

Part 3

Uniform Interstate Enforcement of Domestic Violence Protection Orders Act

78B-7-301 Title.

This part is known as the "Uniform Interstate Enforcement of Domestic Violence Protection Orders Act."

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-302 Definitions.

As used in this part:

- (1) "Foreign protection order" means a protection order issued by a tribunal of another state.
- (2) "Issuing state" means the state whose tribunal issues a protection order.
- (3) "Mutual foreign protection order" means a foreign protection order that includes provisions in favor of both the protected individual seeking enforcement of the order and the respondent.
- (4) "Protected individual" means an individual protected by a protection order.
- (5) "Protection order" means 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.
- (6) "Respondent" means the individual against whom enforcement of a protection order is sought.
- (7) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band that has jurisdiction to issue protection orders.
- (8) "Tribunal" means a court, agency, or other entity authorized by law to issue or modify a protection order.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-303 Judicial enforcement of order.

- (1) A person authorized by the law of this state to seek enforcement of a protection order may seek enforcement of a valid foreign protection order in a tribunal of this state. The tribunal shall enforce the terms of the order, including terms that provide relief that a tribunal of this state would lack power to provide but for this section. The tribunal shall enforce the order, whether the order was obtained by independent action or in another proceeding, if it is an order issued in response to a complaint, petition, or motion filed by or on behalf of an individual seeking protection. In a proceeding to enforce a foreign protection order, the tribunal shall follow the procedures of this state for the enforcement of protection orders.
- (2) A tribunal of this state may not enforce a foreign protection order issued by a tribunal of a state that does not recognize the standing of a protected individual to seek enforcement of the order.
- (3) A tribunal of this state shall enforce the provisions of a valid foreign protection order which govern custody and visitation, if the order was issued in accordance with the jurisdictional requirements governing the issuance of custody and visitation orders in the issuing state.
- (4) A foreign protection order is valid if it:
 - (a) identifies the protected individual and the respondent;
 - (b) is currently in effect;

- (c) was issued by a tribunal that had jurisdiction over the parties and subject matter under the law of the issuing state; and
 - (d) was issued after the respondent was given reasonable notice and had an opportunity to be heard before the tribunal issued the order or, in the case of an order ex parte, the respondent was given notice and has had or will have an opportunity to be heard within a reasonable time after the order was issued, in a manner consistent with the rights of the respondent to due process.
- (5) A foreign protection order valid on its face is prima facie evidence of its validity.
- (6) Absence of any of the criteria for validity of a foreign protection order is an affirmative defense in an action seeking enforcement of the order.
- (7) A tribunal of this state may enforce provisions of a mutual foreign protection order which favor a respondent only if:
- (a) the respondent filed a written pleading seeking a protection order from the tribunal of the issuing state; and
 - (b) the tribunal of the issuing state made specific findings in favor of the respondent.
- (8)
- (a) The juvenile court has jurisdiction to enforce foreign protection orders under this section over which the juvenile court would have had jurisdiction if the order had been originally sought in this state.
 - (b) The district court has jurisdiction to enforce foreign protection orders under this section:
 - (i) over which the district court would have had jurisdiction if the order had been originally sought in this state; or
 - (ii) that are not under the jurisdiction of the juvenile court under Subsection (8)(a).

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-304 Nonjudicial enforcement of order.

- (1) A law enforcement officer of this state, upon determining that there is probable cause to believe that a valid foreign protection order exists and that the order has been violated, shall enforce the order as if it were the order of a tribunal of this state. Presentation of a protection order that identifies both the protected individual and the respondent and, on its face, is currently in effect constitutes probable cause to believe that a valid foreign protection order exists. For the purposes of this section, the protection order may be inscribed on a tangible medium or may have been stored in an electronic or other medium if it is retrievable in perceivable form. Presentation of a certified copy of a protection order is not required for enforcement.
- (2) If a foreign protection order is not presented, a law enforcement officer of this state may consider other information in determining whether there is probable cause to believe that a valid foreign protection order exists.
- (3) If a law enforcement officer of this state determines that an otherwise valid foreign protection order cannot be enforced because the respondent has not been notified or served with the order, the officer shall inform the respondent of the order, make a reasonable effort to serve the order upon the respondent, and allow the respondent a reasonable opportunity to comply with the order before enforcing the order.
- (4) Registration or filing of an order in this state is not required for the enforcement of a valid foreign protection order pursuant to this part.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-305 Registration of order.

Any individual may register a foreign protection order in this state under Section 78B-7-116.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-306 Immunity.

This state or a local governmental agency, or a law enforcement officer, prosecuting attorney, clerk of court, or any state or local governmental official acting in an official capacity, is immune from civil and criminal liability for an act or omission arising out of the registration or enforcement of a foreign protection order or the detention or arrest of an alleged violator of a foreign protection order if the act or omission was done in good faith in an effort to comply with this part.

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78B-7-307 Other remedies.

A protected individual who pursues remedies under this part is not precluded from pursuing other legal or equitable remedies against the respondent.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-308 Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-309 Severability clause.

If any provision of this part or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this part which can be given effect without the invalid provision or application, and to this end the provisions of this part are severable.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-310 Transitional provision.

This part applies to protection orders issued before July 1, 2006 and to continuing actions for enforcement of foreign protection orders commenced before July 1, 2006. A request for enforcement of a foreign protection order made on or after July 1, 2006 for violations of a foreign protection order occurring before July 1, 2006 is governed by this part.

Renumbered and Amended by Chapter 3, 2008 General Session