

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

Drafted by the

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

and by it

APPROVED AND RECOMMENDED FOR ENACTMENT
IN ALL THE STATES

at its

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STATUTORY TEXT ONLY

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By

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

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UNIFORM RECOGNITION AND ENFORCEMENT OF CANADIAN DOMESTIC VIOLENCE PROTECTION ORDERS ACT

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

SECTION 2. DEFINITIONS. In this [act]:

(1) “Canadian domestic violence protection order” means a judgment or part of a judgment or order issued in a civil proceeding by a court of Canada under law of the issuing jurisdiction which relates to domestic violence and prohibits a respondent from:

(A) being in physical proximity to a protected individual or following a protected individual;

(B) directly or indirectly contacting or communicating with a protected individual or other individual described in the order;

(C) being within a certain distance of a specified place or location associated with a protected individual; or

(D) molesting, annoying, harassing, or engaging in threatening conduct directed at a protected individual.

(2) “Domestic protection order” means an injunction or other order issued by a tribunal of this state which relates to domestic or family violence laws to prevent an individual from engaging in violent or threatening acts against, harassment of, direct or indirect contact or communication with, or being in physical proximity to another individual.

(3) “Issuing court” means the court that issues a Canadian domestic violence protection order.

(4) “Law-enforcement officer” means an individual authorized by law of this state other than this [act] to enforce a domestic protection order.

(5) “Person” means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(6) “Protected individual” means an individual protected by a Canadian domestic violence protection order.

(7) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(8) “Respondent” means an individual against whom a Canadian domestic violence protection order is issued.

(9) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. [The term includes a federally recognized Indian tribe.]

(10) “Tribunal” means a court, agency, or other entity authorized by law of this state other than this [act] to establish, enforce, modify, or register a domestic protection order.

SECTION 3. ENFORCEMENT OF CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER BY LAW-ENFORCEMENT OFFICER.

(a) If a law-enforcement officer determines under subsection (b) or (c) that there is probable cause to believe a valid Canadian domestic violence protection order exists and the order has been violated, the officer shall enforce the terms of the order as described in Section 2(1) as if they were in an order of a tribunal. Presentation to a law-enforcement officer of a certified copy of a Canadian domestic violence protection order is not required for enforcement.

(b) Presentation to a law-enforcement officer of a record of a Canadian domestic violence protection order that identifies both a protected individual and a respondent and on its face is in effect constitutes probable cause to believe that a valid order exists.

(c) If a record of a Canadian domestic violence protection order is not presented as provided in subsection (b), a law-enforcement officer may consider other information in determining whether there is probable cause to believe that a valid Canadian domestic violence protection order exists.

(d) If a law-enforcement officer determines that an otherwise valid Canadian domestic violence protection order cannot be enforced because the respondent has not been notified of or served with the order, the officer shall notify the protected individual that the officer will make reasonable efforts to contact the respondent, consistent with the safety of the protected individual. After notice to the protected individual and consistent with the safety of the individual, the law-enforcement officer shall make reasonable efforts to inform the respondent of the order, notify the respondent of the terms of the order, provide a record of the order, if available, to the respondent, and allow the respondent a reasonable opportunity to comply with the order before the officer enforces the order.

(e) If a law-enforcement officer determines that an individual is a protected individual, the officer shall inform the individual of available local victim services.

SECTION 4. ENFORCEMENT OF CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER BY TRIBUNAL.

(a) A tribunal may issue an order enforcing or refusing to enforce a Canadian domestic violence protection order on application of:

(1) a person authorized by law of this state other than this [act] to seek enforcement of a domestic protection order; or

(2) a respondent.

(b) In a proceeding under subsection (a) to determine whether to enforce a Canadian

domestic violence protection order, the tribunal shall follow the procedures of this state for enforcement of a domestic protection order. An order entered under this section is limited to the enforcement of the terms of the Canadian domestic violence protection order as described in Section 2(1).

(c) A Canadian domestic violence protection order for which enforcement is sought under this section is enforceable if:

- (1) the order identifies a protected individual and a respondent;
- (2) the order is valid and in effect;
- (3) the issuing court had jurisdiction over the parties and the subject matter under law applicable in the issuing court; and

- (4) the order was issued after:

- (A) the respondent was given reasonable notice and had an opportunity to be heard before the court issued the order; or

- (B) in the case of an ex parte order, the respondent was given reasonable notice and had or will have an opportunity to be heard within a reasonable time after the order was issued, in a manner consistent with the right of the respondent to due process.

(d) A Canadian domestic violence protection order valid on its face is prima facie evidence of its enforceability under this section.

(e) A claim that a Canadian domestic violence protection order does not comply with subsection (c) is an affirmative defense in a proceeding seeking enforcement of the order. If the tribunal determines that the Canadian domestic violence protection order should not be enforced, the tribunal shall issue an order that the Canadian domestic violence protection order is not enforceable under this section and Section 3 and is not subject to registration under Section 5.

[(f) This section applies to enforcement of a provision of a Canadian domestic violence protection order against a party to the order in which each party is a protected individual and respondent only if:

(1) the party seeking enforcement of the order filed a pleading requesting the order from the issuing court; and

(2) the court made specific findings that entitled the party to the enforcement sought.]

SECTION 5. REGISTRATION OF CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER.

Alternative A

(a) An individual may register a Canadian domestic violence protection order in this state. To register the order, the individual must present a copy of the order to:

(1) a [tribunal responsible for the registration of domestic protection orders]; or

(2) [an agency designated by the state], which shall present the Canadian domestic violence protection order to the [tribunal responsible for the registration of domestic protection orders].

(b) On receipt of a certified copy of a Canadian domestic violence protection order, the [tribunal responsible for the registration of domestic protection orders] shall register the order in accordance with this section.

(c) An individual registering a Canadian domestic violence protection order under this section shall file an affidavit stating that, to the best of the individual's knowledge, the order is valid and in effect.

(d) After a Canadian domestic violence protection order is registered under this section,

the [responsible tribunal] shall provide the individual registering the Canadian order a certified copy of the registered order.

(e) A Canadian domestic violence protection order registered under this section may be entered in a state or federal registry of protection orders in accordance with applicable law.

(f) An inaccurate, expired, or unenforceable Canadian domestic violence protection order may be corrected or removed from the registry of protection orders maintained in this state in accordance with law of this state other than this [act].

(g) [A fee may not be charged for the registration of a Canadian domestic violence protection order.

(h)] Registration in this state or filing under law of this state other than this [act] of a Canadian domestic violence protection order is not required for its enforcement under this [act].

Alternative B

(a) An individual may register a Canadian domestic violence protection order in this state. To register the order, the individual must present a certified copy of the order to a [tribunal responsible for the registration of domestic protection orders].

(b) Registration in this state or filing under law of this state other than this [act] of a Canadian domestic violence protection order is not required for its enforcement under this [act].

End of Alternatives

SECTION 6. IMMUNITY. The state and a state agency, a local governmental agency, law-enforcement officer, prosecuting attorney, clerk of court, and state or local governmental official acting in an official capacity are immune from civil and criminal liability for an act or omission arising out of the [registration or] enforcement of a Canadian domestic violence protection order or the detention or arrest of an alleged violator of a Canadian domestic violence

protection order if the act or omission was a good faith effort to comply with this [act].

SECTION 7. OTHER REMEDIES. An individual who seeks a remedy under this [act] may seek other legal or equitable remedies.

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. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This [act] modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

SECTION 10. TRANSITION. This [act] applies to a Canadian domestic violence protection order issued before, on, or after [the effective date of this [act]] and to a continuing action for enforcement of a Canadian domestic violence protection order commenced before, on, or after [the effective date of this [act]]. A request for enforcement of a Canadian domestic violence protection order made on or after [the effective date of this [act]] for a violation of the order occurring before, on, or after [the effective date of this [act]] is governed by this [act].

[SECTION 11. SEVERABILITY. 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 be given effect without the invalid provision or application, and to this end the provisions of this [act] are severable.]

SECTION 12. REPEALS; CONFORMING AMENDMENTS.

(a)

(b)

(c)

SECTION 13. EFFECTIVE DATE. This [act] takes effect