

ACT 107

H.B. NO. 1891

A Bill for an Act Relating to the Uniform Recognition and Enforcement of
Canadian Domestic-Violence Protection Orders Act.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
UNIFORM RECOGNITION AND ENFORCEMENT OF CANADIAN
DOMESTIC-VIOLENCE PROTECTION ORDERS ACT**

§ -1 Short title. This chapter may be cited as the Uniform Recognition and Enforcement of Canadian Domestic-Violence Protection Orders Act.

§ -2 Definitions. As used in this chapter, unless the context otherwise requires:

“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:

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

“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.

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

“Law enforcement officer” means an individual authorized by law of this State other than this chapter to enforce a domestic protection order.

“Person” means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

“Protected individual” means an individual protected by a Canadian domestic-violence protection order.

“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.

“Respondent” means an individual against whom a Canadian domestic-violence protection order is issued.

“State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. “State” includes a federally recognized Indian tribe.

“Tribunal” means a court, agency, or other entity authorized by law of this State other than this chapter to establish, enforce, or modify a domestic protection order.

§ -3 Enforcement of Canadian domestic-violence protection order by law enforcement officer. (a) If a law enforcement officer determines under subsection (b) or (c) that there is probable cause to believe a valid Canadian domestic-violence protection order exists and the order has been violated, the officer shall enforce the terms of the Canadian domestic-violence protection order as if the terms were in an order of a tribunal. Presentation to a law enforcement officer of a certified copy of a Canadian domestic-violence protection order is not required for enforcement.

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

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

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

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

§ -4 Enforcement of Canadian domestic-violence protection order by tribunal. (a) A tribunal may issue an order enforcing or refusing to enforce a Canadian domestic-violence protection order on application of:

- (1) A person authorized by law of this State other than this chapter to seek enforcement of a domestic-protection order; or
- (2) A respondent.

(b) In a proceeding under subsection (a), the tribunal shall follow the procedures of this State for 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.

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

- (1) The order identifies a protected individual and a respondent;
- (2) The order is valid and in effect;
- (3) The issuing court had jurisdiction over the parties and the subject matter under law applicable in the issuing court; and
- (4) The order was issued after:
 - (A) The respondent was given reasonable notice and had an opportunity to be heard before the court issued the order; or
 - (B) In the case of an ex parte order, the respondent was given reasonable notice and had or will have an opportunity to be heard within a reasonable time after the order was issued, in a manner consistent with the right of the respondent to due process.

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

(e) A claim that a Canadian domestic-violence protection order does not comply with subsection (c) 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 -3 and may not be registered under section -5.

(f) A person who violates a valid Canadian domestic-violence protection order shall be subject to the penalties provided in section 586-26.

§ -5 Registration of Canadian domestic-violence protection order.

(a) An individual may register a Canadian domestic-violence protection order in a Hawaii state court. To register the order, the individual shall present a certified copy of the Canadian domestic-violence protection order, accompanied by a sworn affidavit that the order remains in effect and has not been vacated or modified. No filing fee shall be required for registration of the order.

(b) Registration in this State or filing of a Canadian domestic-violence protection order with Hawaii state courts shall not be required for enforcement of a Canadian domestic-violence protection order in this State.

§ -6 Immunity. Any law enforcement officer acting in good faith shall be immune from civil or criminal liability in any action arising in connection with enforcement of a valid Canadian domestic-violence protection order or a Canadian domestic-violence protection order that appears to be authentic on its face. For the purposes of this section, “authentic on its face” means the Canadian domestic-violence protection order contains the names of both parties and remains in effect.

§ -7 Other remedies. An individual who seeks a remedy under this chapter may seek other legal or equitable remedies.

§ -8 Uniformity of application and construction. In applying and construing this uniform Act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ -9 Relation to Electronic Signatures in Global and National Commerce Act. This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 United States Code section 7001 et seq., but does not:

- (1) Modify, limit, or supersede section 101(c) of that Act, 15 United States Code section 7001(c); or
- (2) Authorize electronic delivery of any of the notices described in section 103(b) of that Act, 15 United States Code section 7003(b).

§ -10 Transition. This chapter shall apply to a Canadian domestic-violence protection order issued before, on, or after the effective date of this chapter and to a continuing action for enforcement of a Canadian domestic-violence protection order commenced before, on, or after the effective date of this chapter. A request for enforcement of a Canadian domestic-violence protection order made on or after the effective date of this chapter for a violation of the order occurring before, on, or after the effective date of this chapter shall be governed by this chapter.”

SECTION 2. Section 586-21, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§586-21]]~~ **Foreign protective orders.** Any valid protective order, as defined in title 18 [U.S.C. §2266,] United States Code section 2266, issued by a court or tribunal of another state, tribe, or territory of the United States, or issued by a court or tribunal of Canada and recognized under chapter _____, shall be accorded full faith and credit by the courts of this State and shall be enforced as if it were an order issued in this State.”

SECTION 3. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 17, 2022.)