

Amendment No. 639

Senate Amendment to Assembly Bill No. 146	(BDR 3-617)
Proposed by: Senate Committee on Judiciary	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

NCA



Date: 5/10/2017

A.B. No. 146—Enacts the Uniform Recognition and Enforcement of Canadian Domestic-Violence Protection Orders Act. (BDR 3-617)





## ASSEMBLY BILL NO. 146—ASSEMBLYMEN WATKINS; AND OHRENSCHALL

PREFILED FEBRUARY 13, 2017

Referred to Committee on Judiciary

SUMMARY—Enacts the Uniform Recognition and Enforcement of Canadian Domestic-Violence Protection Orders Act. (BDR 3-617)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

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 ~~and prescribes the minimum requirements for such enforcement.~~ **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.*

1       Sec. 13. ~~1. If a law enforcement officer determines under subsection 2 or~~  
2 ~~3 that there is probable cause to believe that a valid Canadian domestic violence~~  
3 ~~protection order exists and the order has been violated, the officer shall enforce~~  
4 ~~the terms of the Canadian domestic violence protection order as if the terms were~~  
5 ~~in an order of a tribunal. Presentation to a law enforcement officer of a certified~~  
6 ~~copy of a Canadian domestic violence protection order is not required for~~  
7 ~~enforcement.~~

8 ~~2. Presentation to a law enforcement officer of a record of a Canadian~~  
9 ~~domestic violence protection order that identifies both a protected individual and~~  
10 ~~an adverse party and on its face is in effect constitutes probable cause to believe~~  
11 ~~that a valid order exists.~~

12 ~~3. If a record of a Canadian domestic violence protection order is not~~  
13 ~~presented as provided in subsection 2, a law enforcement officer may consider~~  
14 ~~other information in determining whether there is probable cause to believe that~~  
15 ~~a valid Canadian domestic violence protection order exists.) Except as otherwise~~  
16 provided in subsection 4 and section 14 of this act, a law enforcement officer  
17 shall enforce a Canadian domestic-violence protection order and shall make an  
18 arrest for a violation thereof in the same manner that a law enforcement officer  
19 would make an arrest for a violation of a temporary or extended order issued by a  
20 court of this State unless it is apparent to the officer that the order is not  
21 authentic on its face. An officer shall determine that an order is authentic on its  
22 face if the order contains:

23 (a) The names of the parties;

24 (b) Information indicating that the order has not expired; and

25 (c) Information indicating that the court which issued the order had legal  
26 authority to issue the order as evidenced by a certified copy of the order, a file-  
27 stamped copy of the order, an authorized signature or stamp of the court which  
28 issued the order or another indication of the authority of the court which issued  
29 the order.

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

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

34 (a) A copy of the order that has been provided to the officer;

35 (b) An order that is included in the Repository for Information Concerning  
36 Orders for Protection Against Domestic Violence pursuant to NRS 33.095 or in  
37 any national crime information database;

38 (c) Oral or written confirmation from a law enforcement agency or court in  
39 which the order was issued that the order is valid and effective; or

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

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

50 4. If a law enforcement officer determines that an otherwise valid Canadian  
51 domestic-violence protection order cannot be enforced because the adverse party  
52 has not been notified of or served with the order, the officer shall notify the  
53 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,

1 *inclusive, of this act or the provisions of NRS 33.090 or 33.095 relating to the*  
2 *registration of a Canadian domestic-violence protection order.*

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

6 **Sec. 17.** *In applying and construing the Uniform Recognition and*  
7 *Enforcement of Canadian Domestic-Violence Protection Orders Act,*  
8 *consideration must be given to the need to promote uniformity of the law with*  
9 *respect to its subject matter among states that enact it.*

10 **Sec. 18.** *Sections 2 to 18, inclusive, of this act modify, limit or supersede*  
11 *the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §*  
12 *7001 et seq., but do not modify, limit or supersede Section 101(c) of that act, 15*  
13 *U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described*  
14 *in Section 103(b) of that act, 15 U.S.C. § 7003(b).*

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

16 33.090 1. A person may register an order for protection against domestic  
17 violence issued by the court of another state, territory or Indian tribe within the  
18 United States *or a Canadian domestic-violence protection order* by presenting a  
19 certified copy of the order to the clerk of a court of competent jurisdiction in a  
20 judicial district in which the person believes that enforcement may be necessary.

21 2. The clerk of the court shall:

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

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

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

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

33 3. The clerk of the court shall not:

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

36 (b) Notify the party against whom the order has been made that an order for  
37 protection against domestic violence issued by the court of another state, territory  
38 or Indian tribe has been registered in this State.

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

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

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

44 33.095 1. Any time that a court issues a temporary or extended order and  
45 any time that a person serves such an order, registers such an order, *registers a*  
46 *Canadian domestic-violence protection order* or receives any information or takes  
47 any other action pursuant to NRS 33.017 to 33.100, inclusive, ~~and~~ *or sections 2 to*  
48 *18, inclusive, of this act*, the person shall cause to be transmitted, in the manner  
49 prescribed by the Central Repository for Nevada Records of Criminal History, any  
50 information required by the Central Repository in a manner which ensures that the  
51 information is received by the Central Repository by the end of the next business  
52 day.

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

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

4        125A.465 1. A child custody determination issued by a court of another  
5        state may be registered in this state, with or without a simultaneous request for  
6        enforcement, by sending to a court of this state which is competent to hear custody  
7        matters:

8        (a) A letter or other document requesting registration;

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

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

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

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

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

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

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

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

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

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

37       (a) The issuing court did not have jurisdiction pursuant to NRS 125A.305 to  
38       125A.395, inclusive;

39       (b) The child custody determination sought to be registered has been vacated,  
40       stayed or modified by a court having jurisdiction to do so pursuant to NRS  
41       125A.305 to 125A.395, inclusive; or

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

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

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

51       7. The provisions of this section do not apply to an order for protection  
52       against domestic violence issued by the court of another state, territory or Indian



1 tribe within the United States, or a Canadian domestic-violence protection order,  
2 which is registered pursuant to NRS 33.090.

3 **Sec. 21.** NRS 179A.350 is hereby amended to read as follows:

4 179A.350 1. The Repository for Information Concerning Orders for  
5 Protection Against Domestic Violence is hereby created within the Central  
6 Repository.

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

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

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

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

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

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

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

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

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

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

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

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

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