

CHAPTER.....

AN ACT relating to domestic violence; enacting the Uniform Recognition and Enforcement of Canadian Domestic-Violence Protection Orders Act; requiring the enforcement of Canadian domestic-violence protection orders under certain circumstances; requiring the Central Repository for Nevada Records of Criminal History to include Canadian domestic-violence protection orders registered in this State in the Repository for Information Concerning Orders for Protection Against Domestic Violence; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the enforcement and registration of an order for protection against domestic violence issued by the court of another state, territory or Indian tribe within the United States and requires certain persons to transmit certain information regarding such orders to the Central Repository for Nevada Records of Criminal History. (NRS 33.085, 33.090, 33.095) **Sections 2-18** of this bill enact the Uniform Recognition and Enforcement of Canadian Domestic-Violence Protection Orders Act.

Section 13 requires a law enforcement officer to enforce a Canadian domestic-violence protection order in the same manner that an officer enforces an order for protection issued by a court of this State unless it is apparent to the officer that the order is not authentic on its face. **Section 13** further requires a law enforcement officer to inform the protected person of local victims' services.

Section 14 requires certain courts and agencies in this State to enforce a Canadian domestic-violence protection order and prescribes the minimum requirements for such enforcement.

Section 15 provides immunity from civil or criminal liability for this State and its agencies and political subdivisions and certain persons who: (1) enforce a Canadian domestic-violence protection order based upon a reasonable belief that the order is valid; or (2) refuse to enforce such an order based upon a reasonable belief that the order is not valid.

Section 19 of this bill provides for the registration of Canadian domestic-violence protection orders with the clerk of the court in the judicial district in which the person believes enforcement may be necessary. **Section 20** of this bill requires certain persons to transmit certain information regarding such orders to the Central Repository for Nevada Records of Criminal History. **Section 21** of this bill requires the Central Repository to include such orders in the Repository for Information Concerning Orders for Protection Against Domestic Violence.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 33 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 18, inclusive, of this act.

Sec. 2. *Sections 2 to 18, inclusive, of this act may be cited as the Uniform Recognition and Enforcement of Canadian Domestic-Violence Protection Orders Act.*

Sec. 3. *As used in sections 2 to 18, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 12, inclusive of this act have the meanings ascribed to them in those sections.*

Sec. 4. *“Adverse party” means a natural person against whom a Canadian domestic-violence protection order is issued.*

Sec. 5. *“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 the laws of the issuing jurisdiction that relates to domestic violence and prohibits an adverse party from:*

- 1. Being in physical proximity to a protected person or following a protected person;*
- 2. Directly or indirectly contacting or communicating with a protected person or other person described in the order;*
- 3. Being within a certain distance of a specified place or location associated with a protected person; or*
- 4. Molesting, annoying, harassing or engaging in threatening conduct directed at a protected person.*

Sec. 6. *“Domestic protection order” means an injunction or other order issued by a tribunal which relates to domestic or family violence laws to prevent a person from engaging in violent or threatening acts against, harassment of, direct or indirect contact or communication with or being in physical proximity to another person.*

Sec. 7. *“Issuing court” means the court that issues a Canadian domestic-violence protection order.*

Sec. 8. *“Law enforcement officer” means a person authorized by the laws of this State, other than sections 2 to 18, inclusive, of this act, to enforce a domestic protection order.*



Sec. 9. *“Person” means a natural person, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality or other legal entity.*

Sec. 10. *“Protected person” means a natural person protected by a Canadian domestic-violence protection order.*

Sec. 11. *“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.*

Sec. 12. *“Tribunal” means a court, agency or other entity authorized by the laws of this State other than sections 2 to 18, inclusive, of this act to establish, enforce or modify a domestic protection order.*

Sec. 13. *1. Except as otherwise provided in subsection 4 and section 14 of this act, a law enforcement officer shall enforce a Canadian domestic-violence protection order and shall make an arrest for a violation thereof in the same manner that a law enforcement officer would make an arrest for a violation of a temporary or extended order issued by a court of this State unless it is apparent to the officer that the order is not authentic on its face. An officer shall determine that an order is authentic on its face if the order contains:*

- (a) The names of the parties;*
- (b) Information indicating that the order has not expired; and*
- (c) Information indicating that the court which issued the order had legal authority to issue the order as evidenced by a certified copy of the order, a file-stamped copy of the order, an authorized signature or stamp of the court which issued the order or another indication of the authority of the court which issued the order.*

↪ An officer may determine that any other order is authentic on its face.

2. In enforcing a Canadian domestic-violence protection order or arresting a person for a violation of such an order, a law enforcement officer may rely upon:

- (a) A copy of the order that has been provided to the officer;*
- (b) An order that is included in the Repository for Information Concerning Orders for Protection Against Domestic Violence pursuant to NRS 33.095 or in any national crime information database;*
- (c) Oral or written confirmation from a law enforcement agency or court in which the order was issued that the order is valid and effective; or*



(d) An examination of the totality of the circumstances concerning the existence of a valid and effective order, including, without limitation, the statement of a person protected by the order that the order remains in effect.

3. The fact that a Canadian domestic-violence protection order has not been registered or included in the Repository for Information Concerning Orders for Protection Against Domestic Violence in the Central Repository for Nevada Records of Criminal History pursuant to NRS 33.095 or in any national crime information database is not grounds for a law enforcement officer to refuse to enforce the terms of the order unless it is apparent to the officer that the order is not authentic on its face.

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

5. If a law enforcement officer determines that a person is a protected person, the officer shall inform him or her of available local victims' services.

Sec. 14. *1. A tribunal may issue an order enforcing or refusing to enforce a Canadian domestic-violence protection order on application of:*

(a) A person authorized by the laws of this State, other than sections 2 to 18, inclusive, of this act, to seek enforcement of a domestic protection order; or

(b) An adverse party.

2. In a proceeding under subsection 1, the tribunal shall follow the procedures of this State for the 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.

3. A Canadian domestic-violence protection order is enforceable under this section if:

(a) The order identifies the parties;



(b) *The order is valid and has not expired;*
(c) *The issuing court had jurisdiction over the parties and the subject matter under the laws of the jurisdiction of the issuing court; and*

(d) *The adverse party was given reasonable notice and an opportunity to be heard before the order was issued or, in the case of an ex parte order, the adverse party was given reasonable notice and had or will have an opportunity to be heard within a reasonable time after the order was issued and, in any event, in a manner consistent with the right of the adverse party to due process.*

4. *A Canadian domestic-violence protection order valid on its face is prima facie evidence of enforceability under this section.*

5. *A claim that a Canadian domestic-violence protection order does not comply with subsection 3 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 13 of this act and may not be registered pursuant to NRS 33.090.*

6. *If the Canadian domestic-violence protection order is a mutual order for protection against domestic violence and:*

(a) *No counter or cross-petition or other pleading was filed by the adverse party; or*

(b) *A counter or cross-petition or other pleading was filed and the court did not make a specific finding of domestic violence by both parties,*

↪ *the court shall refuse to enforce the order against the protected person and may determine whether to issue its own temporary or extended order.*

Sec. 15. *This State, an agency or political subdivision of this State, a law enforcement officer, prosecuting attorney, clerk of court and any other 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 sections 2 to 18, inclusive, of this act or the provisions of NRS 33.090 or 33.095 relating to the registration of a Canadian domestic-violence protection order.*



Sec. 16. *The rights and remedies provided by sections 2 to 18, inclusive, of this act are in addition to any other rights or remedies that may exist at law or in equity.*

Sec. 17. *In applying and construing the Uniform Recognition and Enforcement of Canadian Domestic-Violence Protection Orders 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. 18. *Sections 2 to 18, inclusive, of this act modify, limit or supersede the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but do not modify, limit or supersede Section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. § 7003(b).*

Sec. 19. NRS 33.090 is hereby amended to read as follows:

33.090 1. A person may register an order for protection against domestic violence issued by the court of another state, territory or Indian tribe within the United States *or a Canadian domestic-violence protection order* by presenting a certified copy of the order to the clerk of a court of competent jurisdiction in a judicial district in which the person believes that enforcement may be necessary.

2. The clerk of the court shall:

(a) Maintain a record of each order registered pursuant to this section;

(b) Provide the protected party with a copy of the order registered pursuant to this section bearing proof of registration with the court;

(c) Forward, by conventional or electronic means, by the end of the next business day, a copy of an order registered pursuant to this section to the appropriate law enforcement agency which has jurisdiction over the residence, school, child care facility or other provider of child care, or place of employment of the protected party or the child of the protected party; and

(d) Inform the protected party upon the successful transfer of information concerning the registration to the Central Repository for Nevada Records of Criminal History as required pursuant to NRS 33.095.

3. The clerk of the court shall not:

(a) Charge a fee for registering an order or for providing a certified copy of an order pursuant to this section.

(b) Notify the party against whom the order has been made that an order for protection against domestic violence issued by the court



of another state, territory or Indian tribe has been registered in this State.

4. A person who registers an order pursuant to this section must not be charged to have the order served in this State.

5. As used in this section, "Canadian domestic-violence protection order" has the meaning ascribed to it in section 5 of this act.

Sec. 20. NRS 33.095 is hereby amended to read as follows:

33.095 *1.* Any time that a court issues a temporary or extended order and any time that a person serves such an order, registers such an order , *registers a Canadian domestic-violence protection order* or receives any information or takes any other action pursuant to NRS 33.017 to 33.100, inclusive, *or sections 2 to 18, inclusive, of this act*, the person shall cause to be transmitted, in the manner prescribed by the Central Repository for Nevada Records of Criminal History, any information required by the Central Repository in a manner which ensures that the information is received by the Central Repository by the end of the next business day.

2. As used in this section, "Canadian domestic-violence protection order" has the meaning ascribed to it in section 5 of this act.

Sec. 20.5. NRS 125A.465 is hereby amended to read as follows:

125A.465 *1.* A child custody determination issued by a court of another state may be registered in this state, with or without a simultaneous request for enforcement, by sending to a court of this state which is competent to hear custody matters:

(a) A letter or other document requesting registration;

(b) Two copies, including one certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and

(c) Except as otherwise provided in NRS 125A.385, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.

2. On receipt of the documents required by subsection 1, the registering court shall:

(a) Cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form; and



(b) Serve notice upon the persons named pursuant to paragraph (c) of subsection 1 and provide them with an opportunity to contest the registration in accordance with this section.

3. The notice required by paragraph (b) of subsection 2 must state that:

(a) A registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this state;

(b) A hearing to contest the validity of the registered determination must be requested within 20 days after service of notice; and

(c) Failure to contest the registration will result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

4. A person seeking to contest the validity of a registered order must request a hearing within 20 days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration establishes that:

(a) The issuing court did not have jurisdiction pursuant to NRS 125A.305 to 125A.395, inclusive;

(b) The child custody determination sought to be registered has been vacated, stayed or modified by a court having jurisdiction to do so pursuant to NRS 125A.305 to 125A.395, inclusive; or

(c) The person contesting registration was entitled to notice, but notice was not given in accordance with the standards of NRS 125A.255, in the proceedings before the court that issued the order for which registration is sought.

5. If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served must be notified of the confirmation.

6. Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

7. The provisions of this section do not apply to an order for protection against domestic violence issued by the court of another state, territory or Indian tribe within the United States , *or a Canadian domestic-violence protection order*, which is registered pursuant to NRS 33.090.



Sec. 21. NRS 179A.350 is hereby amended to read as follows:
179A.350 1. The Repository for Information Concerning Orders for Protection Against Domestic Violence is hereby created within the Central Repository.

2. Except as otherwise provided in subsection 6, the Repository for Information Concerning Orders for Protection Against Domestic Violence must contain a complete and systematic record of all temporary and extended orders for protection against domestic violence issued or registered in the State of Nevada ~~H~~ *and all Canadian domestic-violence protection orders registered in the State of Nevada*, in accordance with regulations adopted by the Director of the Department, including, without limitation, any information received pursuant to NRS 33.095. Information received by the Central Repository pursuant to NRS 33.095 must be entered in the Repository for Information Concerning Orders for Protection Against Domestic Violence not later than 8 hours after it is received by the Central Repository.

3. The information in the Repository for Information Concerning Orders for Protection Against Domestic Violence must be accessible by computer at all times to each agency of criminal justice.

4. On or before July 1 of each year, the Director of the Department shall submit to the Director of the Legislative Counsel Bureau a written report concerning all temporary and extended orders for protection against domestic violence issued pursuant to NRS 33.020 during the previous calendar year that were transmitted to the Repository for Information Concerning Orders for Protection Against Domestic Violence. The report must include, without limitation, information for each court that issues temporary or extended orders for protection against domestic violence concerning:

(a) The total number of temporary and extended orders that were granted by the court pursuant to NRS 33.020 during the calendar year to which the report pertains;

(b) The number of temporary and extended orders that were granted to women;

(c) The number of temporary and extended orders that were granted to men;

(d) The number of temporary and extended orders that were vacated or expired;

(e) The number of temporary orders that included a grant of temporary custody of a minor child; and



(f) The number of temporary and extended orders that were served on the adverse party.

5. The information provided pursuant to subsection 4 must include only aggregate information for statistical purposes and must exclude any identifying information relating to a particular person.

6. The Repository for Information Concerning Orders for Protection Against Domestic Violence must not contain any information concerning an event that occurred before October 1, 1998.

7. As used in this section, “Canadian domestic-violence protection order” has the meaning ascribed to it in section 5 of this act.

Sec. 22. This act becomes effective on July 1, 2017, and applies to a Canadian domestic-violence protection order issued before, on or after July 1, 2017, and to a continuing action for enforcement of a Canadian domestic-violence protection order commenced before, on or after July 1, 2017.

