



## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

**2017 Wisconsin Act 181**  
[2017 Assembly Bill 451]

### **Recognition and Enforcement of Canadian Domestic Violence Protection Orders**

2017 Wisconsin Act 181 adopts, in substantial part, the model Uniform Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act, approved and recommended by the National Conference of Commissioners on Uniform State Laws in 2015.

Current law incorporates the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, which allows recognition and enforcement of domestic violence protection orders from other states. The Act generally expands recognition to civil domestic protection orders issued by Canadian courts, referred to under the Act as “Canadian domestic violence protection orders.”

### **CANADIAN DOMESTIC VIOLENCE PROTECTION ORDERS**

The Act generally defines a Canadian domestic violence protection order as a judgment or order issued in a civil proceeding by a Canadian court which relates to domestic violence and prohibits a respondent from doing any of the following:

- Being in physical proximity to or following a protected individual.
- Directly or indirectly contacting or communicating with a protected or other individual described in the order.
- Being within a certain distance of a specified place or location associated with a protected individual.
- Molesting, annoying, harassing, or engaging in threatening conduct directed at a protected individual.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.wisconsin.gov>.

## **ENFORCEMENT BY A LAW ENFORCEMENT OFFICER**

Under the Act, a law enforcement officer must enforce the terms of a Canadian domestic violence protection order if the officer determines that there is probable cause to believe the order is valid and has been violated. The Act specifies that probable cause exists when a law enforcement officer is presented with a record, as defined under the Act, of a Canadian domestic violence protection order that identifies both a protected individual and a respondent and is, on its face, in effect. A law enforcement officer may consider other information in determining whether probable cause exists, if no such record is presented to the officer.

The Act generally requires that, 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 law enforcement officer must notify the protected individual and make reasonable efforts to notify the respondent and allow the respondent a reasonable opportunity to comply with the order before the officer enforces the order.

## **ENFORCEMENT BY A TRIBUNAL**

Upon application by certain applicants, a tribunal<sup>1</sup>, may issue an order enforcing or refusing to enforce a Canadian domestic violence protection order. A Canadian domestic violence protection order is enforceable if all of the following apply:

- The order identifies a protected individual and a respondent.
- The order is valid and in effect.
- The issuing court had jurisdiction over the parties and the subject matter.
- The order was issued after the respondent was given reasonable notice and had an opportunity to be heard or, in the case of an ex parte order, after 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.

## **FILING**

The Act provides an optional procedure for filing a Canadian domestic violence protection order in the office of the clerk of circuit court of any county of this state. However, the filing of a Canadian domestic violence protection order with the clerk of circuit court is not required for its enforcement. The filing procedure under the Act is similar to the procedure for filing domestic violence protection orders from other states under current law, which differs from the language under the model act.

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<sup>1</sup> Under the Act, “tribunal” means a court, agency, or other entity authorized by law of this state to establish, enforce, or modify a domestic protection order.

## **PENALTY**

The Act provides a criminal penalty for certain violations, which is an addition to the model act. Under the Act, a person who knowingly violates a condition of an enforceable Canadian domestic violence protection order must be fined not more than \$10,000, or imprisoned for not more than nine months, or both.

## **APPLICABILITY**

The Act applies to a Canadian domestic violence protection order issued before, on, or after the Act's effective date, and to a continuing action for enforcement of a Canadian domestic violence protection order commenced before, on, or after the Act's effective date.

A request for enforcement of a Canadian domestic violence protection order made on or after the Act's effective date for a violation of the order occurring before, on, or after the Act's effective date is governed by the Act.

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