

## Substitute for HOUSE BILL No. 2697

By Committee on Judiciary

2-25

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9 AN ACT concerning the uniform interstate enforcement of domestic vi-  
10 olence protection orders act; amending K.S.A. 2003 Supp. 21-3843 and  
11 repealing the existing section.

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

14 New Section 1. This act may be cited as the uniform interstate en-  
15 forcement of domestic violence protection orders act.

16 New Sec. 2. In this act, these terms mean the following:

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

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

21 (c) "Mutual foreign protection order" means a foreign protection or-  
22 der that includes provisions in favor of both the protected individual seek-  
23 ing enforcement of the order and the respondent.

24 (d) "Protected individual" means an individual protected by a pro-  
25 tection order.

26 (e) "Protection order" means an injunction or other temporary or  
27 final order issued, by a tribunal under the domestic violence, family vio-  
28 lence or anti-stalking laws of the issuing state, broadly construed, to pre-  
29 vent an individual from engaging in violent or threatening acts against,  
30 harassment of, contact or communication with, or physical proximity to,  
31 another individual.

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

34 (g) "State" means a state of the United States, the District of Colum-  
35 bia, Puerto Rico, the United States Virgin Islands or any territory or in-  
36 sular possession subject to the jurisdiction of the United States. The term  
37 includes an Indian tribe or band that has jurisdiction to issue protection  
38 orders.

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

41 New Sec. 3. (a) A person authorized by the law of this state to seek  
42 enforcement of a protection order may seek enforcement of a valid pro-  
43 tection order in a tribunal of this state. The tribunal shall enforce the

1 terms of the protection order, including terms that provide relief that a  
2 tribunal of this state would lack power to provide but for this section. The  
3 tribunal shall enforce the order, whether the order was obtained by in-  
4 dependent action or in another proceeding, if it is an order issued in  
5 response to a complaint, petition or motion filed by or on behalf of an  
6 individual seeking protection. In a proceeding to enforce a foreign pro-  
7 tection order, the tribunal shall follow the procedures of this state for the  
8 enforcement of protection orders.

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

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

16 (d) 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 ex parte order, the respondent was given notice and has  
24 had or will have an opportunity to be heard within a reasonable time after  
25 the order was issued in a manner consistent with the rights of the re-  
26 spondent to due process.

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

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

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

34 (1) The respondent filed a written pleading seeking a protection or-  
35 der from the tribunal of the issuing state; and

36 (2) the tribunal of the issuing state made specific findings in favor of  
37 the respondent.

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

1 cause to believe that a valid foreign protection order exists. For the pur-  
2 poses of this section, the protection order may be inscribed on a tangible  
3 medium or may have been stored in an electronic or other medium if it  
4 is retrievable in perceivable form. Presentation of a certified copy of a  
5 protection order is not required for enforcement.

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

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

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

18 New Sec. 5. (a) Any individual may register a foreign protection or-  
19 der in this state. To register a foreign protection order, an individual shall  
20 present a certified copy of the order to the clerk of the district court in  
21 the judicial district where the protection order will be enforced and re-  
22 quest that the order be registered with the district court.

23 (b) Upon receipt of a foreign protection order, the clerk of the district  
24 court in the judicial district where the order will be enforced shall register  
25 the order in accordance with this section. After the order is registered,  
26 the clerk of the district court shall furnish to the individual registering  
27 the order and the sheriff of the county where the order will be enforced  
28 a certified copy of the registered order.

29 (c) The clerk of the district court in the judicial district where the  
30 protection order will be enforced shall register an order upon presenta-  
31 tion of a copy of a protection order which has been certified by the issuing  
32 state. A registered foreign protection order that is inaccurate or is not  
33 currently in effect must be corrected or removed from the registry in  
34 accordance with the law of this state.

35 (d) An individual registering a foreign protection order shall file an  
36 affidavit by the protected individual with the district court in the judicial  
37 district where the protection order will be enforced stating that, to the  
38 best of the protected individual's knowledge, the order is currently in  
39 effect.

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

43 (f) A fee shall not be charged for the registration of a foreign protec-

1 tion order.

2 (g) No sheriff's department or district court accepting or registering  
3 a foreign protection order under this section may notify or require noti-  
4 fication of a party against whom the protection order was filed of its filing  
5 or registration unless the individual protected by the protection order  
6 requests that the sheriff's department or district court do so.

7 New Sec. 6. This state, a local governmental agency, a law enforce-  
8 ment officer, a prosecuting attorney, a clerk of court or any state or local  
9 governmental official acting in an official capacity is immune from civil  
10 and criminal liability for conduct arising out of the registration or enforce-  
11 ment of a foreign protection order or the detention or arrest of an alleged  
12 violator of a foreign protection order if the conduct was done in good  
13 faith in an effort to comply with this act.

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

17 New Sec. 8. In applying and construing this uniform act, consider-  
18 ation shall be given to the need to promote uniformity of the law with  
19 respect to its subject matter among states that enact it.

20 New Sec. 9. If any provision of this act or its application to any person  
21 or circumstance is held invalid, the invalidity does not affect other pro-  
22 visions or applications of this act which can be given effect without the  
23 invalid provision or application. To this end, the provisions of this act are  
24 severable.

25 New Sec. 10. This act applies to protection orders issued before July  
26 1, 2005, and to continuing actions for enforcement of foreign protection  
27 orders commenced before July 1, 2005. A request for enforcement of a  
28 foreign protection order made on or after July 1, 2005, for violations of  
29 a foreign protection order occurring before July 1, 2005, is governed by  
30 this act.

31 Sec. 11. K.S.A. 2003 Supp. 21-3843 is hereby amended to read as  
32 follows: 21-3843. (a) Violation of a protective order is knowingly or in-  
33 tentionally violating:

34 (1) A protection from abuse order issued pursuant to K.S.A. 60-3105,  
35 60-3106 and 60-3107, and amendments thereto;

36 (2) a protective order issued by a court of any state or Indian tribe  
37 that is consistent with the provisions of 18 U.S.C. 2265, and amendments  
38 thereto;

39 (3) a restraining order issued pursuant to K.S.A. 38-1542, 38-1543,  
40 38-1563 and 60-1607, and amendments thereto;

41 (4) an order issued *in this or any other state* as a condition of pretrial  
42 release, diversion, probation, suspended sentence or postrelease super-  
43 vision that orders the person to refrain from having any direct or indirect

1 contact with another person;

2 (5) an order issued *in this or any other state* as a condition of release  
3 after conviction or as a condition of a supersedeas bond pending dispo-  
4 sition of an appeal, that orders the person to refrain from having any  
5 direct or indirect contact with another person; or

6 (6) a protection from stalking order issued pursuant to K.S.A. 2003  
7 Supp. 60-31a05 or 60-31a06, and amendments thereto.

8 (b) As used in this section, “order” includes any order issued by a  
9 municipal or district court.

10 (c) Violation of a protective order is a class A person misdemeanor.

11 (d) This section shall be part of and supplemental to the Kansas crim-  
12 inal code.

13 Sec. 12. K.S.A. 2003 Supp. 21-3843 is hereby repealed.

14 Sec. 13. This act shall take effect and be in force from and after its  
15 publication in the statute book.