

House Bill 3066

Sponsored by Representative NOSSE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Enacts Uniform Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act. Authorizes courts to enforce certain Canadian domestic violence protection orders. Prescribes criteria to determine validity of Canadian domestic violence protection orders. Requires law enforcement representatives to enforce valid Canadian domestic violence protection orders.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to Canadian orders to prohibit contact; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Short title. Sections 1 to 10 of this 2019 Act may be cited as the Uniform Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act.

SECTION 2. Definitions. As used in sections 1 to 10 of this 2019 Act:

(1) **"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:

(a) **Being in physical proximity to a protected individual or following a protected individual;**

(b) **Directly or indirectly contacting or communicating with a protected individual or other individual described in the order;**

(c) **Being within a certain distance of a specified place or location associated with a protected individual; or**

(d) **Molesting, annoying, harassing or engaging in threatening conduct directed at a protected individual.**

(2) **"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.

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

(4) **"Law enforcement officer"** means an individual authorized under the laws of this state other than sections 1 to 10 of this 2019 Act to enforce a domestic protection order.

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

(6) **"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.

(7) **"Respondent"** means an individual against whom a Canadian domestic violence pro-

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 tection order is issued.

2 (8) "State" means a state of the United States, the District of Columbia, Puerto Rico, the
3 United States Virgin Islands or any territory or insular possession subject to the jurisdiction
4 of the United States, or a federally recognized Indian tribe.

5 (9) "Tribunal" means a court, agency or other entity authorized under the laws of this
6 state other than sections 1 to 10 of this 2019 Act to establish, enforce or modify a domestic
7 protection order.

8 **SECTION 3. Enforcement of Canadian domestic violence protection order by law**
9 **enforcement officer.** (1) If a law enforcement officer determines under subsection (2) or (3)
10 of this section that there is probable cause to believe a valid Canadian domestic violence
11 protection order exists and the order has been violated, the officer shall enforce the terms
12 of the Canadian domestic violence protection order as if the terms were in an order of a
13 tribunal. Presentation to a law enforcement officer of a certified copy of a Canadian domestic
14 violence protection order is not required for enforcement.

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

18 (3) If a record of a Canadian domestic violence protection order is not presented as pro-
19 vided in subsection (2) of this section, a law enforcement officer may consider other infor-
20 mation in determining whether there is probable cause to believe that a valid Canadian
21 domestic violence protection order exists.

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

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

33 **SECTION 4. Enforcement of Canadian domestic violence protection order by tribunal.** (1)
34 A tribunal may issue an order enforcing or refusing to enforce a Canadian domestic violence
35 protection order on application of:

36 (a) A person authorized under the laws of this state other than sections 1 to 10 of this
37 2019 Act to seek enforcement of a domestic protection order; or

38 (b) A respondent.

39 (2) In a proceeding under subsection (1) of this section, the tribunal shall follow the
40 procedures of this state for enforcement of a domestic protection order. An order entered
41 under this section is limited to the enforcement of the terms of the Canadian domestic vi-
42 olence protection order.

43 (3) A Canadian domestic violence protection order is enforceable under this section if:

44 (a) The order identifies a protected individual and a respondent;

45 (b) The order is valid and in effect;

1 (c) The issuing court had jurisdiction over the parties and the subject matter under law
2 applicable in the issuing court; and

3 (d) The order was issued after:

4 (A) The respondent was given reasonable notice and had an opportunity to be heard; or

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

8 (4) A Canadian domestic violence protection order valid on its face is prima facie evidence
9 of its enforceability under this section.

10 (5) A claim that a Canadian domestic violence protection order does not comply with
11 subsection (3) of this section is an affirmative defense in a proceeding seeking enforcement
12 of the order. If the tribunal determines that the order is not enforceable, the tribunal shall
13 issue an order that the Canadian domestic violence protection order is not enforceable under
14 this section and section 3 of this 2019 Act and may not be registered under section 5 of this
15 2019 Act.

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

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

21 (b) The court made specific findings that entitled the party to the enforcement sought.

22 **SECTION 5. Registration of Canadian domestic violence protection order.** (1) An individ-
23 ual may register a Canadian domestic violence protection order in this state. To register the
24 order, the individual must present a certified copy of the order to a county sheriff to be en-
25 tered into the Law Enforcement Data System maintained by the Department of State Police
26 as provided in ORS 24.190 (3). The county sheriff shall treat the order as if it is a foreign
27 restraining order under ORS 24.190.

28 (2) A fee may not be charged for registration of a Canadian domestic violence protection
29 order under this section.

30 (3) Registration in this state or filing under the laws of this state other than sections 1
31 to 10 of this 2019 Act of a Canadian domestic violence protection order is not required for its
32 enforcement under sections 1 to 10 of this 2019 Act.

33 **SECTION 6. Immunity.** The state and any state agency, local governmental agency, law
34 enforcement officer, prosecuting attorney, clerk of the court and state or local governmental
35 official acting in an official capacity are immune from civil and criminal liability for an act
36 or omission arising out of the registration or enforcement of a Canadian domestic violence
37 protection order or the detention or arrest of an alleged violator of a Canadian domestic vi-
38 olence protection order if the act or omission was a good faith effort to comply with sections
39 1 to 10 of this 2019 Act.

40 **SECTION 7. Other remedies.** An individual who seeks a remedy under sections 1 to 10
41 of this 2019 Act may seek other legal or equitable remedies.

42 **SECTION 8. Uniformity of application and construction.** In applying and construing
43 sections 1 to 10 of this 2019 Act, consideration must be given to the need to promote uni-
44 formity of the law with respect to its subject matter among states that enact it.

45 **SECTION 9. Relation to Electronic Signatures in Global and National Commerce Act.**

1 Sections 1 to 10 of this 2019 Act modify, limit or supersede the Electronic Signatures in
2 Global and National Commerce Act, 15 U.S.C. 7001 et seq., but do not modify, limit or su-
3 persede section 101(c) of that Act, 15 U.S.C. 7001(c), or authorize electronic delivery of any
4 of the notices described in section 103(b) of that Act, 15 U.S.C. 7003(b).

5 **SECTION 10. Transition.** Sections 1 to 10 of this 2019 Act apply to a Canadian domestic
6 violence protection order issued before, on or after the effective date of this 2019 Act and to
7 a continuing action for enforcement of a Canadian domestic violence protection order com-
8 menced before, on or after the effective date of this 2019 Act. A request for enforcement of
9 a Canadian domestic violence protection order made on or after the effective date of this 2019
10 Act for a violation of the order occurring before, on or after the effective date of this 2019
11 Act is governed by sections 1 to 10 of this 2019 Act.

12 **SECTION 11. Caption notice.** The section captions used in this 2019 Act are provided only
13 for the convenience of the reader and do not become part of the statutory law of this state
14 or express any legislative intent in the enactment of this 2019 Act.

15 **SECTION 12. Effective date.** This 2019 Act being necessary for the immediate preserva-
16 tion of the public peace, health and safety, an emergency is declared to exist, and this 2019
17 Act takes effect on its passage.

18