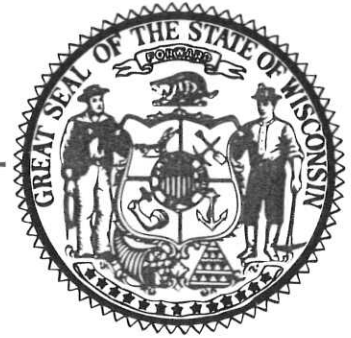


FRED A. RISSER

Wisconsin State Senator



January 7, 2016

Senator Van Wanggaard, Chair
Senate Committee on Judiciary and Public Safety
319 South, State Capitol
Madison, WI 53707

Dear Chairman Wanggaard,

Thank you for holding a hearing on Senate Bill 351. I am pleased to have co-authored this bill with you in the Senate and with Representative Andre Jacque in the Assembly.

The purpose of this bipartisan bill is to implement the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act in Wisconsin as recommended by the National Conference of Commissioners on Uniform State Laws in 2000 and amended in 2002. I am a Commissioner with both the Wisconsin and National Uniform Law Commissions.

The Uniform Interstate Enforcement of Domestic Violence Protection Orders Act establishes a uniform system for the enforcement of domestic violence protection orders across state lines. The Act furthers the purpose of the Federal Violence Against Women Act of 1994's "full faith and credit" provision regarding protection orders issued by states.

Current law gives domestic violence protection orders issued by another state or an Indian tribe full faith and credit in this state, allowing those orders to be enforced in courts in this state if they meet certain procedural requirements. Current law also gives law enforcement officers the authority to arrest a person subject to a protection order if the law enforcement officer has probable cause to believe the person has violated a valid foreign protection order.

This bill consolidates those separate units of current law and creates additional statutory language to enact the 2002 Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

The Act defines "protection order" to be an injunction or other order, issued by a tribunal under the domestic violence, family violence, or anti-stalking laws of the issuing state, to prevent an individual from engaging in violent or threatening acts against, harassment of, contact or communication with, or physical proximity to another individual.

This Act has already been enacted in 20 jurisdictions; 18 states, along with the District of Columbia and the U.S. Virgin Islands. Domestic violence victims need and deserve protection regardless of where a protection order was issued. The Act helps to ensure victims receive that protection across state lines.

For reference, I have attached to my testimony a summary of the Uniform Act from the National Uniform Law Commission along with a memo from the Commission outlining the reasons states should adopt this Uniform Act.

I appreciate your willingness to schedule this measure for a public hearing and I urge the committee to look favorably upon this important legislation.

Most Sincerely,



FRED A. RISSE
Wisconsin State Senate

FAR:tet
Enclosures
Cc: Senate Committee on Judiciary and Public Safety



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Chairman Wanggaard and Committee Members,

Thank you for holding this hearing on Senate Bill 351, which will implement the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act in Wisconsin (UIEDVPOA) by consolidating current state law and creating the additional statutory language necessary to make it effective. Chairman Wanggaard, I am pleased to join you and Senators Risser in bringing forward this solid bi-partisan legislation, which has already been enacted in 18 states, along with the District of Columbia and the U.S. Virgin Islands and is an initiative of the National Conference of Commissioners on Uniform State Laws and supported by the American Bar Association.

This legislation is about giving victims the protection that they need and deserve regardless of where the protection order was granted. The UIEDVPOA establishes uniform procedures that enable courts to recognize and enforce valid domestic protection orders issued in other jurisdictions, and do so in the way that was intended by the issuing jurisdiction, ensuring the full “faith and credit” of the federal Violence Against Women Act is protected and avoiding confusion in interstate enforcement. UIEDVPOA has been amended to cover orders arising under an issuing state’s anti-stalking laws, such as Wisconsin’s.

Specifically, Senate Bill 351 requires that courts and law enforcement must enforce the terms of valid protection orders from other states as if they were entered by the enforcing state, until the order expires. All terms of the order are to be enforced. An individual may, but is not required to register a foreign protection order with the enforcing state to prevent possible challenges and facilitate effective enforcement. Law enforcement officers, government agencies, prosecuting attorneys, clerks of court or other officials are protected from civil and criminal liability for enforcement of a protection order in good faith.

Thank you for your consideration of Senate Bill 351.



WHY YOUR STATE SHOULD ADOPT THE UNIFORM INTERSTATE ENFORCEMENT OF DOMESTIC VIOLENCE PROTECTION ORDERS ACT

The **Uniform Interstate Enforcement of Domestic Violence Protection Orders Act** (“UIEDVPOA”) promulgated by the Uniform Law Commission in 2000 and amended in 2002, establishes a uniform system for the enforcement of domestic violence protection orders across state lines. The Act furthers the purpose of the Federal Violence Against Women Act of 1994’s “full faith and credit” provision regarding protection orders issued by states. While the federal provision was an important step toward protection, the Act helps to answer some crucial questions regarding procedural aspects of enforcement that were left open.

In addition, while some states have enacted their own legislation regarding interstate enforcement of protection orders, these statutes vary greatly, especially with regards to methods of enforcement and the extent to which each will enforce foreign protection orders. Therefore, the UIEDVPOA should be enacted to ensure that protection orders are effectively given full faith and credit.

The Act has two purposes: (1) to define the meaning of full faith and credit as it relates to the interstate enforcement of domestic violence protection orders, and (2) to establish uniform procedures for effective interstate enforcement. The Act accomplishes these aims through broad provisions that ensure essentially any domestic violence protection order will be enforced. The Act’s important provisions include:

- **Judicial Enforcement of an Order** – Courts must enforce the terms of valid protection orders from other states as if they were entered by the enforcing state, until the order expires.
- **Terms of the Order Enforceable** – All terms of the order are to be enforced, even if the order provides for relief that would be unavailable under the laws of the enforcing state. Terms that concern custody and visitation matters are enforceable if issued for protection purposes and if the order meets the jurisdictional requirements of the enforcing state. Terms of the order made with respect to support are enforceable under the Uniform Interstate Family Support Act.
- **Non-Judicial Enforcement of an Order** – A law enforcement officer, upon finding probable cause that a valid order has been violated, must enforce the order as if it were an order of the enforcing state.
- **Registration of an Order** – An individual may, but is not required to, register a foreign protection order with the enforcing state. Registration will help prevent possible challenges to an order as well as facilitate effective enforcement.
- **Immunity** – Law enforcement officers, governmental agencies, prosecuting attorneys, clerks of court, or other officials are protected from civil and criminal liability for enforcement of a protection order in good faith.

It is important for each state to enact the UIEDVPOA. Domestic violence victims need and deserve protection regardless of where a protection order was issued. The Act helps to ensure victims receive that protection across state lines. Effective interstate enforcement of protection orders can be achieved only if every state adopts the Act.

For further information about UIEDVPOA, please contact Legislative Counsel, Lindsay Beaver at (312) 450-6618 or lbeaver@uniformlaws.org.



Uniform Law Commission
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UNIFORM INTERSTATE ENFORCEMENT OF DOMESTIC-VIOLENCE PROTECTION ORDERS ACT
(LAST REVISED OR AMENDED IN 2002)

- Summary -

Domestic violence is a concern in every state in the United States. The sad historical legacy of death and personal injury have led every state to provide for domestic violence protection orders. Protection orders are meant to prevent domestic violence by putting an enforceable shield around its potential victims against those who would harm them. The order, which generally prohibits the victimizer's personal contact and proximity to potential victims, gives law enforcement and the courts a means of either warning off victimizers by weight of the law or by getting them into custody before actual harm occurs.

The Violence against Women Act of 1994 provides a federal component of law against domestic violence. One of its provisions clarifies the status of such orders under the Full Faith and Credit Clause of the U.S. Constitution. It makes it abundantly clear that domestic violence protection orders from one state are entitled to full faith and credit in another state. Entitlement to full faith and credit means, generally, that an order from one state must be enforced in another state as if it is an original order issued by the enforcing state.

Interstate enforcement of orders always encounters some difficulties, however. Domestic violence protection orders are no different in this respect from other judgments and official acts entitled to full faith and credit. Until there is in each state a set of recognizable, uniform procedures and authorities, the implementation of full faith and credit suffers. States have addressed enforcement of foreign (meaning other state) protection orders, but have done so in non-uniform ways that obscure interstate enforcement rather than promote it. The result is confusion rather than enforcement.

The Uniform Law Commission has had success over many year in addressing issues that arise in the context of interstate enforcement of judgements. The Uniform Enforcement of Foreign Judgments Act, the Uniform Interstate Family Support Act, and the Uniform Child Custody Jurisdiction and Enforcement Act have been successful efforts at solving interstate enforcement problems and in implementing the mandate of full faith and credit. In 2000, the ULC promulgated the Uniform Interstate Enforcement of Domestic-Violence Protection Orders Act to address the interstate enforcement of protective orders arising from a domestic-violence and family-violence context; in 2002, in consultation and cooperation with the U.S. Department of Justice's Violence Against Women Office, the Act was substantively amended to also cover orders arising under an issuing state's anti-stalking laws.

Because domestic violence and stalking protection orders are not necessarily uniform in character (as is the usual case with other judgments and orders of courts from state to state), an enforceable order must be defined broadly enough to ensure that any kind of order that prohibits personal contact or proximity when there is a threat of domestic violence is enforced. The Act defines "protection order" to be "an injunction or other order, issued by a tribunal under the domestic-violence, family-violence, or anti-stalking laws of the issuing State, to prevent an individual from engaging in violent or threatening acts against, harassment of, contact or communication with, or physical proximity to another individual." The fact that the order has terms and conditions that are different from orders issued in the enforcing state, or come from

tribunals that are not organized in the same fashion as the tribunals of the enforcing state, does not mean that the enforcing state may refuse enforcement. Any kind of a foreign order that is intended to prevent violence must be enforced.

There are essentially three enforcement tracks which a foreign protection order may take in any enforcing state under the Act. There is direct enforcement by a tribunal, direct enforcement by law enforcement officers, and there is registration of foreign protection orders as a prelude to enforcement. The term 'tribunal' is used in the Act, consistent with the usage of the Uniform Interstate Family Support Act, which has been enacted in every U.S. jurisdiction. Whether the enforcing body is a court or an agency, the term tribunal includes both within its scope.

A "tribunal" with jurisdiction to enforce may enforce a foreign protection order without any other prior perfecting or validating procedure. A valid foreign protection order must be enforced. A valid protection order is one that identifies the protected individual (the potential victim) and the respondent (the potential victimizer), is currently in effect, and was issued by a tribunal with full jurisdiction. An order must meet due process standards. An ex parte order is enforceable if the respondent was provided notice and has had or will have opportunity to be heard within a reasonable time after the order was issued. Terms of an order respecting custody and visitation must be enforced, if the issuing state has jurisdiction. An order valid on its face establishes a prima facie case for its validity.

However, it is not necessary to petition a tribunal to enforce a valid foreign protection order. A law enforcement officer with "probable cause to believe that a valid foreign protection order exists and that the order has been violated," must enforce the order "as if it were the order of a tribunal of this State." The presence of an order that identifies the protected individual and the respondent that is current constitutes probable cause to believe that a valid foreign protection order exists. Law enforcement officers who are not presented with an actual order, may still act to enforce upon other information that provides probable cause to believe that a valid order exists. Even if an order appears not to have been served on the respondent, a law enforcement officer must inform the respondent of the order and make a reasonable effort to serve it. The respondent must then have a reasonable time to comply, before further enforcement is initiated. Registration is not a pre-condition for enforcement by a law enforcement officer.

Registration of orders and judgments for enforcement purposes has long been a part of American law. Registration is provided for in the Uniform Enforcement of Foreign Judgments Act and the Uniform Interstate Family Support Act. Registration is an assist to enforcement. A registered order that is certified in the issuing state sets aside possible challenges to the order. A registered order provides substantial assurance to a tribunal or law enforcement officer in an enforcing state that the order is valid. Registration allows a protected individual to prepare for enforcement of an order before there is any actual threat from the named respondent.

The Act provides for registration—a fairly simple procedure that requires a certified order and an affidavit from the protected individual that the order is current. The protected individual may receive a certified copy of the order which then may be presented for enforcement either in a tribunal or by a law enforcement officer.

The last important provision of the Act is an immunity provision that provides a liability shield for any agency, law enforcement officer, prosecuting attorney, clerk of court, or other official who enforces an order under the Act in good faith.

The Uniform Interstate Enforcement of Domestic-Violence Protection Orders Act is an important step towards improving the interstate enforcement of protection orders. A uniform act will make enforcement more efficient and certain. It will make implementation of full faith and credit for these orders more feasible. This Act does not attempt to solve all the problems of domestic violence. It takes on only the interstate enforcement aspect, and ULC's intention is to make prevention of violence a greater reality as a result. Every state should give this Act serious and immediate consideration in its legislature.