

**2017 SENATE JUDICIARY**

**SB 2170**

# 2017 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Fort Lincoln Room, State Capitol

SB 2170  
1/16/2017  
26895

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to the Uniform Recognition and Enforcement of Canadian Protection Orders Act; to provide a penalty; and to provide for application.

**Minutes:**

**Testimony attached #**

1

**Chairman Armstrong** called the committee to order on SB 2170. All committee members were present.

**Judge Gail Hagerty**, Uniform Law Commissioner, testified in support of the bill. (see attachment 1)

**Senator Larson:** "This act is to make it the same both ways, correct? Canada already enforces ours?"

**Judge Gail Hagerty:** "Yes it is."

**Chairman Armstrong:** "Has this issue come up in North Dakota a lot?"

**Judge Hagerty:** "I'm not aware if it has. But I still think it'd be a useful act. I don't believe it would hurt anything to have this act in place."

**Chairman Armstrong** closed the hearing on SB 2170.

**Senator Luick** motioned Do Pass. **Senator Nelson** seconded.  
A Roll Call Vote was taken. Yea: 6 Nay: 0 Absent: 0

The motion passed.

**Senator Larson** carried the bill.

**2017 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. SB 2170**

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Senator Luick Seconded By Senator Nelson

Senators	Yes	No	Senators	Yes	No
Chairman Armstrong	X		Senator Osland	X	
Vice-Chair Larson	X				
Senator Luick	X				
Senator Myrdal	X				
Senator Nelson	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Larson

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2170: Judiciary Committee (Sen. Armstrong, Chairman)** recommends **DO PASS**  
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2170 was placed on the  
Eleventh order on the calendar.

**2017 HOUSE JUDICIARY**

**SB 2170**

# 2017 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

SB 2170  
3/21/2017  
29511

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to the Uniform Recognition and Enforcement of Canadian Protection Orders Act; to provide a penalty; and to provide for application.

## Minutes:

1

**Chairman K. Koppelman:** Opened the hearing on SB 2170.

**Gail Hagerty, Uniform Law Commission: (#1)** Went over testimony. (:56-6:00)

A protection order is an order that prohibits someone from making contact with a person who is a victim of domestic violence. Generally, our orders might include things that we wouldn't enforce in Canada and those are things dealing with custody, child support. We would enforce here just the issues dealing with no contact.

**Chairman K. Koppelman:** This would only deal with a no contact order provisions of a protection order. Are the consequences for violating a no contact order the same here as they would be in Canada?

**Gail Hagerty:** The penalty in Canada would be the same as violating a protection order from another state. I don't know what the penalty would be in Canada.

**Chairman K. Koppelman:** So somebody gets a protection order in Manitoba and the penalty gets transferred to ND then the person violating that could be subject to maybe a great penalty in ND than they would have been in Canada or lessor one; I don't know.

**Gail Hagerty:** That is possible, but it is very rare you would see the maximum penalty for anything imposed and as sentencing works we are always aware of those things and hear about that when we get to sentencing.

**Chairman K. Koppelman:** If the responders both Canadian but they are presently in ND; is deportation come into the picture?

**Gail Hagerty:** It would be to the same extent as for any other misdemeanor committed in the US.

**Representative Jones:** When will this be applicable? Discussing someone in Canada that gets a restraining order in Canada on him and then she comes to the US; this would apply if he follows her and violates that restraining order?

**Gail Hagerty:** That would probably be the most applicable situation. This will be most useful to how people respond in that kind of situation.

**Representative Jones:** If he has violated the protection order once in Canada and then comes down here does that then become a Class C felony if she pushes that charge against him?

**Gail Hagerty:** That would be a prosecutor's decision.

Opposition: None

Neutral: None

Hearing closed.

# 2017 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

SB 2170  
3/21/2017  
29524

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*Donna Whetham*

**Explanation or reason for introduction of bill/resolution:**

Relating to the Uniform Recognition and Enforcement of Canadian Protection Orders Act; to provide a penalty; and to provide for application.

**Chairman K. Koppelman:** Opened the meeting on SB 2170.

**Rep. Satrom:** Do Pass Motion on SB 2170.

**Representative Roers Jones:** Seconded.

**Chairman K. Koppelman:** Any discussion?

**Representative Jones:** I should have got that out of someone with testimony because it just doesn't seem like it wouldn't happen that often where you end up with both people here with a restraining order.

**Chairman K. Koppelman:** Being a border state with Canada it could possibly happen here more often than some other places. I will support the motion there is a few differences from the last bill. I didn't like the lack of specificity and reciprocity of the last bill and this one has both of those. In the last bill we are dealing with a money judgement which is the product of a civil lawsuit. This is something a little different. This is a situation where there has been a protection order in place against someone apparently for a good cause. They may be harassed or stalked. I think there is a greater reason to lean toward this one.

**Representative Vetter:** Does Canada have an innocent until proven guilty or are they guilty until proven innocent? We are accepting their authority so we should know that.



**Chairman K. Koppelman:** This is a case where one of the Attorney's of the committee can describe how protection orders are generally granted. It is not an entire court case, it is some evidence being presented to a judge and the judge entering the order.

**Representative Klemin:** This is defined in this bill. It is issued to prevent an individual from engaging in violent or threatening acts against or in harassment of or direct or indirect contact or communication with another individual. There has to be some evidence that is necessary. Prior conduct for instant.

**Chairman K. Koppelman:** I think Canadian law is innocent until proven guilty.

**Representative Paur:** We work under British Common law, and so does Canada.

**Representative Klemin:** We do have juries in all those entities.

**Representative Vetter:** Why should we stop here. Why don't we have a few more bills changing our laws.

**Chairman K. Koppelman:** If a North Dakota citizen goes to Winnipeg and that individual has a protection order against someone and that other individual follows them to Canada do you want that North Dakota citizen protected, because it works both ways.

**Representative Klemin:** We also want good directions to law enforcement officers in this state as to what they can and can't do.

**Chairman K. Koppelman:** The clerk will call the roll on a do pass motion on SB 2170.

**Roll Call Vote: Yes 11. No 3. Absent 1. Motion carried.**

**Representative Blum** will carry the bill.

**Chairman K. Koppelman:** Hearing adjourned.

Date: 3/21/17  
 Roll Call Vote

2017 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. SB 2170

House Judiciary Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Rep. Satrom Seconded By Rep. Roers Jones

Representatives	Yes	No	Representatives	Yes	No
Chairman K. Koppelman	✓		Rep. Hanson	✓	
Vice Chairman Karls	✓		Rep. Nelson	✓	
Rep. Blum	✓				
Rep. Johnston		✓			
Rep. Jones	✓				
Rep. Klemin	✓				
Rep. Magrum	✓				
Rep. Maragos	✓				
Rep. Paur	✓				
Rep. Roers-Jones	✓				
Rep. Satrom	✓				
Rep. Simons		✓			
Rep. Vetter		✓			

Total (Yes) 11 No 3

Absent 1

Floor Assignment Rep. Blum

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2170: Judiciary Committee (Rep. K. Koppelman, Chairman)** recommends **DO PASS** (11 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). SB 2170 was placed on the Fourteenth order on the calendar.

**2017 TESTIMONY**

**SB 2170**

**Testimony in  
Support of SB2170  
Senate Judiciary Committee  
January 16, 2017**

**by Gail Hagerty, Uniform Law Commissioner**

Mr. Chairman and Members of the Committee:

As a uniform law commissioner, I had the privilege of serving on the drafting committee for the Uniform Recognition and Enforcement of Canadian Protection Orders Act. The committee met over a two-year period with representatives of the Canadian uniform law group. The project was initiated as an effort to provide the same protection for Canadian victims of domestic violence in one of the United States as is provided to U.S. residents who are victims of domestic violence and need protection in a Canadian province.

Because U.S. law and Canadian law and procedures have some variations, it wasn't possible to simply add Canadian provinces to the existing law which allows for enforcement of domestic violence protection orders in North Dakota even if they have been issued by another state.

The Act begins with definitions. The definition of Canadian domestic violence protection order includes only orders entered by a court and describes the type of prohibitions which would be included in such an order.

In its second section, the Act provides for non-judicial enforcement of the orders. It allows law enforcement officers to enforce those orders as if they were orders from another state. Such orders are enforced if an officer has probable cause to believe there is a valid domestic violence protection order. If a copy of a domestic violence protection order is not presented to a law enforcement officer, the law enforcement officer is permitted to consider other information in determining whether a valid Canadian domestic violence protection order exists.

If an officer determines an order has been issued, but cannot be enforced because the

respondent has not been served with the order, the law enforcement officer is directed to inform a protected party the officer will make reasonable efforts to contact the respondent. When a respondent is informed of the existence of an order and served with a copy of the order, the respondent is to be allowed an opportunity to comply with the order.

Law enforcement officers are required to inform protected persons of availability of local victim services.

Besides providing for enforcement of orders in situations involving law enforcement orders, the third section of the Act provides for a process for enforcing or declining to enforce a Canadian domestic violence protection order through the judicial process.

Canadian domestic violence protection orders are considered valid if they:

- Identify the protected individual and respondent;
- Are currently in effect;
- Have been issued by a tribunal with jurisdiction of the parties and subject matter;
- And were issued after a respondent is provided reasonable notice and an opportunity to be heard.

In the fourth section, the Act allows for registration of a Canadian domestic violence protection order.

The fifth section provides immunity for a local government agency, law enforcement officer, prosecuting attorney, clerk or district court or state or local official acting in an official capacity for acts or omissions which are done in a good faith effort to comply with the Act.

Violation of Canadian domestic violence protection orders would carry the same penalty as violations of orders entered in North Dakota or another state.

This Act will extend the protections offered to North Dakota citizens by the Canadian provinces to Canadian citizens who find themselves in North Dakota. I urge a "do pass" recommendation on SB2170.



## **WHY YOUR STATE SHOULD ADOPT THE UNIFORM RECOGNITION AND ENFORCEMENT OF CANADIAN DOMESTIC VIOLENCE PROTECTION ORDERS ACT**

The Uniform Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act (URECDVPOA) provides for cross-border recognition and enforcement of Canadian domestic violence protection orders, the first act in this country to do so. In 2002, the Uniform Law Commission (ULC) approved the Uniform Interstate Enforcement of Domestic-Violence Protection Orders Act (UIEDVPOA), establishing a uniform system for the enforcement of domestic violence protection orders across state lines. In 2011, the Uniform Law Conference of Canada (ULCC) approved the Uniform Enforcement of Canadian Judgments and Decrees Act (UECJDA), providing for the recognition of foreign protection orders, including those of the United States. By this act, enacting states accord similar recognition to protection orders from Canada.

The act's important provisions include:

**Enforcement of Canadian Order by State Law-enforcement Officer** — A law enforcement officer in this state, upon finding probable cause that a valid order has been violated, must enforce the terms of a Canadian order that directly or indirectly deal with no-contact as if they were an order of this state.

**Judicial Enforcement of a Canadian Order** — Courts in this state may enforce the terms of a domestic violence protection order from Canada dealing directly or indirectly with no-contact.

**Protects the Constitutional Right to Due Process** — A court in this state shall not enforce a Canadian order if due process has been violated. For example, consider an individual against whom a Canadian domestic violence protection order has been issued. Under this act, a court in this state will not enforce the order if that individual did not receive notice and opportunity to be heard by the issuing Canadian court.

**Registration of an Order** — An individual may, but is not required to, register a Canadian order in this state. Registration helps prevent possible challenges to an order, as well as facilitates effective enforcement.

**Immunity** — Law-enforcement officers, governmental agencies, prosecuting attorneys, clerks of the court, or other officials are protected from criminal or civil liability for enforcement of a Canadian protection order in good faith.

It is important for each state to enact the URECDVPOA. Citizens in the United States and Canada often move freely between the two countries, freedom that in certain limited circumstances can work against victims of domestic violence. By adopting the provisions of this act, this state will ensure that domestic violence victims are protected, even if the order was issued in Canada.

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



**UNIFORM RECOGNITION AND ENFORCEMENT OF CANADIAN DOMESTIC VIOLENCE PROTECTION ORDERS ACT**

*- Summary -*

The Uniform Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act provides for the enforcement of domestic violence protection orders issued by Canadian courts. Reflecting the friendship between the United States and Canada, citizens move freely between the two countries, freedom that in certain limited circumstances can work against victims of domestic violence. Many states enacted legislation recognizing the domestic violence orders of sister states, and in 2002, the Uniform Law Commission (ULC) approved the Uniform Interstate Enforcement of Domestic-Violence Protection Orders Act (UIEDVPOA), encouraging states to recognize and enforce the domestic violence orders of other states. In 2011, the Uniform Law Conference of Canada (ULCC) approved the Uniform Enforcement of Canadian Judgments and Decrees Act (UECJDA), which provides for the recognition of foreign protection orders – including those of the United States – unless the foreign state of origin has been expressly excluded from the provisions of the act. By this act, enacting states accord similar recognition to protection orders from Canada.

This act draws from the UIEDVPOA and the UECJDA in its recognition and enforcement of Canadian domestic violence protection orders. The two Acts are similar in several important respects. Both recognize domestic violence protection orders without requiring that the party seeking enforcement register the foreign order. Likewise, both provide that a law enforcement agency or court respect a facially valid order until successfully challenged after the request for emergency action has passed.

The UIEDVPOA and UECJDA differ in other respects, with the UECJDA providing more narrow recognition and enforcement of protection orders from other countries than the UIEDVPOA provides for orders from sister states. The UIEDVPOA recognizes all parts of the sister state protection order, including parts of the order relating to custody and visitation. This act, like the UECJDA, pursues the narrower goal of addressing the emergency of threatened violence by recognizing and enforcing only the parts of the Canadian domestic violence protection order requiring no contact directly or indirectly with a protected individual. Other Acts and conventions deal with issues of custody between countries.

This act follows the UECJDA and its more limited approach on other issues. Because of the limits on enforcing the criminal orders of another country, this act enforces only Canadian civil domestic violence orders. While the UIEDVPOA's definition of protection orders includes certain criminal orders, such as anti-stalking orders, other sections of the UIEDVPOA recognize the problems inherent in enforcing the criminal law of a sister state. The international setting only multiplies the issues; therefore, the act recognizes and enforces only Canadian civil domestic violence protection orders.

The act also limits recognition of Canadian domestic violence protection orders to those orders that issue from courts. The UIEDVPOA recognizes protection orders issued not just by courts, but also by tribunals, including an "agency...or other entity authorized by law to issue or modify a protection order." Following the lead of the UECJDA, this act provides for narrower recognition, limiting the recognition of Canadian domestic violence protection orders to civil orders issued by Canadian courts.



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The act defines protection orders more broadly than the UIEDVPOA only in one way. The UIEDVPOA limits recognition to orders “issued... under the domestic-violence [or] family-violence, or anti-stalking laws” of the state that issued the order. In this way, the act excludes orders that issue under more general statutes. The UECJDA has no such limitation, providing for the recognition of foreign protection orders “made by a court of a foreign state.” The Canadian drafters concluded that specifying the type of statute authorizing the order was unnecessary in light of other limitations. Since this act recognizes and enforces only direct or indirect no-contact provisions in a civil order, further specificity seemed unnecessary and unwise. In light of the emergency setting in which enforcement questions arise, this complicated determination of Canadian statutory authority could defeat the purpose of the act.

The act also provides uniform procedures for the cross-border enforcement of Canadian domestic violence protection orders. The act envisions that the enforcement of Canadian domestic violence protection orders will require law enforcement officers of enforcing states to rely on probable cause judgments that a valid order exists and has been violated. The act, however, provides that if a protected individual can provide direct proof of the existence of a facially valid order, for example, by presenting a paper copy or accessing an electronic registry, the copy or registry conclusively establishes probable cause. If there is no such proof, the act nevertheless requires enforcement if officers, relying on the totality of the circumstances, determine that there is probable cause to believe that a valid protection order exists and has been violated. The individual against whom the order is enforced will have sufficient opportunity to demonstrate that the order is invalid if and when the case is brought before the enforcing tribunal. Law enforcement officers, as well as other government agents, will be encouraged to rely on probable cause judgments by the act’s inclusion of an immunity provision, protecting agents of the government acting in good faith.

The act does not require individuals seeking enforcement of a protection order to register or file the order with the enforcing state. It does, however, include an optional registration process. This process permits individuals to register a Canadian domestic violence protection order by presenting a copy of the order to a responsible state agency or any state officer or agency. The issuing Canadian court must certify the copy presented for registration. The purpose of these procedures is to make it as easy as possible for the protected individual to register the protection order and facilitate its enforcement.

#1  
2170  
3-21-17

**Testimony in  
Support of SB2170  
House Judiciary Committee  
March 21, 2017**

**by Gail Hagerty, Uniform Law Commissioner**

Mr. Chairman and Members of the Committee:

As a uniform law commissioner, I had the privilege of serving on the drafting committee for the Uniform Recognition and Enforcement of Canadian Protection Orders Act. The committee met over a two-year period with representatives of the Canadian uniform law group. The project was initiated as an effort to provide the same protection for Canadian victims of domestic violence in one of the United States as is provided to U.S. residents who are victims of domestic violence and need protection in a Canadian province.

Because U.S. law and Canadian law and procedures have some variations, it wasn't possible to simply add Canadian provinces to the existing law which allows for enforcement of domestic violence protection orders in North Dakota even if they have been issued by another state.

The Act begins with definitions. The definition of Canadian domestic violence protection order includes only orders entered by a court and describes the type of prohibitions which would be included in such an order.

In its second section, the Act provides for non-judicial enforcement of the orders. It allows law enforcement officers to enforce those orders as if they were orders from another state. Such orders are enforced if an officer has probable cause to believe there is a valid domestic violence protection order. If a copy of a domestic violence protection order is not presented to a law enforcement officer, the law enforcement officer is permitted to consider other information in determining whether a valid Canadian domestic violence protection order exists.

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respondent has not been served with the order, the law enforcement officer is directed to inform a protected party the officer will make reasonable efforts to contact the respondent. When a respondent is informed of the existence of an order and served with a copy of the order, the respondent is to be allowed an opportunity to comply with the order.

Law enforcement officers are required to inform protected persons of availability of local victim services.

Besides providing for enforcement of orders in situations involving law enforcement orders, the third section of the Act provides for a process for enforcing or declining to enforce a Canadian domestic violence protection order through the judicial process.

Canadian domestic violence protection orders are considered valid if they:

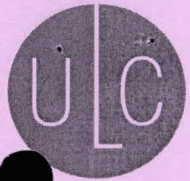
- Identify the protected individual and respondent;
- Are currently in effect;
- Have been issued by a tribunal with jurisdiction of the parties and subject matter;
- And were issued after a respondent is provided reasonable notice and an opportunity to be heard.

In the fourth section, the Act allows for registration of a Canadian domestic violence protection order.

The fifth section provides immunity for a local government agency, law enforcement officer, prosecuting attorney, clerk or district court or state or local official acting in an official capacity for acts or omissions which are done in a good faith effort to comply with the Act.

Violations of Canadian domestic violence protection orders would carry the same penalty as violations of orders entered in North Dakota or another state.

This Act will extend the protections offered to North Dakota citizens by the Canadian provinces to Canadian citizens who find themselves in North Dakota. I urge a "do pass" recommendation on SB2170.



**UNIFORM RECOGNITION AND ENFORCEMENT OF CANADIAN DOMESTIC VIOLENCE PROTECTION  
ORDERS ACT**

*- Summary -*

The Uniform Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act provides for the enforcement of domestic violence protection orders issued by Canadian courts. Reflecting the friendship between the United States and Canada, citizens move freely between the two countries, freedom that in certain limited circumstances can work against victims of domestic violence. Many states enacted legislation recognizing the domestic violence orders of sister states, and in 2002, the Uniform Law Commission (ULC) approved the Uniform Interstate Enforcement of Domestic-Violence Protection Orders Act (UIEDVPOA), encouraging states to recognize and enforce the domestic violence orders of other states. In 2011, the Uniform Law Conference of Canada (ULCC) approved the Uniform Enforcement of Canadian Judgments and Decrees Act (UECJDA), which provides for the recognition of foreign protection orders – including those of the United States – unless the foreign state of origin has been expressly excluded from the provisions of the act. By this act, enacting states accord similar recognition to protection orders from Canada.

This act draws from the UIEDVPOA and the UECJDA in its recognition and enforcement of Canadian domestic violence protection orders. The two Acts are similar in several important respects. Both recognize domestic violence protection orders without requiring that the party seeking enforcement register the foreign order. Likewise, both provide that a law enforcement agency or court respect a facially valid order until successfully challenged after the request for emergency action has passed.

The UIEDVPOA and UECJDA differ in other respects, with the UECJDA providing more narrow recognition and enforcement of protection orders from other countries than the UIEDVPOA provides for orders from sister states. The UIEDVPOA recognizes all parts of the sister state protection order, including parts of the order relating to custody and visitation. This act, like the UECJDA, pursues the narrower goal of addressing the emergency of threatened violence by recognizing and enforcing only the parts of the Canadian domestic violence protection order requiring no contact directly or indirectly with a protected individual. Other Acts and conventions deal with issues of custody between countries.

This act follows the UECJDA and its more limited approach on other issues. Because of the limits on enforcing the criminal orders of another country, this act enforces only Canadian civil domestic violence orders. While the UIEDVPOA's definition of protection orders includes certain criminal orders, such as anti-stalking orders, other sections of the UIEDVPOA recognize the problems inherent in enforcing the criminal law of a sister state. The international setting only multiplies the issues; therefore, the act recognizes and enforces only Canadian civil domestic violence protection orders.

The act also limits recognition of Canadian domestic violence protection orders to those orders that issue from courts. The UIEDVPOA recognizes protection orders issued not just by courts, but also by tribunals, including an "agency...or other entity authorized by law to issue or modify a protection order." Following the lead of the UECJDA, this act provides for narrower recognition, limiting the recognition of Canadian domestic violence protection orders to civil orders issued by Canadian courts.

The act defines protection orders more broadly than the UIEDVPOA only in one way. The UIEDVPOA limits recognition to orders "issued... under the domestic-violence [or] family-violence, or anti-stalking laws" of the state that issued the order. In this way, the act excludes orders that issue under more general statutes. The UECJDA has no such limitation, providing for the recognition of foreign protection orders "made by a court of a foreign state." The Canadian drafters concluded that specifying the type of statute authorizing the order was unnecessary in light of other limitations. Since this act recognizes and enforces only direct or indirect no-contact provisions in a civil order, further specificity seemed unnecessary and unwise. In light of the emergency setting in which enforcement questions arise, this complicated determination of Canadian statutory authority could defeat the purpose of the act.

The act also provides uniform procedures for the cross-border enforcement of Canadian domestic violence protection orders. The act envisions that the enforcement of Canadian domestic violence protection orders will require law enforcement officers of enforcing states to rely on probable cause judgments that a valid order exists and has been violated. The act, however, provides that if a protected individual can provide direct proof of the existence of a facially valid order, for example, by presenting a paper copy or accessing an electronic registry, the copy or registry conclusively establishes probable cause. If there is no such proof, the act nevertheless requires enforcement if officers, relying on the totality of the circumstances, determine that there is probable cause to believe that a valid protection order exists and has been violated. The individual against whom the order is enforced will have sufficient opportunity to demonstrate that the order is invalid if and when the case is brought before the enforcing tribunal. Law enforcement officers, as well as other government agents, will be encouraged to rely on probable cause judgments by the act's inclusion of an immunity provision, protecting agents of the government acting in good faith.

The act does not require individuals seeking enforcement of a protection order to register or file the order with the enforcing state. It does, however, include an optional registration process. This process permits individuals to register a Canadian domestic violence protection order by presenting a copy of the order to a responsible state agency or any state officer or agency. The issuing Canadian court must certify the copy presented for registration. The purpose of these procedures is to make it as easy as possible for the protected individual to register the protection order and facilitate its enforcement.



## WHY YOUR STATE SHOULD ADOPT THE UNIFORM RECOGNITION AND ENFORCEMENT OF CANADIAN DOMESTIC VIOLENCE PROTECTION ORDERS ACT

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The act's important provisions include:

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**Judicial Enforcement of a Canadian Order** — Courts in this state may enforce the terms of a domestic violence protection order from Canada dealing directly or indirectly with no-contact.

**Protects the Constitutional Right to Due Process** — A court in this state shall not enforce a Canadian order if due process has been violated. For example, consider an individual against whom a Canadian domestic violence protection order has been issued. Under this act, a court in this state will not enforce the order if that individual did not receive notice and opportunity to be heard by the issuing Canadian court.

**Registration of an Order** — An individual may, but is not required to, register a Canadian order in this state. Registration helps prevent possible challenges to an order, as well as facilitates effective enforcement.

**Immunity** — Law-enforcement officers, governmental agencies, prosecuting attorneys, clerks of the court, or other officials are protected from criminal or civil liability for enforcement of a Canadian protection order in good faith.

It is important for each state to enact the URECDVPOA. Citizens in the United States and Canada often move freely between the two countries, freedom that in certain limited circumstances can work against victims of domestic violence. By adopting the provisions of this act, this state will ensure that domestic violence victims are protected, even if the order was issued in Canada.

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

5