

DRAFT

FOR DISCUSSION ONLY

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

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

FEBRUARY, 1999

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

Without Prefatory Note and Reporter's Notes

COPYRIGHT© 1999

by

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

The ideas and conclusions set forth, in this draft, including the proposed statutory language and any comments or reporter's notes, have not been passed upon by the National Conference of Commissioners on Uniform State Laws or the Drafting Committee. They do not necessarily reflect the views of the Conference and its Commissioners and the Drafting Committee and its Members and Reporters. Proposed statutory language may not be used to ascertain the intent or meaning of any promulgated final statutory proposal.

**DRAFTING COMMITTEE ON INTERSTATE ENFORCEMENT OF
DOMESTIC VIOLENCE ORDERS ACT**

MARIAN P. OPALA, Supreme Court, Room 238, State Capitol, Oklahoma City, OK 73105,
Chair

DEBORAH E. BEHR, Office of Attorney General, Department of Law, P.O. Box 110300,
Juneau, AK 99811

WANDA WILLIAMS FINNIE, Office of the Public Defender, 121 Plumstead Drive, Freehold,
NJ 07728

SHAUN P. HAAS, Legislative Council, Suite 401, 1 E. Main Street, Madison, WI 53701-2536

ROGER P. MORGAN, P.O. Box 588, Mystic, CT 06355

ANN BOWEN POULIN, Villanova University School of Law, 299 North Spring Mill Road,
Garey Hall, Villanova, PA 19085

BATTLE R. ROBINSON, 104 W. Market Street, Georgetown, DE 19947

ROBERT B. WEBSTER, 255 S. Old Woodward Drive, 3rd Floor, Birmingham, MI 48009

ANDREW C. SPIROPOULOS, Oklahoma City University, School of Law, 2501 N.
Blackwelder, Oklahoma City, OK 73106, *Reporter*

EX OFFICIO

GENE N. LEBRUN, P.O. Box 8250, 9th Floor, 909 St. Joseph Street, Rapid City, SD 57709,
President

MARTHA T. STARKEY, One Indiana Square, Suite 2100, Indianapolis, IN 46204, *Division
Chair*

EXECUTIVE DIRECTOR

FRED H. MILLER, University of Oklahoma, College of Law, 300 Timberdell Road, Norman,
OK 73019, *Executive Director*

WILLIAM J. PIERCE, 1505 Roxbury Road, Ann Arbor, MI 48104, *Executive Director Emeritus*

Copies of this Act may be obtained from:

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS
211 E. Ontario Street, Suite 1300
Chicago, Illinois 60611
312/915-0195

1 **UNIFORM ENFORCEMENT OF DOMESTIC VIOLENCE ORDERS ACT**

2 **SECTION 1. DEFINITIONS**

3 (a) “enforcing state” means the court of the state that is enforcing a foreign
4 protection order.

5 (b) “foreign protection order” means a protection order issued by another state.

6 (c) “issuing court” means the court of the state that issued the protection order.

7 (d) “protected person” means any individual or individuals who are protected by a
8 protection order.

9 (e) “protection order” means any injunction or other order issued for the purpose
10 of preventing violent or threatening acts or harassment against, or contact or
11 communication with or physical proximity to another person, including temporary and
12 final orders issued by civil and criminal courts (other than support or custody orders)
13 whether obtained by filing an independent action or as a pendente lite order in another
14 proceeding so long as any civil order was issued in response to a complaint, petition or
15 motion filed by or on behalf of a person seeking protection.

16 (f) “State” means a State of the United States, the District of Columbia, Puerto
17 Rico, the United States Virgin Islands, or any territory or insular possession subject to the
18 jurisdiction of the United States. The term “state” includes an Indian tribe.

19 (g) “valid” means the protection order submitted for enforcement:

20 (1) is currently in force;

21 (2) was issued by a court that had jurisdiction over the parties and
22 matter under the law of the issuing state; and

1 (3) was issued on the condition that the defendant was provided
2 with reasonable notice and the opportunity to be heard before the issuing court rendered
3 the order, or, in the case of ex parte orders, the defendant was granted such notice and
4 opportunity to be heard as soon as possible after the issuing of the order.
5

6 **SECTION 2. ENFORCEMENT OF ORDERS**

7 (a) Any valid foreign protection order shall be accorded full faith and credit by the
8 courts of this state as if it were the order of the courts of this state.

9 (b) A valid foreign protection order shall be enforced by the courts and law
10 enforcement officials of this state for thirty days after the arrival of the person or persons
11 protected by the order, regardless of whether or not the order has been registered pursuant
12 to the provisions of Section 3. During this thirty day period, there shall be a presumption
13 of validity where an order appears valid on its face.

14 (c) After thirty days from the arrival of the person or persons protected by a valid
15 foreign protection order, such an order shall be enforced only if it is registered in
16 accordance with the procedures described in Section 3 of this chapter.
17

18 **SECTION 3. REGISTRATION OF ORDERS**

19 (a) In order to register a foreign protection order for enforcement by the courts of
20 this state, a protected person must either:

21 (1) present a copy of the foreign protection order to the clerk of the local
22 court responsible for the enforcement of such orders; or

1 (2) present a copy of the foreign protection order to any law enforcement
2 officer in the state and request that the order be registered with the clerk of the local court
3 responsible for enforcement of such orders. Once in receipt of the foreign order, the clerk
4 shall register the order in accordance with sections 3(b)-(c) of this chapter.

5 (b) The clerk of the responding court shall register a foreign protection order for
6 enforcement if the order is valid. Presentation of a certified or true copy of the foreign
7 protection order shall not be required as a condition for enforcement under this chapter,
8 provided that a conflicting certified copy is not presented by the defendant or the
9 individual against whom enforcement is sought. In determining whether a foreign
10 protection order is valid, the clerk of the enforcing court shall contact the clerk of the
11 issuing court to ascertain if the order is valid.

12 (c) A protected person may demonstrate a foreign protection order is valid by
13 filing an affidavit swearing, to the best of that person's knowledge, that the order is valid.

14 (d) All foreign protection orders registered under this chapter shall be entered in
15 any existing state or federal registries of protection orders. [Proof of registration in this
16 state's registry will constitute proof of validity for enforcement under this chapter.]

17 (e) Upon registration of the foreign protection order, the clerk of the court of the
18 enforcing state shall notify the issuing court that the order has been registered. Such
19 notification shall be given only upon the condition that the person subject to the
20 protection order shall not be notified of the registration of the order and that the order
21 remain under seal. If the court of this state is the issuing state, upon the revocation or
22 modification of the court's orders, all states that have notified this state that its orders

1 have been registered in their respective states shall be notified of the modification or
2 revocation of this state's orders.

3 (f) No fee or cost shall be charged for the registration of foreign protection orders
4 pursuant to the provisions of this chapter.

5
6 **SECTION 4. CROSS OR COUNTER PETITION**

7 A foreign protection order issued against a protected person seeking enforcement
8 of a protection order under this chapter is not entitled to full faith and credit if:

9 (1) no cross or counter petition, complaint, or other written pleading was filed
10 seeking such a protection order; or

11 (2) a cross or counter petition has been filed and the issuing court did not make
12 specific findings that each party protected by the order was entitled to such an order.

13
14 **SECTION 5. IMMUNITY OF LAW ENFORCEMENT OFFICERS**

15 Any law enforcement officer acting in good faith under the provisions of this
16 chapter shall be immune from all liability, civil or criminal, in any action arising in
17 connection with a court's finding that the foreign protection order was not valid or
18 enforceable.