

1 H.413

2 Introduced by Representative LaLonde of South Burlington

3 Referred to Committee on

4 Date:

5 Subject: Domestic relations; recognition and enforcement of Canadian
6 domestic violence protection orders

7 Statement of purpose of bill as introduced: This bill proposes to adopt a
8 uniform act recognizing and enforcing abuse prevention orders that were
9 issued in Canada.

10 An act relating to recognition and enforcement of Canadian domestic
11 violence protection orders

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 Sec. 1. 15 V.S.A. chapter 21, subchapter 5 is added to read:

14 Subchapter 5. Recognition and Enforcement of Canadian

15 Domestic Violence Protection Orders

16 § 1181. SHORT TITLE

17 This act may be cited as the Uniform Recognition and Enforcement of
18 Canadian Domestic Violence Protection Orders Act.

19 § 1182. DEFINITIONS

20 As used in this subchapter:

1 (1) “Canadian domestic violence protection order” means a judgment or
2 part of a judgment or order issued in a civil proceeding by a court of Canada
3 under law of the issuing jurisdiction that relates to domestic violence and
4 prohibits a respondent from doing one or more of the following:

5 (A) being in physical proximity to a protected individual or following
6 a protected individual;

7 (B) directly or indirectly contacting or communicating with a
8 protected individual or other individual described in the order;

9 (C) being within a certain distance of a specified place or location
10 associated with a protected individual; or

11 (D) molesting, annoying, harassing, or engaging in threatening
12 conduct directed at a protected individual.

13 (2) “Domestic protection order” means an injunction or other order
14 issued by a tribunal that relates to domestic or family violence laws to prevent
15 an individual from engaging in violent or threatening acts against, harassment
16 of, direct or indirect contact or communication with, or being in physical
17 proximity to another individual.

18 (3) “Issuing court” means the court that issues a Canadian domestic-
19 violence protection order.

20 (4) “Law enforcement officer” means an individual authorized by law of
21 this State other than this subchapter to enforce a domestic protection order.

1 (5) “Person” means an individual, estate, business or nonprofit entity,
2 public corporation, government or governmental subdivision, agency,
3 instrumentality, or other legal entity.

4 (6) “Protected individual” means an individual protected by a Canadian
5 domestic violence protection order.

6 (7) “Record” means information that is inscribed on a tangible medium
7 or that is stored in an electronic or other medium and is retrievable in
8 perceivable form.

9 (8) “Respondent” means an individual against whom a Canadian
10 domestic violence protection order is issued.

11 (9) “State” means a state of the United States, the District of Columbia,
12 Puerto Rico, the U.S. Virgin Islands, or any territory or insular possession
13 subject to the jurisdiction of the United States.

14 (10) “Tribunal” means a court, agency, or other entity authorized by law
15 of this State other than this subchapter to establish, enforce, or modify a
16 domestic protection order.

17 § 1183. ENFORCEMENT OF CANADIAN DOMESTIC VIOLENCE

18 PROTECTION ORDER BY LAW ENFORCEMENT OFFICER

19 (a) If a law enforcement officer determines under subsection (b) or (c)
20 of this section that there is probable cause to believe a valid Canadian domestic
21 violence protection order exists and the order has been violated, the officer

1 shall enforce the terms of the Canadian domestic violence protection order as if
2 the terms were in an order of a tribunal. Presentation to a law enforcement
3 officer of a certified copy of a Canadian domestic violence protection order is
4 not required for enforcement.

5 (b) Presentation to a law enforcement officer of a record of a Canadian
6 domestic violence protection order that identifies both a protected individual
7 and a respondent and on its face is in effect constitutes probable cause to
8 believe that a valid order exists.

9 (c) If a record of a Canadian domestic violence protection order is not
10 presented as provided in subsection (b) of this section, a law enforcement
11 officer may consider other information in determining whether there is
12 probable cause to believe that a valid Canadian domestic violence protection
13 order exists.

14 (d) If a law enforcement officer determines that an otherwise valid
15 Canadian domestic violence protection order cannot be enforced because the
16 respondent has not been notified of or served with the order, the officer shall
17 notify the protected individual that the officer will make reasonable efforts to
18 contact the respondent, consistent with the safety of the protected individual.
19 After notice to the protected individual and consistent with the safety of the
20 individual, the officer shall make a reasonable effort to inform the respondent
21 of the order, notify the respondent of the terms of the order, provide a record of

1 the order, if available, to the respondent, and allow the respondent a reasonable
2 opportunity to comply with the order before the officer enforces the order.

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

6 § 1184. ENFORCEMENT OF CANADIAN DOMESTIC VIOLENCE

7 PROTECTION ORDER BY TRIBUNAL

8 (a) A tribunal may issue an order enforcing or refusing to enforce a
9 Canadian domestic violence protection order on application of:

10 (1) a person authorized by law of this State other than this subchapter to
11 seek enforcement of a domestic protection order; or

12 (2) a respondent.

13 (b) In a proceeding under subsection (a) of this section, the tribunal shall
14 follow the procedures of this State for enforcement of a domestic protection
15 order. An order entered under this section is limited to the enforcement of the
16 terms of the Canadian domestic violence protection order as provided in
17 subdivision 1182(1) of this title.

18 (c) A Canadian domestic violence protection order is enforceable under this
19 section if:

20 (1) the order identifies a protected individual and a respondent;

21 (2) the order is valid and in effect;

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

3 (4) the order was issued after:

4 (A) the respondent was given reasonable notice and had an
5 opportunity to be heard before the court issued the order; or

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

10 (d) A Canadian domestic violence protection order valid on its face is
11 prima facie evidence of its enforceability under this section.

12 (e) A claim that a Canadian domestic violence protection order does not
13 comply with subsection (c) of this section is an affirmative defense in a
14 proceeding seeking enforcement of the order. If the tribunal determines that
15 the order is not enforceable, the tribunal shall issue an order that the Canadian
16 domestic violence protection order is not enforceable under this section and
17 section 1183 of this title and may not be registered under section 1185 of this
18 title.

19 (f) This section applies to enforcement of a provision of a Canadian
20 domestic violence protection order against a party to the order in which each
21 party is a protected individual and respondent only if:

1 (1) the party seeking enforcement of the order filed a pleading
2 requesting the order from the issuing court; and

3 (2) the court made specific findings that entitled the party to the
4 enforcement sought.

5 § 1185. REGISTRATION OF CANADIAN DOMESTIC VIOLENCE

6 PROTECTION ORDER

7 (a) An individual may register a Canadian domestic violence protection
8 order in this State. To register the order, the individual shall present a certified
9 copy of the order to:

10 (1) the Department of Public Safety for inclusion in the Protection Order
11 Database; or

12 (2) a court, which shall present the Canadian domestic violence
13 protection order to the Department of Public Safety for inclusion in the
14 Protection Order Database.

15 (b) On receipt of a certified copy of a Canadian domestic violence
16 protection order, the Department of Public Safety or the court shall register the
17 order in accordance with this section.

18 (c) An individual registering a Canadian domestic violence protection order
19 under this section shall file an affidavit stating that, to the best of the
20 individual's knowledge, the order is valid and in effect.

21 (d) After a Canadian domestic violence protection order is registered under

1 this section, the Department of Public Safety or the court shall provide the
2 individual registering the order a certified copy of the registered order.

3 (e) A Canadian domestic violence protection order registered under this
4 section may be entered in a state or federal registry of protection orders in
5 accordance with law.

6 (f) An inaccurate, expired, or unenforceable Canadian domestic violence
7 protection order may be corrected or removed from the Protection Order
8 Database in accordance with law of this State other than this subchapter.

9 (g) A fee shall not be charged for the registration of a Canadian domestic
10 violence protection order under this section.

11 (h) Registration in this State or filing under law of this State other than this
12 subchapter of a Canadian domestic violence protection order is not required for
13 its enforcement under this subchapter.

14 § 1186. IMMUNITY

15 The State, State agency, local governmental agency, law enforcement
16 officer, prosecuting attorney, clerk of court, and State or local governmental
17 official acting in an official capacity are immune from civil and criminal
18 liability for an act or omission arising out of the registration or enforcement of
19 a Canadian domestic violence protection order or the detention or arrest of an
20 alleged violator of a Canadian domestic violence protection order if the act or
21 omission was a good faith effort to comply with this subchapter.

1 § 1187. MISCELLANEOUS PROVISIONS

2 (a) An individual who seeks a remedy under this subchapter may seek other
3 legal or equitable remedies.

4 (b) In applying and construing this uniform act, consideration shall be
5 given to the need to promote uniformity of the law with respect to its subject
6 matter among states that enact it.

7 (c) This subchapter modifies, limits, or supersedes the Electronic
8 Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq.,
9 but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C.
10 § 7001(c), or authorize electronic delivery of any of the notices described in
11 Section 103(b) of that act, 15 U.S.C. § 7003(b).

12 (d) This subchapter applies to a Canadian domestic violence protection
13 order issued before, on, or after July 1, 2019 and to a continuing action for
14 enforcement of a Canadian domestic violence protection order commenced
15 before, on, or after July 1, 2019. A request for enforcement of a Canadian
16 domestic violence protection order made on or after July 1, 2019 for a
17 violation of the order occurring before, on, or after July 1, 2019 is governed by
18 this subchapter.

19 Sec. 2. EFFECTIVE DATE

20 This act shall take effect on July 1, 2019.