2017 WISCONSIN ACT 181

AN ACT *to create* 813.1283 of the statutes; **relating to:** the Uniform Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act and providing a criminal penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 813.1283 of the statutes is created to read:

813.1283 Uniform Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act. **(1)** SHORT TITLE. This section may be cited as the Uniform Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act.

(2) DEFINITIONS. In this section:

(a) "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 doing any of the following:

1. Being in physical proximity to a protected individual or following a protected individual.

2. Directly or indirectly contacting or communicating with a protected individual or other individual described in the order.

3. Being within a certain distance of a specified place or location associated with a protected individual.

4. Molesting, annoying, harassing, or engaging in threatening conduct directed at a protected individual.

(b) "Domestic protection order" means an injunction or other order issued by a tribunal 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.

(c) "Issuing court" means the court that issues a Canadian domestic violence protection order.

(d) "Law enforcement officer" means an individual authorized by law of this state other than this section to enforce a domestic protection order.

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

(f) "Protected individual" means an individual protected by a Canadian domestic violence protection order.

(g) "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.

(h) "Respondent" means an individual against whom a Canadian domestic violence protection order is issued.

(i) "State" means a state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, a federally recognized American Indian tribe or band, or any territory or insular possession subject to the jurisdiction of the United States.

(j) "Tribunal" means a court, agency, or other entity authorized by law of this state other than this section to establish, enforce, or modify a domestic protection order.

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* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

(3) ENFORCEMENT BY A LAW ENFORCEMENT OFFICER. (a) If a law enforcement officer determines under par. (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 Canadian domestic violence protection order as if the terms 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 par. (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 officer shall make a reasonable effort 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.

(4) ENFORCEMENT BY A TRIBUNAL. (a) A tribunal may issue an order enforcing or refusing to enforce a Canadian domestic violence protection order on application by any of the following:

1. A person authorized by law of this state other than this section to seek enforcement of a domestic protection order.

2. A respondent.

(b) In a proceeding under par. (a), the tribunal shall follow the procedures of this state for enforcement of a domestic protection order under s. 813.12, 813.122, 813.123, or 813.125. An order entered under this subsection is limited to the enforcement of the terms of the Canadian domestic violence protection order as described in sub. (2) (a).

(c) A Canadian domestic violence protection order is enforceable under this subsection if all of the following are true:

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.

4. The order was issued after any of the following:

a. The respondent was given reasonable notice and had an opportunity to be heard before the court issued the order.

b. In the case of an ex parte order, the respondent was given a 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 subsection.

(e) A claim that a Canadian domestic violence protection order does not comply with par. (c) is an affirmative defense in a proceeding seeking enforcement of the order. If the tribunal determines that the order is not enforceable, the tribunal shall issue an order that the Canadian domestic violence protection order is not enforceable under this subsection and sub. (3) and may not be registered under sub. (5).

(f) This subsection 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 the party seeking enforcement of the order filed a pleading requesting the order from the issuing court and the court made specific findings that entitled the party to the enforcement sought.

(5) FILING. (a) A certified copy of any Canadian domestic violence protection order, or of a modification of a Canadian domestic violence protection order that is on file with the circuit court may be filed in the office of the clerk of circuit court of any county of this state. The clerk may not charge a fee for the filing of a Canadian domestic violence protection order. The clerk shall treat any Canadian domestic violence protection order or modification so filed in the same manner as a judgment of the circuit court. Filing of a Canadian domestic violence protection order under the laws of this state is not required for its enforcement under this section.

(b) Within one business day after a Canadian domestic violence protection order or a modification of a foreign protection order is filed under this subsection, the clerk of circuit court shall send a copy of the Canadian domestic violence protection order or modification of the order to the sheriff in that circuit or to the local law enforcement agency that is the central repository for orders and injunctions in that circuit.

(c) The sheriff or law enforcement agency that receives a copy of a Canadian domestic violence protection order or of a modification of an order from the clerk

under par. (b) shall enter the information received concerning the order or modification of an order into the transaction information for management of enforcement system no later than 24 hours after receiving the information. The sheriff or law enforcement agency shall make available to other law enforcement agencies, through a verification system, information on the existence and status of any order or modification of an order filed under this subsection. The information need not be maintained after the order or modification is no longer in effect.

(6) IMMUNITY. A state, state agency, 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 filing 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 section.

(7) OTHER REMEDIES. An individual who seeks a remedy under this section may seek other legal or equitable remedies.

(8) UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this section, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

(9) RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This section modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 USC 7001 to 7031, but does not modify, limit, or supersede section 101 (c) of that act, 15 USC 7001 (c), or authorize electronic delivery of any of the notices described in section 103 (b) of that act, 15 USC 7003 (b).

(10) APPLICABILITY. This section applies to a Canadian domestic violence protection order issued before, on, or after the effective date of this subsection .... [LRB inserts date], and to a continuing action for enforcement of a Canadian domestic violence protection order commenced before, on, or after the effective date of this subsection .... [LRB inserts date]. A request for enforcement of a Canadian domestic violence protection order made on or after the effective date of this subsection .... [LRB inserts date], for a violation of the order occurring before, on, or after the effective date of this subsection .... [LRB inserts date], is governed by this section.

(11m) PENALTY. A person who knowingly violates a condition of a Canadian domestic violence protection order or modification of a Canadian domestic violence protection order that is enforceable under this section shall be fined not more than $10,000 or imprisoned for not more than 9 months or both. If a Canadian domestic violence protection order and any modification of that order that is enforceable under this section remains current and in effect at the time that a court convicts a person for a violation of that order or modification of that order, but that order or modification has not been filed under this section, the court shall direct the clerk of circuit court to file the order and any modification of the order.