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Legislative Document

No. 1563

S.P. 615

In Senate, January 19, 2016

An Act To Enact the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by President THIBODEAU of Waldo.
Cosponsored by Representative GUERIN of Glenburn and
Senators: BAKER of Sagadahoc, BURNS of Washington, CYRWAY of Kennebec, KATZ of
Kennebec, VOLK of Cumberland, WOODSOME of York, Representatives: FOWLE of
Vassalboro, MAKER of Calais.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **PART A**

3 **Sec. A-1. 19-A MRSA c. 103** is enacted to read:

4 **CHAPTER 103**

5 **UNIFORM INTERSTATE ENFORCEMENT OF DOMESTIC VIOLENCE**
6 **PROTECTION ORDERS ACT**

7 **§4101. Short title**

8 This chapter may be known and cited as the Uniform Interstate Enforcement of
9 Domestic Violence Protection Orders Act.

10 **§4102. Definitions**

11 As used in this chapter, unless the context otherwise indicates, the following terms
12 have the following meanings.

13 **1. Foreign protection order.** "Foreign protection order" means a protection order
14 issued by a tribunal of another state.

15 **2. Issuing state.** "Issuing state" means the state whose tribunal has issued a
16 protection order.

17 **3. Mutual foreign protection order.** "Mutual foreign protection order" means a
18 foreign protection order that includes provisions in favor of both the protected individual
19 seeking enforcement of the order and the respondent.

20 **4. Protected individual.** "Protected individual" means an individual protected by a
21 protection order.

22 **5. Protection order.** "Protection order" means an injunction or other order, issued
23 by a tribunal under the domestic violence, family violence or stalking laws of the issuing
24 state, to prevent an individual from engaging in violent or threatening acts against,
25 harassment of, contact or communication with or physical proximity to another
26 individual.

27 **6. Respondent.** "Respondent" means the individual against whom enforcement of a
28 protection order is sought.

29 **7. State.** "State" means a state of the United States, the District of Columbia, Puerto
30 Rico, the United States Virgin Islands or any territory or insular possession subject to the
31 jurisdiction of the United States. "State" includes an Indian tribe or band that has
32 jurisdiction to issue protection orders.

33 **8. Tribunal.** "Tribunal" means a court, agency or other entity authorized by law to
34 issue or modify a protection order.

1 **§4103. Judicial enforcement of order**

2 **1. Enforcement in tribunal of this State.** A person authorized by the law of this
3 State to seek enforcement of a protection order may seek enforcement of a valid foreign
4 protection order in a tribunal of this State. The tribunal shall enforce the terms of the
5 order, including terms that provide relief that a tribunal of this State would lack power to
6 provide but for this section. The tribunal shall enforce the order, whether the order was
7 obtained by independent action or in another proceeding, if it is an order issued in
8 response to a complaint, petition or motion filed by or on behalf of an individual seeking
9 protection. In a proceeding to enforce a foreign protection order, the tribunal shall follow
10 the procedures of this State for the enforcement of protection orders.

11 **2. Foreign tribunal recognition of standing to enforce.** A tribunal of this State
12 may not enforce a foreign protection order issued by a tribunal of a state that does not
13 recognize the standing of a protected individual to seek enforcement of the order.

14 **3. Enforcement when issued in accordance with jurisdictional requirements in**
15 **issuing state.** A tribunal of this State shall enforce the provisions of a valid foreign
16 protection order that govern custody and visitation if the order was issued in accordance
17 with the jurisdictional requirements governing the issuance of custody and visitation
18 orders in the issuing state.

19 **4. Valid foreign protection order.** A foreign protection order is valid if it:

20 **A. Identifies the protected individual and the respondent;**

21 **B. Is currently in effect;**

22 **C. Was issued by a tribunal that had jurisdiction over the parties and subject matter**
23 **under the law of the issuing state; and**

24 **D. Was issued after the respondent was given reasonable notice and had an**
25 **opportunity to be heard before the tribunal issued the order or, in the case of an order**
26 **ex parte, the respondent was given notice and has had or will have an opportunity to**
27 **be heard within a reasonable time after the order was issued, in a manner consistent**
28 **with the rights of the respondent to due process.**

29 **5. Prima facie evidence of validity.** A foreign protection order valid on its face is
30 prima facie evidence of its validity.

31 **6. Affirmative defense.** Absence of any of the criteria for validity of a foreign
32 protection order is an affirmative defense in an action seeking enforcement of the order.

33 **7. Enforcement of mutual foreign protection order.** A tribunal of this State may
34 enforce provisions of a mutual foreign protection order that favor a respondent only if:

35 **A. The respondent filed a written pleading seeking a protection order from the**
36 **tribunal of the issuing state; and**

37 **B. The tribunal of the issuing state made specific findings in favor of the respondent.**

1 **§4104. Nonjudicial enforcement of order**

2 **1. Enforcement by law enforcement officer.** A law enforcement officer of this
3 State, upon determining that there is probable cause to believe that a valid foreign
4 protection order exists and that the order has been violated, shall enforce the order as if it
5 were the order of a tribunal of this State. Presentation of a protection order that identifies
6 both the protected individual and the respondent and, on its face, is currently in effect
7 constitutes probable cause to believe that a valid foreign protection order exists. For the
8 purposes of this section, the protection order may be inscribed on a tangible medium or
9 may have been stored in an electronic or other medium if it is retrievable in perceivable
10 form. Presentation of a certified copy of a protection order is not required for
11 enforcement.

12 **2. Existence of valid foreign protection order; probable cause.** If a foreign
13 protection order is not presented, a law enforcement officer of this State may consider
14 other information in determining whether there is probable cause to believe that a valid
15 foreign protection order exists.

16 **3. Notice to and service upon respondent.** If a law enforcement officer of this
17 State determines that an otherwise valid foreign protection order cannot be enforced
18 because the respondent has not been notified or served with the order, the officer shall
19 inform the respondent of the order, make a reasonable effort to serve the order upon the
20 respondent and allow the respondent a reasonable opportunity to comply with the order
21 before enforcing the order.

22 **4. Registration or filing not required.** Registration or filing of an order in this
23 State is not required for the enforcement of a valid foreign protection order pursuant to
24 this Act.

25 **§4105. Registration of order**

26 **1. Registration of protection order.** Any individual may register a foreign
27 protection order in this State. To register a foreign protection order, an individual shall
28 present a certified copy of the order to the office of the clerk of any District Court or of
29 any Superior Court of this State.

30 **2. Registration by clerk; certified copy.** Upon receipt of a foreign protection order,
31 the clerk of the District Court or of the Superior Court shall register the order in
32 accordance with this section. After the order is registered, the court clerk shall furnish to
33 the individual registering the order a certified copy of the registered order.

34 **3. Protection order certified by issuing state; removal if inaccurate or not in**
35 **effect.** The clerk of the District Court or of the Superior Court of this State shall register
36 an order upon presentation of a copy of a protection order that has been certified by the
37 issuing state. A registered foreign protection order that is inaccurate or is not currently in
38 effect must be corrected or removed from the registry in accordance with the law of this
39 State.

1 **SUMMARY**

2 This bill enacts the Uniform Interstate Enforcement of Domestic Violence Protection
3 Orders Act approved by the National Conference of Commissioners on Uniform State
4 Laws in 2002. The purposes of the bill and section-by-section descriptions are included
5 in the Comments provided by the National Conference of Commissioners on Uniform
6 State Laws. The Uniform Act is intended to be consistent with the federal Violence
7 Against Women Act as reauthorized in 2013 in Public Law 113-4. The full faith and
8 credit provisions are codified in 18 United States Code, Section 2265.

9 The Uniform Act provides an optional registration process for domestic violence
10 protection orders, known as "protection from abuse orders" in Maine, issued by a tribunal
11 in another state. A protection order from another state may be registered in Maine by
12 presenting a certified copy of the order to the office of the clerk of any District Court or
13 of any Superior Court of this State.

14 The Maine Uniform Enforcement of Foreign Judgments Act, which currently applies
15 to foreign protection orders, is amended to clarify that the new Uniform Interstate
16 Enforcement of Domestic Violence Protection Orders Act may also be used to enforce
17 foreign protection orders.