the law of this State.

5 (d) An individual registering a Canadian protection order shall file an affidavit by the  
6 protected individual stating that, to the best of the protected individual's knowledge, the order is  
7 currently in effect.

8 (e) A Canadian protection order registered under this [Act] may be entered in any  
9 existing state or federal registry of protection orders, in accordance with applicable law.

10 (f) A fee may not be charged for the registration of a Canadian protection order.]

#### 11 **Comment**

12 This section is bracketed because States may prefer to use their existing systems of  
13 registration to register Canadian protection orders. While enforcement of a Canadian protective  
14 order does not require registration, it is highly desirable that States provide an optional  
15 registration process. A registration system supplies law enforcement officers and agencies more  
16 accurate information, more quickly, about both the existence and status of Canadian protection  
17 orders and their terms and conditions. An enforcing State may facilitate the collection and  
18 dissemination of this information either by establishing a central registry or by providing a  
19 process by which information regarding registered orders is distributed to law enforcement  
20 officers and agencies across the State.

21  
22 While state law governs management of state registries, enforcing States should strongly  
23 consider keeping these protection orders under seal when implementing a registration system.  
24 The purpose of more effectively protecting victims of domestic violence will be undermined if  
25 respondents can use the process of registration to locate the very people who are trying to escape  
26 from them. In addition, VAWA prohibits States that provide for the registration or filing of  
27 orders from notifying other States of the registration or filing of the order without the permission  
28 of the individual registering or filing the order.

29  
30 Subsection (a) provides that any person, including a potential respondent, may register  
31 Canadian protection orders. This reason behind this provision is to ensure that all parties have  
32 the opportunity to provide relevant information to the State. Orders, for example, may be  
33 modified with custody arrangements. Subsection (a) also requires that a person seeking to  
34 register a Canadian protection order must present a certified copy of that order. The copy must  
35 be a writing on paper, thus exempting this requirement from the provisions of the Uniform

1 Electronic Transactions Act.

2

3 Subsection (c) provides that if the State has registered orders that are no longer in effect  
4 or are inaccurate, these orders must be removed from the registry or, in the case of error,  
5 corrected. Each government's law regarding the management of records governs the precise  
6 method of how state and federal registries manage their registries, including the deletion of  
7 inaccurate information.

8

9 If an order is registered under this section, the individual who registered the order is  
10 expected to inform the enforcing State of any modifications to the registered protection order.

11

12 **SECTION 6. IMMUNITY.** This State or local governmental agency, or a law  
13 enforcement officer, prosecuting attorney, clerk of court, or any state or local governmental  
14 official acting in an official capacity, is immune from civil and criminal liability for an act or  
15 omission arising out of the registration or enforcement of a Canadian protection order or the  
16 detention or arrest of an alleged violator of a foreign protection order if the act or omission was  
17 done in good faith in an effort to comply with this [Act].

18

#### **Comment**

19 States may, if they wish, substitute their own immunity provisions, so long as law  
20 enforcement officers, agencies, or other officials involved in the registration or enforcement of  
21 Canadian protection orders, under the immunity scheme chosen, are not dissuaded from  
22 enforcing such orders because of the fear of potential liability. This immunity provision includes  
23 States, state and local governmental agencies, and all state and local government officials acting  
24 in their official capacity in order to prevent those seeking the imposition of criminal and civil  
25 liability for acts or omissions done in good faith in an effort to comply with the provisions of this  
26 Act from circumventing this immunity provision. The necessity for a generous immunity  
27 provision for the enforcement of Canadian protection orders does not preclude state and local  
28 governments from using personnel and other internal sanctions in order to prevent and punish  
29 actions that, in the absence of this immunity provision, would have rendered the government  
30 agencies, officers, or officials civilly or criminally liable.

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32 **SECTION 7. OTHER REMEDIES.** A protected individual who pursues remedies  
33 under this [Act] is not precluded from pursuing other legal or equitable remedies against the  
34 respondent.

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**Comment**

This section clarifies that the protection orders enforced under the Act are not the only means of protection available to victims of domestic violence. Other legal remedies, such as tort actions and criminal prosecution, are left undisturbed by this Act.

**SECTION 8. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In

applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among States that enact it.

**SECTION 9. TRANSITIONAL PROVISION.** This [Act] applies to protection orders

issued before [the effective date of this [Act]] and to continuing actions for enforcement of Canadian protection orders commenced before [the effective date of this [Act]]. A request for enforcement of a Canadian protection order made on or after [the effective date of this [Act]] for violations of a Canadian protection order occurring before [the effective date of this [Act]] is governed by this [Act].

**Comment**

The provisions of this Act apply to all requests for enforcement of Canadian protection orders, both continuing and newly filed, made on or after its effective date. In addition, the provisions of this Act apply to the enforcement of Canadian protection orders issued before the effective date of this Act and to requests for enforcement of Canadian protection orders in which the alleged violation took place before the effective date of the Act.

**SECTION 10. SEVERABILITY CLAUSE.** If any provision of this [Act] or its

application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [Act] which can given effect without the invalid provision or application, and to this end the provisions of this [Act] are severable.

**Comment**

One of main purposes of this Act is to provide a mechanism for the cross-border enforcement of Canadian domestic-violence protection orders that does not rely on any federal mandate; by enacting this Act, States are exercising their independent authority to recognize and

1 enforce Canadian orders that they would not otherwise be required to enforce under the  
2 Constitution.

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4 **SECTION 11. EFFECTIVE DATE.** This [Act] takes effect on.... .