

JAN 21 2022

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:

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

4 **"CHAPTER**
5 **UNIFORM RECOGNITION AND ENFORCEMENT OF CANADIAN**
6 **DOMESTIC-VIOLENCE PROTECTION ORDERS ACT**

7 § -1 **Short title.** This chapter may be cited as the
8 Uniform Recognition and Enforcement of Canadian
9 Domestic-Violence Protection Orders Act.

10 § -2 **Definitions.** As used in this chapter, unless the
11 context otherwise requires:

12 "Canadian domestic-violence protection order" means a
13 judgment or part of a judgment or order issued in a civil
14 proceeding by a court of Canada under law of the issuing
15 jurisdiction that relates to domestic violence and prohibits a
16 respondent from:



1 (1) Being in physical proximity to a protected individual
2 or following a protected individual;

3 (2) Directly or indirectly contacting or communicating
4 with a protected individual or other individual
5 described in the order;

6 (3) Being within a certain distance of a specified place
7 or location associated with a protected individual; or

8 (4) Molesting, annoying, harassing, or engaging in
9 threatening conduct directed at a protected
10 individual.

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

17 "Issuing court" means the court that issues a Canadian
18 domestic-violence protection order.

19 "Law enforcement officer" means an individual authorized by
20 law of this State other than this chapter to enforce a domestic
21 protection order.



1 "Person" means an individual, estate, business or nonprofit
2 entity, public corporation, government or governmental
3 subdivision, agency, or instrumentality, or other legal entity.

4 "Protected individual" means an individual protected by a
5 Canadian domestic-violence protection order.

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

9 "Respondent" means an individual against whom a Canadian
10 domestic-violence protection order is issued.

11 "State" means a state of the United States, the District of
12 Columbia, Puerto Rico, the United States Virgin Islands, or any
13 territory or insular possession subject to the jurisdiction of
14 the United States. The term includes a federally recognized
15 Indian tribe.

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

19 **§ -3 Enforcement of Canadian domestic-violence**
20 **protection order by law enforcement officer.** (a) If a law
21 enforcement officer determines under subsection (b) or (c) that



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

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

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

18 (d) If a law enforcement officer determines that an
19 otherwise valid Canadian domestic-violence protection order
20 cannot be enforced because the respondent has not been notified
21 of or served with the order, the officer shall notify the



1 protected individual that the officer will make reasonable
2 efforts to contact the respondent, consistent with the safety of
3 the protected individual. After notice to the protected
4 individual and consistent with the safety of the individual, the
5 officer shall make a reasonable effort to inform the respondent
6 of the order, notify the respondent of the terms of the order,
7 provide a record of the order, if available, to the respondent,
8 and allow the respondent a reasonable opportunity to comply with
9 the order before the officer enforces the order.

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

13 **§ -4 Enforcement of Canadian domestic-violence**
14 **protection order by tribunal.** (a) A tribunal may issue an
15 order enforcing or refusing to enforce a Canadian
16 domestic-violence protection order on application of:

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

20 (2) A respondent.



1 (b) In a proceeding under subsection (a), the tribunal
2 shall follow the procedures of this State for enforcement of a
3 domestic protection order. An order entered under this section
4 is limited to the enforcement of the terms of the Canadian
5 domestic-violence protection order.

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

8 (1) The order identifies a protected individual and a
9 respondent;

10 (2) The order is valid and in effect;

11 (3) The issuing court had jurisdiction over the parties
12 and the subject matter under law applicable in the
13 issuing court; and

14 (4) The order was issued after:

15 (A) The respondent was given reasonable notice and
16 had an opportunity to be heard before the court
17 issued the order; or

18 (B) In the case of an ex parte order, the respondent
19 was given reasonable notice and had or will have
20 an opportunity to be heard within a reasonable
21 time after the order was issued, in a manner



1 consistent with the right of the respondent to
2 due process.

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

6 (e) A claim that a Canadian domestic-violence protection
7 order does not comply with subsection (c) is an affirmative
8 defense in a proceeding seeking enforcement of the order. If
9 the tribunal determines that the order is not enforceable, the
10 tribunal shall issue an order that the Canadian
11 domestic-violence protection order is not enforceable under this
12 section and section -3 and may not be registered under
13 section -5.

14 § -5 **Registration of Canadian domestic-violence**
15 **protection order.** (a) An individual may register a Canadian
16 domestic-violence protection order in a Hawaii state court. To
17 register the order, the individual shall present a certified
18 copy of the Canadian domestic-violence protection order,
19 accompanied by a sworn affidavit that the order remains in
20 effect and has not been vacated or modified. No filing fee
21 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. The State, state agency, local governmental agency, law enforcement officer, prosecuting attorney, clerk of court, and state or local governmental official acting in an official capacity shall be 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 this chapter.

§ -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.



1 § -9 **Relation to Electronic Signatures in Global and**
2 **National Commerce Act.** This chapter modifies, limits, or
3 supersedes the Electronic Signatures in Global and National
4 Commerce Act, 15 United States Code section 7001 et seq., but
5 does not:

6 (1) Modify, limit, or supersede section 101(c) of that
7 Act, 15 United States Code section 7001(c); or

8 (2) Authorize electronic delivery of any of the notices
9 described in section 103(b) of that Act, 15 United
10 States Code section 7003(b).

11 § -10 **Transition.** This chapter shall apply to a
12 Canadian domestic-violence protection order issued before, on,
13 or after the effective date of this chapter and to a continuing
14 action for enforcement of a Canadian domestic-violence
15 protection order commenced before, on, or after the effective
16 date of this chapter. A request for enforcement of a Canadian
17 domestic-violence protection order made on or after the
18 effective date of this chapter for a violation of the order
19 occurring before, on, or after the effective date of this
20 chapter shall be governed by this chapter."



1 SECTION 2. If any provision of this Act, or the
2 application thereof to any person or circumstance, is held
3 invalid, the invalidity does not affect other provisions or
4 applications of the Act that can be given effect without the
5 invalid provision or application, and to this end the provisions
6 of this Act are severable.

7 SECTION 3. This Act shall take effect on January 1, 2023.

8
INTRODUCED BY: Karl N. N. N.



S.B. NO. 2393

Report Title:

Women's Legislative Caucus; Uniform Recognition and Enforcement of Canadian Domestic-Violence Protection Orders Act

Description:

Enacts the Uniform Recognition and Enforcement of Canadian Domestic-Violence Protection Orders Act.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

