



FULL FAITH AND CREDIT: ENFORCEMENT OF PROTECTION ORDERS ACROSS STATE LINES

This fact sheet explains the enforcement of protection orders across state lines under the federal Violence Against Women Act’s full faith and credit provision. For further information about individual state’s processes contact the specific state coalitions on sexual violence and domestic violence.

<p>What is a protection order?</p>	<p>A protection order is any injunction, restraining order, or other order issued by a civil or criminal court to prevent violent or threatening acts or harassment against, sexual violence, or contact or communication with or physical proximity to, another person, including any temporary or final order issued by a civil or criminal court. This may include but is not limited to:</p> <ul style="list-style-type: none"> • Order For Protection (OFP) • Harassment Restraining Order (HRO)
<p>What are VAWA and full faith and credit?</p>	<ul style="list-style-type: none"> • Enacted in 1994, VAWA (Violence Against Women Act) created a civil rights remedy for victims of domestic, sexual, and other forms of violence against women. 18 U.S.C. § 2265. • Under VAWA’s full faith and credit provision, every state must recognize and enforce protection orders issued in other states, as if issued in the enforcing state. • The “issuing” state is the state that determines, according to its laws, the parties eligible for protection, the length of time the order will be valid, and the issues covered by the OFP or HRO. • The “enforcing” state is the foreign state that enforces the order. How the foreign state chooses to enforce the order when a violation occurs may be according to the foreign “enforcing” state’s laws. <p>Under full faith and credit, valid protection orders must be enforced in:</p> <ul style="list-style-type: none"> • all 50 states, • Indian tribal lands, • the District of Columbia, • the U.S. Virgin Islands, Puerto Rico, American Samoa, the Northern Mariana Islands, and Guam.

<p>How is a protection order enforced and what makes it valid across state lines?</p>	<ul style="list-style-type: none"> • Laws of the issuing state cover: <ul style="list-style-type: none"> ○ The parties eligible for a protection order; ○ Length of time the order will be valid; ○ Terms of the order. • Laws of the enforcing state cover: <ul style="list-style-type: none"> ○ How a violation is enforced. <p>A protection order is valid if:</p> <ul style="list-style-type: none"> • The issuing state had jurisdiction over the parties and the subject matter of the case. • The accused was provided reasonable notice and opportunity to be heard.
<p>How does an enforcing state know a protection order is valid?</p>	<p>A police officer is usually the first to come in contact with a violated protection order. When the order was issued in a different state, the police verify its validity by:</p> <ul style="list-style-type: none"> • Checking the state’s protection order registry. • Checking the National Crime Information Center's (NCIC) Protection Order File, a national registry of protection orders. However, the NCIC Protection Order File is not a complete registry of all protection orders because many states and tribes do not participate in it. Furthermore, even if a state participates in the NCIC Protection Order File, not all protection orders are reported. Thus, even if the order is not found, an order which appears valid will be enforced under the issuing state’s laws. • If the officer cannot verify the order’s validity, s/he may arrest on an order that appears valid, and may be granted immunity if later the order is found invalid.
<p>How do you file or register a protection order in a foreign state?</p>	<ul style="list-style-type: none"> • The filing or registration process varies in each state. • Example: In South Carolina, A victim may file a valid order for protection in another state by presenting a certified copy of the foreign order to a clerk of court. A clerk of court will direct the victim to present a copy of the filed foreign protection order to the police or sheriff for enforcement if necessary. The clerk of court will also provide the victim with a copy of the order bearing proof of filing. • Example: In Minnesota, a victim obtains a certified copy of the order for protection from the issuing state. The victim takes the order to the court administrator in the county where s/he lives. The victim then asks the court administrator to file or register the order as a foreign judgment. Once this process is complete, other jurisdictions must recognize and enforce the judgment.

<p>When should a victim consider filing or registering a protection order in another state?</p>	<ul style="list-style-type: none"> • Moving to a new state • Working and living in two different states • Attending an out-of-state school • Vacationing out-of-state • Going to out-of-state events
<p>Does the protection order have to be filed or registered in the new state to be enforced?</p>	<ul style="list-style-type: none"> • No. Under VAWA's full faith and credit provision, a state must enforce a valid protection order even if the order is not registered or filed in the enforcing state. • Why register a protection order? It may help law enforcement verify the order's existence and increase the chances that it will be enforced. • Why not register a protection order? If the protection order is a public record (i.e., a court record) the abuser could easily discover where you live.
<p>If filed, will the enforcing state notify the abuser?</p>	<ul style="list-style-type: none"> • No. Federal law prohibits sending notice to the abuser.
<p>Is a mutual protection order valid and enforceable across state lines?</p>	<ul style="list-style-type: none"> • Yes. A mutual protection order is valid and enforceable across state lines if: <ul style="list-style-type: none"> ○ A cross or counter petition, complaint, or other written pleading was filed seeking protection; and ○ The court made findings of domestic or family violence regarding both parties.
<p>Is an ex parte order valid and enforceable across state lines?</p>	<ul style="list-style-type: none"> • Yes. An ex parte order is an emergency protective order issued without notice to the abuser. • The order is only valid and enforceable for the same period as it would be in the issuing state. • The order is only enforceable by arrest if the abuser has received notice of its existence.

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