

HOUSE BILL No. 2355

By Committee on Judiciary

2-7

AN ACT enacting the uniform interstate enforcement of domestic-violence protection orders act.

Be it enacted by the Legislature of the State of Kansas:

Section 1. This act shall be known and may be cited as the uniform interstate enforcement of domestic-violence protection orders act.

Sec. 2. In this act:

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

(b) "Issuing state" means the state whose tribunal issues a protection order.

(c) "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.

(d) "Protected individual" means an individual protected by a protection order.

(e) "Protection order" means an injunction or other order, issued by a tribunal under the domestic-violence or family-violence 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.

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

(g) "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.

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

Sec. 3. (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

1 shall enforce the order, whether the order was obtained by independent
2 action or in another proceeding, if it is an order issued in response to a
3 complaint, petition or motion filed by or on behalf of an individual seeking
4 protection. In a proceeding to enforce a foreign protection order, the
5 tribunal shall follow the procedures of this state for the enforcement of
6 protection orders.

7 (b) A tribunal of this state may not enforce a foreign protection order
8 issued by a tribunal of a state that does not recognize the standing of a
9 protected individual to seek enforcement of the order.

10 (c) A tribunal of this state shall enforce the provisions of a valid for-
11 eign protection order which govern custody and visitation, if the order
12 was issued in accordance with the jurisdictional requirements governing
13 the issuance of custody and visitation orders in the issuing state.

14 (d) A tribunal of this state may not enforce under this act a provision
15 of a foreign protection order with respect to support.

16 (e) A foreign protection order is valid if it:

- 17 (1) Identifies the protected individual and the respondent;
- 18 (2) is currently in effect;
- 19 (3) was issued by a tribunal that had jurisdiction over the parties and
20 subject matter under the law of the issuing state; and
- 21 (4) was issued after the respondent was given reasonable notice and
22 had an opportunity to be heard before the tribunal issued the order or,
23 in the case of an order *ex parte*, the respondent was given notice and had
24 an opportunity to be heard within a reasonable time after the order was
25 issued, consistent with the rights of the respondent to due process.

26 (e) A foreign protection order valid on its face is *prima facie* evidence
27 of its validity.

28 (f) Absence of any of the criteria for validity of a foreign protection
29 order is an affirmative defense in an action seeking enforcement of the
30 order.

31 (g) A tribunal of this state may enforce provisions of a mutual foreign
32 protection order which favor a respondent only if:

- 33 (1) The respondent filed a written pleading seeking a protection or-
34 der from the tribunal of the issuing state; and
- 35 (2) the tribunal of the issuing state made specific findings in favor of
36 the respondent.

37 Sec. 4. (a) A law enforcement officer of this state, upon determining
38 that there is probable cause to believe that a valid foreign protection order
39 exists and that the order has been violated, shall enforce the order as if
40 it were the order of a tribunal of this state. Presentation of a protection
41 order that identifies both the protected individual and the respondent
42 and, on its face, is currently in effect constitutes probable cause to believe
43 that a valid foreign protection order exists. For the purposes of this sec-

1 tion, the protection order may be inscribed on a tangible medium or may
2 have been stored in an electronic or other medium if it is retrievable in
3 perceivable form. Presentation of a certified copy of a protection order
4 is not required for enforcement.

5 (b) If a foreign protection order is not presented, a law enforcement
6 officer of this state may consider other information in determining
7 whether there is probable cause to believe that a valid foreign protection
8 order exists.

9 (c) If a law enforcement officer of this state determines that an oth-
10 erwise valid foreign protection order cannot be enforced because the
11 respondent has not been notified or served with the order, the officer
12 shall inform the respondent of the order, make a reasonable effort to
13 serve the order upon the respondent, and allow the respondent a reason-
14 able opportunity to comply with the order before enforcing the order.

15 (d) Registration or filing of an order in this state is not required for
16 the enforcement of a valid foreign protection order pursuant to this act.

17 Sec. 5. (a) Any individual may register a foreign protection order in
18 this state. To register a foreign protection order, an individual shall:

19 (1) Present a certified copy of the order to the Kansas bureau of
20 investigation; and

21 (2) present a certified copy of the order to the clerk of the court and
22 request that the order be registered with the sheriff's office in the county
23 where the protected individual resides.

24 (b) Upon receipt of a foreign protection order, the Kansas bureau of
25 investigation and sheriff's office shall register the order in accordance with
26 this section. After the order is registered, the sheriff's office shall furnish
27 to the individual registering the order a certified copy of the registered
28 order.

29 (c) The Kansas bureau of investigation and sheriff's office shall reg-
30 ister an order upon presentation of a copy of a protection order which
31 has been certified by the issuing state. A registered foreign protection
32 order that is inaccurate or is not currently in effect must be corrected or
33 removed from the registry in accordance with the law of this state.

34 (d) An individual registering a foreign protection order shall file an
35 affidavit by the protected individual stating that, to the best of the pro-
36 tected individual's knowledge, the order is currently in effect.

37 (e) A foreign protection order registered under this act may be en-
38 tered in any existing state or federal registry of protection orders, in ac-
39 cordance with applicable law.

40 (f) A fee may not be charged for the registration of a foreign protec-
41 tion order.

42 Sec. 6. This state or a local governmental agency, or a law enforce-
43 ment officer, prosecuting attorney, clerk of the court, or any state or local

1 governmental official acting in an official capacity, is immune from civil
2 and criminal liability for an act or omission arising out of the registration
3 or enforcement of a foreign protection order or the detention or arrest
4 of an alleged violator of a foreign protection order if the act or omission
5 was done in good faith in an effort to comply with this act.

6 Sec. 7. A protected individual who pursues remedies under this act
7 is not precluded from pursuing other legal or equitable remedies against
8 the respondent.

9 Sec. 8. In applying and construing this uniform act, consideration
10 must be given to the need to promote uniformity of the law with respect
11 to its subject matter among states that enact it.

12 Sec. 9. If any provision of this act or its application to any person or
13 circumstance is held invalid, the invalidity does not affect other provisions
14 or applications of this act which can be given effect without the invalid
15 provision or application, and to this end the provisions of this act are
16 severable.

17 Sec. 10. This act applies to protection orders issued before the ef-
18 fective date of this act and to continuing actions for enforcement of for-
19 eign protection orders commenced before the effective date of this act.
20 A request for enforcement of a foreign protection order made on or after
21 the effective date of this act for violations of a foreign protection order
22 occurring before the effective date of this act is governed by this act.

23 Sec. 11. This act shall take effect and be in force from and after its
24 publication in the statute book.

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