

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0134.01 Michael Dohr x4347

SENATE BILL 16-103

SENATE SPONSORSHIP

Merrifield,

HOUSE SPONSORSHIP

Sias,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING CREATION OF THE "UNIFORM RECOGNITION AND
102 ENFORCEMENT OF CANADIAN DOMESTIC VIOLENCE
103 PROTECTION ORDERS ACT".

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills summaries>.)

Colorado Commission on Uniform State Laws. The bill enacts the "Uniform Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act" as recommended by the national conference of commissioners on uniform state laws. The bill allows a peace officer to enforce a Canadian domestic violence protection order.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

The bill allows a court to enter an order enforcing or refusing to enforce a Canadian domestic violence protection order. The bill provides immunity for a person who enforces a Canadian domestic violence protection order.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 2 to article
3 14 of title 13 as follows:

4 **PART 2**

5 **UNIFORM RECOGNITION AND ENFORCEMENT OF**
6 **CANADIAN DOMESTIC VIOLENCE PROTECTION ORDERS**

7 **13-14-201. Short title.** THE SHORT TITLE OF THIS PART 2 IS THE
8 "UNIFORM RECOGNITION AND ENFORCEMENT OF CANADIAN DOMESTIC
9 VIOLENCE PROTECTION ORDERS ACT".

10 **13-14-202. Definitions.** IN THIS PART 2:

11 (1) "CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER" MEANS
12 A JUDGMENT OR PART OF A JUDGMENT OR ORDER ISSUED IN A CIVIL
13 PROCEEDING BY A COURT OF CANADA UNDER LAW OF THE ISSUING
14 JURISDICTION THAT RELATES TO DOMESTIC VIOLENCE AND PROHIBITS A
15 RESPONDENT FROM:

16 (a) BEING IN PHYSICAL PROXIMITY TO A PROTECTED INDIVIDUAL
17 OR FOLLOWING A PROTECTED INDIVIDUAL;

18 (b) DIRECTLY OR INDIRECTLY CONTACTING OR COMMUNICATING
19 WITH A PROTECTED INDIVIDUAL OR OTHER INDIVIDUAL DESCRIBED IN THE
20 ORDER;

21 (c) BEING WITHIN A CERTAIN DISTANCE OF A SPECIFIED PLACE OR
22 LOCATION ASSOCIATED WITH A PROTECTED INDIVIDUAL; OR

23 (d) MOLESTING, ANNOYING, HARASSING, OR ENGAGING IN

1 THREATENING CONDUCT DIRECTED AT A PROTECTED INDIVIDUAL.

2 (2) "DOMESTIC PROTECTION ORDER" MEANS AN INJUNCTION OR
3 OTHER ORDER ISSUED BY A TRIBUNAL WHICH RELATES TO DOMESTIC OR
4 FAMILY VIOLENCE LAWS TO PREVENT AN INDIVIDUAL FROM ENGAGING IN
5 VIOLENT OR THREATENING ACTS AGAINST, HARASSMENT OF, DIRECT OR
6 INDIRECT CONTACT OR COMMUNICATION WITH, OR BEING IN PHYSICAL
7 PROXIMITY TO ANOTHER INDIVIDUAL.

8 (3) "ISSUING COURT" MEANS THE COURT THAT ISSUES A CANADIAN
9 DOMESTIC VIOLENCE PROTECTION ORDER.

10 (4) "LAW ENFORCEMENT OFFICER" MEANS AN INDIVIDUAL
11 AUTHORIZED BY LAW OF THIS STATE OTHER THAN THIS PART 2 TO ENFORCE
12 A DOMESTIC PROTECTION ORDER.

13 (5) "PERSON" MEANS AN INDIVIDUAL; ESTATE; BUSINESS OR
14 NONPROFIT ENTITY; PUBLIC CORPORATION; GOVERNMENT OR
15 GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY; OR OTHER
16 LEGAL ENTITY.

17 (6) "PROTECTED INDIVIDUAL" MEANS AN INDIVIDUAL PROTECTED
18 BY A CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER.

19 (7) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A
20 TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER
21 MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

22 (8) "RESPONDENT" MEANS AN INDIVIDUAL AGAINST WHOM A
23 CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER IS ISSUED.

24 (9) "STATE" MEANS A STATE OF THE UNITED STATES, THE
25 DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN
26 ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE
27 JURISDICTION OF THE UNITED STATES.

1 (10) "TRIBUNAL" MEANS A COURT, AGENCY, OR OTHER ENTITY
2 AUTHORIZED BY LAW OF THIS STATE OTHER THAN THIS PART 2 TO
3 ESTABLISH, ENFORCE, OR MODIFY A DOMESTIC PROTECTION ORDER.

4 **13-14-203. Enforcement of Canadian domestic violence**
5 **protection order by law enforcement officer.** (1) IF A LAW
6 ENFORCEMENT OFFICER DETERMINES UNDER SUBSECTION (2) OR (3) OF
7 THIS SECTION THAT THERE IS PROBABLE CAUSE TO BELIEVE A VALID
8 CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER EXISTS AND THE
9 ORDER HAS BEEN VIOLATED, THE OFFICER SHALL ENFORCE THE TERMS OF
10 THE CANADIAN DOMESTIC VIOLENCE ORDER AS IF THEY WERE IN AN ORDER
11 OF A TRIBUNAL. PRESENTATION TO A LAW ENFORCEMENT OFFICER OF A
12 CERTIFIED COPY OF A CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER
13 IS NOT REQUIRED FOR ENFORCEMENT.

14 (2) PRESENTATION TO A LAW ENFORCEMENT OFFICER OF A RECORD
15 OF A CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER THAT IDENTIFIES
16 BOTH A PROTECTED INDIVIDUAL AND A RESPONDENT AND ON ITS FACE IS
17 IN EFFECT CONSTITUTES PROBABLE CAUSE TO BELIEVE THAT A VALID
18 ORDER EXISTS.

19 (3) IF A RECORD OF A CANADIAN DOMESTIC VIOLENCE PROTECTION
20 ORDER IS NOT PRESENTED AS PROVIDED IN SUBSECTION (2) OF THIS
21 SECTION, A LAW ENFORCEMENT OFFICER MAY CONSIDER OTHER
22 INFORMATION IN DETERMINING WHETHER THERE IS PROBABLE CAUSE TO
23 BELIEVE THAT A VALID CANADIAN DOMESTIC VIOLENCE PROTECTION
24 ORDER EXISTS.

25 (4) IF A LAW ENFORCEMENT OFFICER DETERMINES THAT AN
26 OTHERWISE VALID CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER
27 CANNOT BE ENFORCED BECAUSE THE RESPONDENT HAS NOT BEEN NOTIFIED

1 OF OR SERVED WITH THE ORDER, THE OFFICER SHALL NOTIFY THE
2 PROTECTED INDIVIDUAL THAT THE OFFICER WILL MAKE REASONABLE
3 EFFORTS TO CONTACT THE RESPONDENT, CONSISTENT WITH THE SAFETY OF
4 THE PROTECTED INDIVIDUAL. AFTER NOTICE TO THE PROTECTED
5 INDIVIDUAL AND CONSISTENT WITH THE SAFETY OF THE INDIVIDUAL, THE
6 LAW ENFORCEMENT OFFICER SHALL MAKE A REASONABLE EFFORT TO
7 INFORM THE RESPONDENT OF THE ORDER; NOTIFY THE RESPONDENT OF THE
8 TERMS OF THE ORDER; PROVIDE A RECORD OF THE ORDER, IF AVAILABLE,
9 TO THE RESPONDENT; AND ALLOW THE RESPONDENT A REASONABLE
10 OPPORTUNITY TO COMPLY WITH THE ORDER BEFORE THE OFFICER
11 ENFORCES THE ORDER.

12 (5) IF A LAW ENFORCEMENT OFFICER DETERMINES THAT AN
13 INDIVIDUAL IS A PROTECTED INDIVIDUAL, THE OFFICER SHALL INFORM THE
14 INDIVIDUAL OF AVAILABLE LOCAL VICTIM SERVICES.

15 **13-14-204. Enforcement of Canadian domestic violence**
16 **protection order by tribunal.** (1) A TRIBUNAL MAY ISSUE AN ORDER
17 ENFORCING OR REFUSING TO ENFORCE A CANADIAN DOMESTIC VIOLENCE
18 PROTECTION ORDER ON APPLICATION OF:

19 (a) A PERSON AUTHORIZED BY LAW OF THIS STATE OTHER THAN
20 THIS PART 2 TO SEEK ENFORCEMENT OF A DOMESTIC PROTECTION ORDER;
21 OR

22 (b) A RESPONDENT.

23 (2) IN A PROCEEDING UNDER SUBSECTION (1) OF THIS SECTION, THE
24 TRIBUNAL SHALL FOLLOW THE PROCEDURES OF THIS STATE FOR
25 ENFORCEMENT OF A DOMESTIC PROTECTION ORDER. AN ORDER ENTERED
26 UNDER THIS SECTION IS LIMITED TO THE ENFORCEMENT OF THE TERMS OF
27 THE CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER AS DESCRIBED

1 IN SECTION 13-14-202 (1).

2 (3) A CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER IS
3 ENFORCEABLE UNDER THIS SECTION IF:

4 (a) THE ORDER IDENTIFIES A PROTECTED INDIVIDUAL AND A
5 RESPONDENT;

6 (b) THE ORDER IS VALID AND IN EFFECT;

7 (c) THE ISSUING COURT HAD JURISDICTION OVER THE PARTIES AND
8 THE SUBJECT MATTER UNDER LAW APPLICABLE IN THE ISSUING COURT;
9 AND

10 (d) THE ORDER WAS ISSUED AFTER:

11 (I) THE RESPONDENT WAS GIVEN REASONABLE NOTICE AND HAD
12 AN OPPORTUNITY TO BE HEARD BEFORE THE COURT ISSUED THE ORDER; OR

13 (II) IN THE CASE OF AN EX PARTE ORDER, THE RESPONDENT WAS
14 GIVEN REASONABLE NOTICE AND HAD OR WILL HAVE AN OPPORTUNITY TO
15 BE HEARD WITHIN A REASONABLE TIME AFTER THE ORDER WAS ISSUED, IN
16 A MANNER CONSISTENT WITH THE RIGHT OF THE RESPONDENT TO DUE
17 PROCESS.

18 (4) A CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER VALID
19 ON ITS FACE IS PRIMA FACIE EVIDENCE OF ITS ENFORCEABILITY UNDER THIS
20 SECTION.

21 (5) A CLAIM THAT A CANADIAN DOMESTIC VIOLENCE PROTECTION
22 ORDER DOES NOT COMPLY WITH SUBSECTION (3) OF THIS SECTION IS AN
23 AFFIRMATIVE DEFENSE IN A PROCEEDING SEEKING ENFORCEMENT OF THE
24 ORDER. IF THE TRIBUNAL DETERMINES THAT THE ORDER IS NOT
25 ENFORCEABLE, THE TRIBUNAL SHALL ISSUE AN ORDER THAT THE
26 CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER IS NOT ENFORCEABLE
27 UNDER THIS SECTION AND SECTION 13-14-203 AND MAY NOT BE

1 REGISTERED UNDER SECTION 13-14-205.

2 (6) THIS SECTION APPLIES TO ENFORCEMENT OF A PROVISION OF A
3 CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER AGAINST A PARTY TO
4 THE ORDER IN WHICH EACH PARTY IS A PROTECTED INDIVIDUAL AND
5 RESPONDENT ONLY IF:

6 (a) THE PARTY SEEKING ENFORCEMENT OF THE ORDER FILED A
7 PLEADING REQUESTING THE ORDER FROM THE ISSUING COURT; AND

8 (b) THE COURT MADE SPECIFIC FINDINGS THAT ENTITLED THE
9 PARTY TO THE ENFORCEMENT SOUGHT.

10 **13-14-205. Registration of a Canadian domestic violence**
11 **protection order.** (1) AN INDIVIDUAL MAY REGISTER A CANADIAN
12 DOMESTIC VIOLENCE PROTECTION ORDER IN THIS STATE. TO REGISTER THE
13 ORDER, THE INDIVIDUAL MUST PRESENT A COPY OF THE ORDER TO:

14 (a) A TRIBUNAL OR OTHER AGENCY RESPONSIBLE FOR THE
15 REGISTRATION OF DOMESTIC PROTECTION ORDERS; OR

16 (b) AN AGENCY DESIGNATED BY THE STATE, WHICH SHALL
17 PRESENT THE CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER TO THE
18 TRIBUNAL RESPONSIBLE FOR THE REGISTRATION OF DOMESTIC PROTECTION
19 ORDERS.

20 (2) ON RECEIPT OF A CERTIFIED COPY OF A CANADIAN DOMESTIC
21 VIOLENCE PROTECTION ORDER, THE TRIBUNAL OR OTHER AGENCY
22 RESPONSIBLE FOR THE REGISTRATION OF THE DOMESTIC PROTECTION
23 ORDERS SHALL REGISTER THE ORDER IN ACCORDANCE WITH THIS SECTION.

24 (3) AN INDIVIDUAL REGISTERING A CANADIAN DOMESTIC
25 VIOLENCE PROTECTION ORDER UNDER THIS SECTION SHALL FILE AN
26 AFFIDAVIT STATING THAT, TO THE BEST OF THE INDIVIDUAL'S KNOWLEDGE,
27 THE ORDER IS VALID AND IN EFFECT.

1 (4) AFTER A CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER
2 IS REGISTERED UNDER THIS SECTION, THE RESPONSIBLE TRIBUNAL OR
3 OTHER AGENCY SHALL PROVIDE THE INDIVIDUAL REGISTERING THE
4 CANADIAN ORDER A CERTIFIED COPY OF THE REGISTERED ORDER.

5 (5) A CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER
6 REGISTERED UNDER THIS SECTION MAY BE ENTERED IN A STATE OR
7 FEDERAL REGISTRY OF PROTECTION ORDERS IN ACCORDANCE WITH
8 APPLICABLE LAW.

9 (6) AN INACCURATE, EXPIRED, OR UNENFORCEABLE CANADIAN
10 DOMESTIC VIOLENCE PROTECTION ORDER MAY BE CORRECTED OR
11 REMOVED FROM THE REGISTRY OF PROTECTION ORDERS MAINTAINED IN
12 THIS STATE IN ACCORDANCE WITH LAW OF THIS STATE OTHER THAN THIS
13 PART 2.

14 (7) A FEE MAY NOT BE CHARGED FOR THE REGISTRATION OF A
15 CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER.

16 (8) REGISTRATION IN THIS STATE OR FILING UNDER LAW OF THIS
17 STATE OTHER THAN THIS PART 2 OF A CANADIAN DOMESTIC VIOLENCE
18 PROTECTION ORDER IS NOT REQUIRED FOR ITS ENFORCEMENT UNDER THIS
19 PART 2.

20 **13-14-206. Immunity.** THE STATE, A STATE AGENCY, A LOCAL
21 GOVERNMENTAL AGENCY, LAW ENFORCEMENT OFFICER, PROSECUTING
22 ATTORNEY, CLERK OF COURT, AND STATE OR LOCAL GOVERNMENTAL
23 OFFICIAL ACTING IN AN OFFICIAL CAPACITY ARE IMMUNE FROM CIVIL AND
24 CRIMINAL LIABILITY FOR AN ACT OR OMISSION ARISING OUT OF THE
25 REGISTRATION OR ENFORCEMENT OF A CANADIAN DOMESTIC VIOLENCE
26 PROTECTION ORDER OR THE DETENTION OR ARREST OF AN ALLEGED
27 VIOLATOR OF A CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER IF

1 THE ACT OR OMISSION WAS A GOOD FAITH EFFORT TO COMPLY WITH THIS
2 PART 2.

3 **13-14-207. Other remedies.** AN INDIVIDUAL WHO SEEKS A
4 REMEDY UNDER THIS PART 2 MAY SEEK OTHER LEGAL OR EQUITABLE
5 REMEDIES.

6 **13-14-208. Uniformity of application and construction.** IN
7 APPLYING AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION MUST BE
8 GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT
9 TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

10 **13-14-209. Relation to electronic signatures in global and**
11 **national commerce act.** THIS PART 2 MODIFIES, LIMITS, OR SUPERSEDES
12 THE FEDERAL "ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL
13 COMMERCE ACT", 15 U.S.C. SEC. 7001 ET SEQ., BUT DOES NOT MODIFY,
14 LIMIT, OR SUPERSEDE SECTION 101 (c) OF THAT ACT, 15 U.S.C. SEC. 7001
15 (c), OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES
16 DESCRIBED IN SECTION 103 (b) OF THAT ACT, 15 U.S.C. SEC. 7003 (b).

17 **13-14-210. Transition.** THIS PART 2 APPLIES TO A CANADIAN
18 DOMESTIC VIOLENCE PROTECTION ORDER ISSUED BEFORE, ON, OR AFTER
19 THE EFFECTIVE DATE OF THIS PART 2 AND TO A CONTINUING ACTION FOR
20 ENFORCEMENT OF A CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER
21 COMMENCED BEFORE, ON, OR AFTER THE EFFECTIVE DATE OF THIS PART 2.
22 A REQUEST FOR ENFORCEMENT OF A CANADIAN DOMESTIC VIOLENCE
23 PROTECTION ORDER MADE ON OR AFTER THE EFFECTIVE DATE OF THIS PART
24 2 FOR A VIOLATION OF THE ORDER OCCURRING BEFORE, ON, OR AFTER THE
25 EFFECTIVE DATE OF THIS PART 2 IS GOVERNED BY THIS PART 2.

26 **13-14-211. Severability.** IF ANY PROVISION OF THIS PART 2 OR ITS
27 APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE

1 INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF
2 THIS PART 2 WHICH CAN BE GIVEN EFFECT WITHOUT THE INVALID
3 PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS
4 PART 2 ARE SEVERABLE.

5 **SECTION 2. Inclusion of official comments.** The revisor shall
6 include in the publication of the "Uniform Recognition and Enforcement
7 of Canadian Domestic Violence Protection Orders Act", as nonstatutory
8 matter, following each section of the article, the full text of the official
9 comments to that section contained in the official volume containing the
10 2015 official text of the "Uniform Recognition and Enforcement of
11 Canadian Domestic Violence Protection Orders Act" issued by the
12 Uniform Law Commission, with any changes in the official comments or
13 Colorado comments to correspond to Colorado changes in the uniform
14 act. The revisor of statutes shall prepare the comments for approval by the
15 committee on legal services for publication.

16 **SECTION 3. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, and safety.