

FAMILY CODE

TITLE 4. PROTECTIVE ORDERS AND FAMILY VIOLENCE

SUBTITLE B. PROTECTIVE ORDERS

CHAPTER 88. UNIFORM INTERSTATE ENFORCEMENT OF PROTECTIVE ORDERS ACT

Sec. 88.001. SHORT TITLE. This chapter may be cited as the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

Added by Acts 2001, 77th Leg., ch. 48, Sec. 2, eff. Sept. 1, 2001.

Sec. 88.002. DEFINITIONS. In this chapter:

(1) "Foreign protective order" means a protective order issued by a tribunal of another state.

(2) "Issuing state" means the state in which a tribunal issues a protective order.

(3) "Mutual foreign protective order" means a foreign protective order that includes provisions issued in favor of both the protected individual seeking enforcement of the order and the respondent.

(4) "Protected individual" means an individual protected by a protective order.

(5) "Protective order" means an injunction or other order, issued by a tribunal under the domestic violence or family violence laws or another law of the issuing state, to prevent an individual from engaging in violent or threatening acts against, harassing, contacting or communicating with, or being in physical proximity to another individual.

(6) "Respondent" means the individual against whom enforcement of a protective order is sought.

(7) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or a territory or insular possession subject to the jurisdiction of the United States. The term includes a military tribunal of the United States, an Indian tribe or band, and an Alaskan native village that has jurisdiction to issue protective orders.

(8) "Tribunal" means a court, agency, or other entity

authorized by law to issue or modify a protective order.

Added by Acts 2001, 77th Leg., ch. 48, Sec. 2, eff. Sept. 1, 2001.

Sec. 88.003. JUDICIAL ENFORCEMENT OF ORDER. (a) A tribunal of this state shall enforce the terms of a foreign protective order, including a term that provides relief that a tribunal of this state would not have power to provide but for this section. The tribunal shall enforce the order regardless of whether the order was obtained by independent action or in another proceeding, if the order 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 protective order, the tribunal shall follow the procedures of this state for the enforcement of protective orders.

(b) A tribunal of this state shall enforce the provisions of the foreign protective order that govern the possession of and access to a child if the provisions were issued in accordance with the jurisdictional requirements governing the issuance of possession and access orders in the issuing state.

(c) A tribunal of this state may enforce a provision of the foreign protective order relating to child support if the order was issued in accordance with the jurisdictional requirements of Chapter 159 and the federal Full Faith and Credit for Child Support Orders Act, 28 U.S.C. Section 1738B, as amended.

(d) A foreign protective order is valid if the order:

(1) names the protected individual and the respondent;

(2) is currently in effect;

(3) was rendered by a tribunal that had jurisdiction over the parties and the subject matter under the law of the issuing state; and

(4) was rendered after the respondent was given reasonable notice and an opportunity to be heard consistent with the right to due process, either:

(A) before the tribunal issued the order; or

(B) in the case of an ex parte order, within a reasonable time after the order was rendered.

(e) A protected individual seeking enforcement of a foreign

protective order establishes a prima facie case for its validity by presenting an order that is valid on its face.

(f) It is an affirmative defense in an action seeking enforcement of a foreign protective order that the order does not meet the requirements for a valid order under Subsection (d).

(g) A tribunal of this state may enforce the provisions of a mutual foreign protective order that favor a respondent only if:

(1) the respondent filed a written pleading seeking a protective order from the tribunal of the issuing state; and

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

Added by Acts 2001, 77th Leg., ch. 48, Sec. 2, eff. Sept. 1, 2001.

Sec. 88.004. NONJUDICIAL ENFORCEMENT OF ORDER. (a) A law enforcement officer of this state, on determining that there is probable cause to believe that a valid foreign protective order exists and that the order has been violated, shall enforce the foreign protective order as if it were an order of a tribunal of this state. A law enforcement officer has probable cause to believe that a foreign protective order exists if the protected individual presents a foreign protective order that identifies both the protected individual and the respondent and on its face, is currently in effect.

(b) For the purposes of this section, a foreign protective order may be inscribed on a tangible medium or may be stored in an electronic or other medium if it is retrievable in a perceivable form. Presentation of a certified copy of a protective order is not required for enforcement.

(c) If a protected individual does not present a foreign protective order, a law enforcement officer may determine that there is probable cause to believe that a valid foreign protective order exists by relying on any relevant information.

(d) A law enforcement officer of this state who determines that an otherwise valid foreign protective order cannot be enforced because the respondent has not been notified or served with the order shall inform the respondent of the order and make a reasonable effort to serve the order on the respondent. After informing the

respondent and attempting to serve the order, the officer shall allow the respondent a reasonable opportunity to comply with the order before enforcing the order.

(e) The registration or filing of an order in this state is not required for the enforcement of a valid foreign protective order under this chapter.

Added by Acts 2001, 77th Leg., ch. 48, Sec. 2, eff. Sept. 1, 2001.

Sec. 88.005. REGISTRATION OF ORDER. (a) An individual may register a foreign protective order in this state. To register a foreign protective order, an individual shall:

(1) present a certified copy of the order to a sheriff, constable, or chief of police responsible for the registration of orders in the local computer records and in the statewide law enforcement system maintained by the Texas Department of Public Safety; or

(2) present a certified copy of the order to the Department of Public Safety and request that the order be registered in the statewide law enforcement system maintained by the Department of Public Safety.

(b) On receipt of a foreign protective order, the agency responsible for the registration of protective orders shall register the order in accordance with this section and furnish to the individual registering the order a certified copy of the registered order.

(c) The agency responsible for the registration of protective orders shall register a foreign protective order on presentation of a copy of a protective order that has been certified by the issuing state. A registered foreign protective order that is inaccurate or not currently in effect shall be corrected or removed from the registry in accordance with the law of this state.

(d) An individual registering a foreign protective order shall file an affidavit made by the protected individual that, to the best of the protected individual's knowledge, the order is in effect.

(e) A foreign protective order registered under this section may be entered in any existing state or federal registry of

protective orders, in accordance with state or federal law.

(f) A fee may not be charged for the registration of a foreign protective order.

Added by Acts 2001, 77th Leg., ch. 48, Sec. 2, eff. Sept. 1, 2001.

Sec. 88.006. IMMUNITY. A state or local governmental agency, 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 from the registration or enforcement of a foreign protective order or the detention or arrest of a person alleged to have violated a foreign protective order if the act or omission was done in good faith in an effort to comply with this chapter.

Added by Acts 2001, 77th Leg., ch. 48, Sec. 2, eff. Sept. 1, 2001.

Sec. 88.007. OTHER REMEDIES. A protected individual who pursues a remedy under this chapter is not precluded from pursuing other legal or equitable remedies against the respondent.

Added by Acts 2001, 77th Leg., ch. 48, Sec. 2, eff. Sept. 1, 2001.

Sec. 88.008. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this chapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

Added by Acts 2001, 77th Leg., ch. 48, Sec. 2, eff. Sept. 1, 2001.