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FOR DISCUSSION ONLY

RECOGNITION AND ENFORCEMENT OF CANADIAN DOMESTIC VIOLENCE PROTECTION ORDERS ACT

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ON UNIFORM STATE LAWS

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RECOGNITION AND ENFORCEMENT OF CANADIAN DOMESTIC VIOLENCE PROTECTION ORDERS ACT

WITH PREFATORY NOTE AND COMMENTS

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ON UNIFORM STATE LAWS

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July 8, 2014

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

3 4 **Prefatory Note**

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

13
14 Both the UECJDA and this act are part of state, federal, and international efforts to
15 recognize domestic violence protection orders across jurisdictions. The United States has been a
16 part of these efforts since 1994 with the enactment of the Violence Against Women Act, or
17 VAWA,¹ in which Congress required states to grant full faith and credit to the protection orders
18 of other states.² Many states enacted legislation recognizing the domestic violence orders of
19 sister states,³ and in 2000, the Uniform Law Commission (ULC) approved the Uniform Interstate
20 Enforcement of Domestic-Violence Protection Orders Act (UIEDVPOA), encouraging states to
21 recognize and enforce the domestic violence orders of other states.⁴ In 2011, the Uniform Law
22 Conference of Canada (ULCC) approved the UECJDA, which provides for the recognition of
23 foreign protection orders – including those of the United States – unless the foreign state of
24 origin has been expressly excluded from the provisions of the act.

25
26 The Hague Conference on Private International Law is also studying the recognition of
27 domestic violence protection orders across jurisdictions. In March, 2012, the Conference issued
28 the *Recognition and Enforcement of Foreign Civil Protection Orders: A Preliminary Note*.
29 Through case studies based on actual incidents, the work illustrates the problems and dangers
30 created in a world without cross-border recognition of domestic violence protection orders. The
31 note also summarizes national protection order regimes and describes proposed and existing
32 models of cross-border recognition, including VAWA, the UIEDVPOA, and the UECJDA. The
33 Conference has released the responses to its *Questionnaire on the Recognition of Foreign Civil*
34 *Protection Orders* in a *Summary of Member Responses and Possible Ways Forward*.

35
36 The Hague Conference on Private International Law continues to study the advisability of
37 drafting a convention on cross-jurisdictional recognition of domestic violence protection orders.
38 In the meantime, this act takes a step towards recognition and enforcement of protection orders

¹ 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.).

² 18 U.S.C § 2265.

³ 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).

⁴ 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 register the foreign order. Likewise, both provide
8 that a law enforcement agency or court 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...”⁵ In other words, the UECJDA focuses only on the emergency presented by the
17 threat of violence from an individual who has been ordered to stay away from the individual who
18 is now the subject of the threat. The UECJDA seeks to empower law enforcement in that
19 emergency to take “cautious preventive action” that may be challenged by the parties “if
20 subsequently viewed as inappropriate or inaccurate by either party.”⁶

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.⁷

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.⁸

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 2013 amendments that
38 implement the Hague Convention on the Protection of Children. This act, like the UECJDA,
39 pursues the narrower goal of addressing the emergency of threatened violence.

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

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

⁶ *Id.*, note [6], p. 3.

⁷ UECJDA, § 9.1.

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

1 Canadian *civil* orders. While the UIEDVPOA's definition of protection orders includes certain
2 criminal orders, such as anti-stalking orders, other sections of the UIEDVPOA recognize the
3 problems inherent in enforcing the criminal law of a sister state.⁹ The international setting only
4 multiplies the issues; therefore, the act recognizes and enforces only Canadian civil protection
5 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 just by *courts*, but also by
9 *tribunals*, including an "agency...or other entity authorized by law to issue or modify a
10 protection order."¹⁰ Following the lead of the UECJDA, this act provides for narrower
11 recognition, limiting the recognition of Canadian protection orders to civil orders issued by
12 Canadian courts.¹¹

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.¹² 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."¹³ 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

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

¹⁰ UIEDVPOA, § 2 (8).

¹¹ UECJDA, § 9.1.

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

¹³ 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 Canadian court must certify the copy presented for registration. The purpose of these procedures
4 is to make it as easy as possible for the protected individual to register the protection order and
5 facilitate its enforcement.

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

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

5 **SECTION 2. DEFINITIONS.** In this [act]:

6 (1) “Canadian protection order” means a judgment or part of a judgment, an injunction,
7 or other order issued in a civil proceeding by a court of Canada under law of the issuing
8 jurisdiction which prohibits an individual from:

9 (A) being in physical proximity to a specified individual or following a specified
10 individual;

11 (B) contacting or communicating, either directly or indirectly, with a specified
12 individual;

13 (C) being within a certain distance of a specified place or location; or

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

16 (2) “Domestic protection order” means an injunction or other order issued by a tribunal to
17 prevent an individual from engaging in violent or threatening acts against, harassment of, contact
18 or communication with, or physical proximity to another individual.

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

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

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

23 (6) “Respondent” means an individual against whom enforcement of a Canadian

1 protection order is sought.

2 (7) “State” means a state of the United States, the District of Columbia, Puerto Rico, the
3 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of
4 the United States. The term includes an Indian tribe or band recognized by federal law or
5 formally acknowledged by a state.

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

8 **Comment**

9 The term “Canadian protection order” is more limited than the definition of “protection
10 order” under the UIEDVPOA, whose protection orders include orders in criminal proceedings.¹⁴
11 While this act limits Canadian protection orders to civil orders, enforcement of a Canadian
12 protection order might have criminal consequences. Most states provide that the violation of a
13 protection order is a misdemeanor. See, e.g., N.C. Gen. Stat. § 50B-4.1(a) (2013) (“Except as
14 otherwise provided by law, a person who knowingly violates a valid protective order entered
15 pursuant to this Chapter or who knowingly violates a valid protective order entered by the courts
16 of another state or the courts of an Indian tribe shall be guilty of a Class A1 misdemeanor.”)
17 These consequences would likewise attach to violation of a Canadian protection order. Also, a
18 Canadian protection order includes an order modifying a previous order. A modified order,
19 therefore, is enforceable under the act in the same manner as a newly issued order.

20
21 The terms “protected individual” and “respondent” refer to the relief sought by a party in
22 the action brought in the enforcing state. The act recognizes that neither the protected individual
23 nor the respondent may have been a named party in the action brought in the issuing court; the
24 act applies to individuals meeting the definition of protected individual or respondent whether
25 they were named in the caption or the body of the protection order. The “protected individual”
26 may be a child, for example, for whose sake a parent is seeking to enforce the Canadian order.
27 The act also recognizes that the parties may have been called by different terms, e.g. plaintiff,
28 defendant, or petitioner, in the issuing court.

29 30 **SECTION 3. NONJUDICIAL ENFORCEMENT OF CANADIAN PROTECTION** 31 **ORDER.**

32 (a) A law enforcement officer of this state, on determination of probable cause to believe
33 that a valid Canadian protection order exists and that the order has been violated, shall enforce

¹⁴ UIEDVPOA, § 2 (5).

1 the Canadian protection order as if it were an order of a tribunal.

2 (b) Presentation of a copy of a Canadian protection order that identifies both the protected
3 individual and the respondent and, on its face, is currently in effect constitutes probable cause to
4 believe that a valid Canadian protection order exists. For the purposes of this section, the
5 Canadian protection order may be inscribed on a record. Presentation of a certified copy of a
6 Canadian protection order is not required for enforcement.

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

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

15 (e) Registration or filing in this state of a Canadian protection order is not required for its
16 enforcement under this [act].

17 **Comment**

18
19 The enforcement procedures in subsections (a) and (b) rely on the sound exercise of the
20 judgment of law enforcement officers to determine whether there exists probable cause to
21 believe that a valid Canadian protection order exists and has been violated. These procedures
22 anticipate that there will be many instances in which the protected individual does not have, or
23 cannot, under the circumstances, produce a paper copy of the Canadian protection order.
24

25 Subsection (a) establishes a per se rule for determining probable cause of the existence of
26 an order. If the protected individual presents proof of a facially valid order, the order should be
27 enforced. The protected individual may provide this proof with a paper copy (which need not be
28 certified) of a Canadian protection order or through an electronic medium, such as a registry of
29 orders. In determining whether there is proof of a facially valid order, a law enforcement officer
30 should search a registry of orders, if possible, using an electronic or other medium.

1 This section applies with equal force to orders written in a language other than English.
2 As of this date, the province of Quebec does not issue protection orders. Conversation with
3 Darcy McGovern, Member, Uniform Law Conference of Canada, March 21, 2014. For this
4 reason, there may be few Canadian protection orders in a language other than English.
5

6 Subsection (b) concerns the situation in which the protected individual cannot present
7 direct proof of the Canadian protection order. In this situation, law enforcement officers are
8 expected to obtain information from all available sources, including interviewing the parties and
9 contacting other law enforcement agencies, to determine whether a valid protection order is in
10 effect. If the officer finds, after considering the totality of the circumstances, that there is
11 probable cause to believe that a valid Canadian protection order exists and has been violated, he
12 or she should enforce the order. This probable cause determination must meet the constitutional
13 standards for determining probable cause. If it is later determined that no such order was in
14 place or the order was otherwise unenforceable, Section 6 protects law enforcement agencies,
15 officers, or other state officials for actions taken in good faith.
16

17 Subsection (c) provides that if a law enforcement officer discovers in the course of a
18 probable cause investigation that the respondent has not been notified of the issuance of or
19 served with an otherwise valid Canadian protection order, the officer must then inform the
20 respondent of the terms and conditions of the protection order and make a reasonable effort to
21 serve the order upon the respondent. The respondent must be allowed a reasonable opportunity
22 to comply with the order before the order is enforced.
23

24 Subsection (d) makes clear that if a state either adopts its own process for the registration
25 or filing of Canadian protection orders or adopts the process provided in Section 5, the state may
26 not require the registration or filing of a Canadian protection order for enforcement.
27

28 **SECTION 4. JUDICIAL ENFORCEMENT OF CANADIAN PROTECTION**

29 **ORDER.**

30 (a) In this section, “mutual Canadian protection order” means a Canadian protection
31 order that includes provisions protecting both the individual seeking recognition or enforcement
32 of the order and the respondent. A tribunal of this state may enforce provisions of a mutual
33 Canadian protection order that protect a respondent only if:

34 (1) the respondent filed a pleading seeking a protection order from the issuing
35 court; and

36 (2) the issuing court made specific findings that entitled the respondent to the
37 issuance of a Canadian protection order.

1 (b) A tribunal may issue an order enforcing a valid Canadian protection order on
2 application of a person authorized by law of this state other than this [act] to seek enforcement of
3 a domestic protection order.

4 (c) In a proceeding to enforce a Canadian protection order, the tribunal shall follow the
5 procedures of this state for the enforcement of a domestic protection order.

6 (d) A Canadian protection order is valid if it:

7 (1) identifies a protected individual and a respondent;

8 (2) is currently in effect;

9 (3) was issued by a court that had jurisdiction over the parties and subject matter
10 under law of the issuing court's jurisdiction; and

11 (A) was issued after the respondent was given reasonable notice and had
12 an opportunity to be heard before the court issued the order, or

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

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

17 (f) Absence of any of the criteria under subsection (d) for validity of a Canadian
18 protection order is an affirmative defense in an action seeking enforcement of the order.

19 **Comment**

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

1 of the Canadian protection order, however, the tribunal of the enforcing state shall follow its own
2 procedures.

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

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

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

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

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

41 42 **[SECTION 5. REGISTRATION OF CANADIAN PROTECTION ORDER.]**

43 (a) An individual may register a Canadian protection order in this state. To register a
44 Canadian protection order, the individual must present a certified copy of the Canadian

1 protection order to:

2 (1) [a state agency responsible for the registration of domestic protection orders];

3 or

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

6 (b) On receipt of a Canadian protection order, the [agency responsible for the registration
7 of domestic protection orders] shall register the order in accordance with this section. After the
8 Canadian protection order is registered, the [responsible agency] shall provide to the individual
9 registering the Canadian protection order a certified copy of the registered Canadian protection
10 order.

11 (c) The [agency responsible for the registration of the Canadian protection order] shall
12 correct or remove a registered Canadian protection order in accordance with law of this state
13 other than this [act].

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

17 (e) A Canadian protection order registered under this [act] may be entered in a state or
18 federal registry of protection orders in accordance with applicable law.

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

20 **Legislative Note:** This section is bracketed because a state may prefer to use its existing systems
21 of registration to register Canadian protection orders. While enforcement of a Canadian
22 protective order does not require registration, it is highly desirable that a state provides an
23 optional registration process. A registration system supplies law enforcement officers and
24 agencies more accurate information, more quickly, about both the existence and status of
25 Canadian protection orders and their terms and conditions. An enforcing state may facilitate the
26 collection and dissemination of this information either by establishing a central registry or by
27 providing a process by which information regarding registered orders is distributed to law

1 *enforcement officers and agencies across the state.*

2
3 *While state law governs management of state registries, enforcing states should strongly*
4 *consider keeping these protection orders under seal when implementing a registration system.*
5 *The purpose of more effectively protecting victims of domestic violence will be undermined if*
6 *respondents can use the process of registration to locate the very people who are trying to*
7 *escape from them. In addition, the Violence Against Women Act prohibits states that provide for*
8 *the registration or filing of orders from notifying other states of the registration or filing of the*
9 *order without the permission of the individual registering or filing the order.*

11 **Comment**

12
13 Subsection (a) provides that any individual, including a potential respondent, may
14 register Canadian protection orders. In this way, the provision tries to ensure that all parties have
15 the opportunity to provide relevant information to the state. Orders, for example, may be
16 modified with custody arrangements. Subsection (a) also requires that a person seeking to
17 register a Canadian protection order must present a certified copy of that order. The copy must
18 be a writing on paper, thus exempting this requirement from the provisions of the Uniform
19 Electronic Transactions Act.

20
21 Subsection (c) provides that if the state has registered orders that are no longer in effect
22 or are inaccurate, these orders must be removed from the registry or, in the case of error,
23 corrected. Each government's law regarding the management of records governs the precise
24 method of how state and federal registries manage their registries, including the deletion of
25 inaccurate information.

26
27 [Add comments for subsections (b), (d), (e), and (f).]

28
29 **SECTION 6. IMMUNITY.** This state or a state agency, local governmental agency,
30 law enforcement officer, prosecuting attorney, clerk of court, or state or local governmental
31 official acting in an official capacity is immune from civil and criminal liability for an act or
32 omission arising out of the [registration or] enforcement of a Canadian protection order or the
33 detention or arrest of an alleged violator of a Canadian protection order if the act or omission
34 was a good faith effort to comply with this [act].

35 **Comment**

36 This section grants immunity from criminal or civil liability to states, state and local
37 governmental agencies, and all state and local government officials acting in their official
38 capacity for acts or omissions done in good faith in an effort to comply with the provisions of
39 this act. Immunity for the enforcement of Canadian protection orders does not preclude state

1 and local governments from using personnel and other internal sanctions in order to prevent and
2 punish actions that, in the absence of this immunity provision, would have rendered the
3 government agencies, officers, or officials civilly or criminally liable. Also, a state may, if it
4 wishes, substitute its own immunity provisions, so long as law enforcement officers, agencies, or
5 other officials involved in the registration or enforcement of Canadian protection orders, under
6 the immunity scheme chosen, are not dissuaded from enforcing such orders because of the fear
7 of potential liability.

8
9 **SECTION 7. OTHER REMEDIES.** A protected individual who pursues remedies
10 under this [act] is not precluded from pursuing other legal or equitable remedies against the
11 respondent.

12 **Comment**

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

16
17 **SECTION 8. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In
18 applying and construing this uniform act, consideration must be given to the need to promote
19 uniformity of the law with respect to its subject matter among states that enact it.

20 **SECTION 9. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND**
21 **NATIONAL COMMERCE ACT.** This [act] modifies, limits, or supersedes the Electronic
22 Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not
23 modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize
24 electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C.
25 Section 7003(b).

26 **SECTION 10. APPLICATION.** This [act] applies to a Canadian protection order
27 issued before [the effective date of this [act]] and to a continuing action for enforcement of a
28 Canadian protection order commenced before [the effective date of this [act]]. A request for
29 enforcement of a Canadian protection order made on or after [the effective date of this [act]] for

1 a violation of a Canadian protection order occurring before [the effective date of this [act]] is
2 governed by this [act].

3 **Comment**

4 The provisions of this act apply to all requests for enforcement of Canadian protection
5 orders, both continuing and newly filed, made on or after its effective date. In addition, the
6 provisions of this act apply to the enforcement of Canadian protection orders issued before the
7 effective date of this act and to requests for enforcement of Canadian protection orders in which
8 the alleged violation took place before the effective date of the act.
9

10 **[SECTION 11. SEVERABILITY CLAUSE.** If any provision of this [act] or its
11 application to a person or circumstance is held invalid, the invalidity does not affect other
12 provisions or applications of this [act] which can be given effect without the invalid provision or
13 application, and to this end the provisions of this [act] are severable.]

14 **Comment**

15
16 One of main purposes of this act is to provide a mechanism for the cross-border
17 enforcement of Canadian protection orders that does not rely on any federal mandate. By
18 enacting this act, states are exercising their independent authority to recognize and enforce
19 Canadian orders that they would not otherwise be required to enforce under the Constitution.
20

21 **[SECTION 12. REPEALS; CONFORMING AMENDMENTS.**

22 (a)

23 (b)

24 (c)]

25 **SECTION 13. EFFECTIVE DATE.** This [act] takes effect on....