

## Model Full Faith and Credit State Code

### **SECTION 1. Full faith and credit.**

Any valid protection order,<sup>1</sup> issued by a court of another state, Indian tribe, or U.S. territory, shall be accorded full faith and credit by the courts of this state and enforced as if it were issued in this state.

### **SECTION 2. Valid protection order.**

(1) A protection order issued by another state, tribal or territorial court shall be deemed valid if:

- (i) the issuing court had jurisdiction over the parties and matter under the laws of such state, tribe or territory; and
- (ii) the respondent received notice and an opportunity to be heard before the out-of-state order was issued, provided, in the case of an ex parte order, notice was provided and an opportunity to be heard will be provided within a reasonable period of time after entry of the order, consistent with due process.

(2) Failure to provide notice and opportunity to be heard shall be an affirmative defense to any charge or process filed seeking enforcement of an out-of-state protection order.

### **SECTION 3. Exclusion from full faith and credit.**

A protection order issued against both the petitioner and the respondent by a court of another state, tribe, or territory shall not be enforceable against the petitioner unless:

- (i) the respondent filed a cross or counter petition, complaint or other written pleading seeking such a protection order; and
- (ii) the issuing court made specific findings against both the petitioner and the respondent and determined that each party was entitled to an order.

### **SECTION 4. Statewide protection order registry.**

(1) The \_\_\_\_ State police (or other agency designated by the governor) shall establish a statewide registry of protection and shall maintain a complete and systematic record and index of all protection orders issued and/or filed within this state.

(2) The data fields of the statewide registry shall include, but need not be limited to, the following:

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<sup>1</sup> "Protection order" as defined in 18 USC §2266.

- (i) name of the petitioner and any other protected parties;
- (ii) name and address of the respondent;
- (iii) date the order was entered;
- (iv) date the order expires;
- (v) relief granted under \_\_\_\_\_ (specify relief awarded and citations related thereto, and designate which of the \_\_\_\_\_ violations are arrestable offenses);
- (vi) judicial district and contact information (e.g., name and telephone number of the judge or the clerk of court) for the issuing court;
- (vii) social security number, date of birth, and physical description of the respondent, where furnished;
- (viii) caution indicator stating whether the respondent is believed to be armed and dangerous; and
  - (ix) brady record indicator stating whether the respondent is prohibited from purchasing or possessing a firearm under federal law.<sup>2</sup>

(3) The clerk of the issuing court and the clerk of any court where an out-of-state protection order has been filed shall send, on a form prescribed by the \_\_\_\_\_ State Police (or registry agency designated by the governor), a copy of the protection order to the statewide protection order registry so that it is received within 24 hours of the entry an order issued within this state or the filing of an out-of-state order. The \_\_\_\_\_ State Police (or other agency designated by the governor) shall enter orders into the statewide protection order registry within 8 hours of receipt.

(4) The statewide protection order registry shall be available at all times to inform courts, dispatchers and law enforcement officers of any protection order issued within this state or filed as an out-of-state order for purposes of enforcement in this state.

## **SECTION 5. Filing.**

(1) A petitioner may file an out-of-state order in this state by presenting a certified copy of such order to a clerk of court in the judicial district where the petitioner believes enforcement may be necessary.

(2) Filing shall be without fee or cost.

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<sup>2</sup> For the federal firearm prohibition, 18 U.S.C. §922(g)(8), to be applicable (i.e., Brady-eligible), the protection order must meet the following “qualifying” conditions:

- (i) the plaintiff must be a spouse, former spouse, present or former cohabitant with the defendant, parent of a common child, or a child of the defendant;
- (ii) the order must have been entered after a hearing of which the defendant received actual notice and had an opportunity to be heard; and
- (iii) the protection order must include a finding that the defendant represents a credible threat to the plaintiff OR must include language that restrains the defendant from harassing, stalking, using, or threatening to use physical force against the plaintiff that would be reasonably be expected to cause bodily injury.

- (3) A clerk of court shall not notify the party against whom the order has been made that an out-of-state protection order has been filed in this state.
- (4) A clerk of court shall forward a copy of the protection order to the local police or sheriff's office and the statewide protection order registry upon filing by a petitioner.
- (5) The clerk shall provide the petitioner with a copy bearing proof of filing with the court and entry into the statewide protection order registry.
- (6) Filing and entry of the out-of-state order into the statewide protection order registry shall not be required for enforcement of the protection order in this state.

**SECTION 6. Law enforcement.**

- (1) A law enforcement officer shall treat an out-of-state protection order as a valid, legal document and shall make an arrest for a violation thereof in the same manner that a law enforcement officer would make an arrest for a violation of a protection order issued within this state.
- (2) A law enforcement officer may rely upon a copy of any out-of-state protection order that has been provided to the officer by any source or may rely upon the statement of any person protected by a foreign order that the order remains in effect. The fact that an out-of-state order has not been filed or entered into the statewide protection order registry or the NCIC Protection Order File shall not be grounds for a law enforcement officer to refuse to enforce the terms of the order unless it is apparent to the officer that the order is not authentic on its face.
- (3) A law enforcement officer acting in good faith shall be immune from civil and criminal liability in any action arising in connection with enforcement of an out-of-state protection order.

**SECTION 7. Custody.**

A law enforcement officer shall enforce a custody provision in an out-of-state protection order in the same manner that the officer would enforce a custody provision in a protection order issued within this state. A custody provision in an out-of-state protection order shall be entitled to judicial enforcement within this state if it complies with the federal Parental Kidnapping Prevention Act (PKPA).

**SECTION 8. Criminal protection orders.**

A defendant who violates a valid, out-of-state criminal protection order may be subject to arrest and charged with a \_\_\_\_\_ offense (e.g., misdemeanor or direct criminal contempt) under the laws of this state. If convicted, the defendant may be sentenced up to \_\_\_\_\_ in jail and/or fined up to \_\_\_\_\_.