

ENROLLED SENATE
BILL NO. 2069

By: Coffee of the Senate

and

Steele and Pittman of the
House

An Act relating to protection orders; creating the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act; providing short title; defining terms; providing for judicial enforcement of certain orders; establishing requirements for validity of certain orders; requiring law enforcement to enforce certain orders; establishing certain service requirements; establishing requirements for registration of certain orders; prohibiting fee for registration of certain orders; exempting certain entities or officers from liability for certain acts; authorizing use of various remedies; construing provisions; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 60.21 of Title 22, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Uniform Interstate Enforcement of Domestic Violence Protection Orders Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 60.22 of Title 22, unless there is created a duplication in numbering, reads as follows:

As used in the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act:

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; and

8. "Tribunal" means a court, agency, or other entity authorized by law to issue or modify a protection order.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 60.23 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. 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.

B. 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.

C. 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.

D. A foreign protection order is valid if it:

1. Identifies the protected individual and the respondent;
2. Is currently in effect;
3. Was issued by a tribunal that had jurisdiction over the parties and subject matter under the law of the issuing state; and
4. 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.

E. A foreign protection order valid on its face is prima facie evidence of its validity.

F. 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.

G. A tribunal of this state may enforce provisions of a mutual foreign protection order which favor a respondent only if:

1. The respondent filed a written pleading seeking a protection order from the tribunal of the issuing state; and

2. The tribunal of the issuing state made specific findings in favor of the respondent.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 60.24 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. 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.

B. 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.

C. 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.

D. Registration or filing of an order in this state is not required for the enforcement of a valid foreign protection order pursuant to this act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 60.25 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. Any individual may register a foreign protection order in this state. To register a foreign protection order, an individual shall:

1. Present a certified copy of the order to the Secretary of State; or

2. Present a certified copy of the order to a law enforcement officer and request that the order be registered with the Secretary of State.

B. Upon receipt of a foreign protection order, the Secretary of State shall register the order in accordance with this section. After the order is registered, the Secretary of State shall furnish to the individual registering the order a certified copy of the registered order.

C. The Secretary of State shall register an order upon presentation of a copy of a protection order which has been certified by the issuing state. A registered foreign protection order that is inaccurate or is not currently in effect must be corrected or removed from the registry in accordance with the law of this state.

D. An individual registering a foreign protection order shall file an affidavit by the protected individual stating that, to the best of the protected individual's knowledge, the order is currently in effect.

E. A foreign protection order registered under this act may be entered in any existing state or federal registry of protection orders, in accordance with applicable law.

F. A fee may not be charged for the registration of a foreign protection order.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 60.26 of Title 22, unless there is created a duplication in numbering, reads as follows:

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 act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 60.27 of Title 22, unless there is created a duplication in numbering, reads as follows:

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

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 60.28 of Title 22, unless there is created a duplication in numbering, reads as follows:

In applying and construing this 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.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 60.29 of Title 22, unless there is created a duplication in numbering, reads as follows:

This act applies to protection orders issued before November 1, 2008, and to continuing actions for enforcement of foreign

protection orders commenced before November 1, 2008. A request for enforcement of a foreign protection order made on or after November 1, 2008, for violations of a foreign protection order occurring before November 1, 2008, is governed by this act.

SECTION 10. This act shall become effective November 1, 2008.

Passed the Senate the 10th day of March, 2008.

Presiding Officer of the Senate

Passed the House of Representatives the 15th day of April, 2008.

Presiding Officer of the House
of Representatives