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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 3603

02/20/2020

03/04/2020

Authorred by Moller, O'Neill and Becker-Finn  
The bill was read for the first time and referred to the Public Safety and Criminal Justice Reform Finance and Policy Division  
Adoption of Report: Re-referred to the Judiciary Finance and Civil Law Division without further recommendation

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A bill for an act

relating to domestic violence; enacting the Uniform Recognition and Enforcement  
of Canadian Domestic-Violence Protection Orders Act; amending Minnesota  
Statutes 2018, section 518B.01, subdivision 19a; proposing coding for new law  
as Minnesota Statutes, chapter 518F.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

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

Section 1. [518F.01] SHORT TITLE.

This chapter may be cited as the "Uniform Recognition and Enforcement of Canadian  
Domestic-Violence Protection Orders Act."

Sec. 2. [518F.02] DEFINITIONS.

In this chapter:

(a) "Canadian domestic-violence protection order" means a judgment or part of a  
judgment or order issued in a civil proceeding by a court of Canada under law of the issuing  
jurisdiction that relates to domestic violence and prohibits a respondent from:

(1) being in physical proximity to a protected individual or following a protected  
individual;

(2) directly or indirectly contacting or communicating with a protected individual or  
other individual described in the order;

(3) being within a certain distance of a specified place or location associated with a protected individual; or

(4) molesting, annoying, harassing, or engaging in threatening conduct directed at a protected individual.

(b) "Domestic protection order" means an injunction or other order issued by a tribunal that relates to domestic or family violence laws to prevent an individual from engaging in violent or threatening acts against, harassment of, direct or indirect contact or communication with, or being in physical proximity to another individual.

(c) "Issuing court" means the court that issues a Canadian domestic-violence protection order.

(d) "Law enforcement officer" means an individual authorized by law of this state other than this chapter to enforce a domestic protection order.

(e) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(f) "Protected individual" means an individual protected by a Canadian domestic-violence protection order.

(g) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(h) "Respondent" means an individual against whom a Canadian domestic-violence protection order is issued.

(i) "Tribunal" means a court, agency, or other entity authorized by law of this state other than this chapter to establish, enforce, or modify a domestic protection order.

**Sec. 3. [518F.03] ENFORCEMENT OF CANADIAN DOMESTIC-VIOLENCE PROTECTION ORDER BY LAW ENFORCEMENT OFFICER.**

(a) If a law enforcement officer determines under paragraph (b) or (c) that there is probable cause to believe a valid Canadian domestic-violence protection order exists and the order has been violated, the officer shall enforce the terms of the Canadian domestic-violence protection order as if the terms were in an order of a tribunal. Presentation to a law enforcement officer of a certified copy of a Canadian domestic-violence protection order is not required for enforcement.

(b) Presentation to a law enforcement officer of a record of a Canadian domestic-violence protection order that identifies both a protected individual and a respondent and on its face is in effect constitutes probable cause to believe that a valid order exists.

(c) If a record of a Canadian domestic-violence protection order is not presented as provided in paragraph (b), a law enforcement officer may consider other information in determining whether there is probable cause to believe that a valid Canadian domestic-violence protection order exists.

(d) If a law enforcement officer determines that an otherwise valid Canadian domestic-violence protection order cannot be enforced because the respondent has not been notified of or served with the order, the officer shall notify the protected individual that the officer will make reasonable efforts to contact the respondent, consistent with the safety of the protected individual. After notice to the protected individual and consistent with the safety of the individual, the officer shall make a reasonable effort to inform the respondent of the order, notify the respondent of the terms of the order, provide a record of the order, if available, to the respondent, and allow the respondent a reasonable opportunity to comply with the order before the officer enforces the order.

(e) If a law enforcement officer determines that an individual is a protected individual, the officer shall inform the individual of available local victim services.

**Sec. 4. [518F.04] ENFORCEMENT OF CANADIAN DOMESTIC-VIOLENCE PROTECTION ORDER BY TRIBUNAL.**

(a) A tribunal may issue an order enforcing or refusing to enforce a Canadian domestic-violence protection order on application of:

(1) a person authorized by law of this state other than this chapter to seek enforcement of a domestic protection order; or

(2) a respondent.

(b) In a proceeding under paragraph (a), the tribunal shall follow the procedures of this state for enforcement of a domestic protection order. An order entered under this section is limited to the enforcement of the terms of the Canadian domestic-violence protection order.

(c) A Canadian domestic-violence protection order is enforceable under this section if:

(1) the order identifies a protected individual and a respondent;

(2) the order is valid and in effect;

(3) the issuing court had jurisdiction over the parties and the subject matter under law applicable in the issuing court; and

(4) the order was issued after:

(i) the respondent was given reasonable notice and had an opportunity to be heard before the court that issued the order; or

(ii) in the case of an ex parte order, the respondent was given reasonable notice and had or will have an opportunity to be heard within a reasonable time after the order was issued, in a manner consistent with the right of the respondent to due process.

(d) A Canadian domestic-violence protection order on its face is prima facie evidence of its enforceability under this section.

(e) A claim that a Canadian domestic-violence protection order does not comply with paragraph (c) is an affirmative defense in a proceeding seeking enforcement of the order. If the tribunal determines that the order is not enforceable, the tribunal shall issue an order that the Canadian domestic-violence protection order is not enforceable under this section and section 518F.03 and may not be registered under section 518F.05.

(f) This section applies to enforcement of a provision of a Canadian domestic-violence protection order against a party to the order in which each party is a protected individual and respondent only if:

(1) the party seeking enforcement of the order filed a pleading requesting the order from the issuing court; and

(2) the court made specific findings that entitled the party to the enforcement sought.

**Sec. 5. [518F.05] REGISTRATION OF CANADIAN DOMESTIC-VIOLENCE PROTECTION ORDER.**

(a) An individual may register a Canadian domestic-violence protection order in this state under section 518B.01, subdivision 19a.

(b) Registration in this state or filing under law of this state other than this chapter of a Canadian domestic-violence protection order is not required for its enforcement under this chapter.

**Sec. 6. [518F.06] IMMUNITY.**

The state, state agency, local governmental agency, law enforcement officer, prosecuting attorney, clerk of court, and state or local governmental official acting in an official capacity

are immune from civil and criminal liability for an act or omission arising out of the registration or enforcement of a Canadian domestic-violence protection order or the detention or arrest of an alleged violator of a Canadian domestic-violence protection order if the act or omission was a good faith effort to comply with this chapter.

Sec. 7. **[518F.07] OTHER REMEDIES.**

An individual who seeks a remedy under this chapter may seek other legal or equitable remedies.

Sec. 8. **[518F.08] 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.

Sec. 9. **[518F.09] RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.**

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, United States Code, title 15, section 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, United States Code, title 15, section 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, United States Code, title 15, section 7003(b).

Sec. 10. **[518F.10] TRANSITION.**

This chapter applies to a Canadian domestic-violence protection order issued before, on, or after the effective date of this chapter and to a continuing action for enforcement of a Canadian domestic-violence protection order commenced before, on, or after the effective date of this chapter. A request for enforcement of a Canadian domestic-violence protection order made on or after the effective date of this chapter for a violation of the order occurring before, on, or after the effective date of this chapter is governed by this chapter.

Sec. 11. **[518F.11] SEVERABILITY.**

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

**ARTICLE 2****CONFORMING CHANGE**

Section 1. Minnesota Statutes 2018, section 518B.01, subdivision 19a, is amended to read:

Subd. 19a. **Entry and enforcement of foreign protective orders.** (a) As used in this subdivision, "foreign protective order" means an order for protection entered by a court of another state; an order by an Indian tribe or United States territory that would be a protective order entered under this chapter; a Canadian domestic-violence protection order as defined in section 518F.02; a temporary or permanent order or protective order to exclude a respondent from a dwelling; or an order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault if it had been entered in Minnesota.

(b) A person for whom a foreign protection order has been issued or the issuing court or tribunal may provide a certified or authenticated copy of a foreign protective order to the court administrator in any county that would have venue if the original action was being commenced in this state or in which the person in whose favor the order was entered may be present, for filing and entering of the same into the state order for protection database.

(c) The court administrator shall file and enter foreign protective orders that are not certified or authenticated, if supported by an affidavit of a person with personal knowledge, subject to the penalties for perjury. The person protected by the order may provide this affidavit.

(d) The court administrator shall provide copies of the order as required by this section.

(e) A valid foreign protective order has the same effect and shall be enforced in the same manner as an order for protection issued in this state whether or not filed with a court administrator or otherwise entered in the state order for protection database.

(f) A foreign protective order is presumed valid if it meets all of the following:

(1) the order states the name of the protected individual and the individual against whom enforcement is sought;

(2) the order has not expired;

(3) the order was issued by a court or tribunal that had jurisdiction over the parties and subject matter under the law of the foreign jurisdiction; and

(4) the order was issued in accordance with the respondent's due process rights, either after the respondent was provided with reasonable notice and an opportunity to be heard

7.1 before the court or tribunal that issued the order, or in the case of an ex parte order, the  
7.2 respondent was granted notice and an opportunity to be heard within a reasonable time after  
7.3 the order was issued.

7.4 (g) Proof that a foreign protective order failed to meet all of the factors listed in paragraph  
7.5 (f) is an affirmative defense in any action seeking enforcement of the order.

7.6 (h) A peace officer shall treat a foreign protective order as a valid legal document and  
7.7 shall make an arrest for a violation of the foreign protective order in the same manner that  
7.8 a peace officer would make an arrest for a violation of a protective order issued within this  
7.9 state.

7.10 (i) The fact that a foreign protective order has not been filed with the court administrator  
7.11 or otherwise entered into the state order for protection database shall not be grounds to  
7.12 refuse to enforce the terms of the order unless it is apparent to the officer that the order is  
7.13 invalid on its face.

7.14 (j) A peace officer acting reasonably and in good faith in connection with the enforcement  
7.15 of a foreign protective order is immune from civil and criminal liability in any action arising  
7.16 in connection with the enforcement.

7.17 (k) Filing and service costs in connection with foreign protective orders are waived.