
Increasing Your Safety: Full Faith and Credit for Protection Orders

National Center on Full Faith and Credit, Pennsylvania Coalition Against Domestic Violence

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If you have a protection order and you answer "yes?" to any of the questions on right, this brochure may help you.

Letter from Janet Reno, Attorney General of the United States

"Through its full faith and credit provisions, the Violence Against Women Act is designed to ensure that valid protection orders are enforced in each and every jurisdiction in America. The statute affords important and often lifesaving protection for survivors of domestic violence who cross state or tribal lines - whether to go to work, visit relatives, or seek safe haven from abuse. I hope that you will find this booklet helpful in your efforts to safe and live a life free from violence."

Janet Reno Attorney General of the United States

Letter from Susan Kelly-Dreiss, Executive Director, Pennsylvania Coalition Against Domestic Violence

The process of obtaining a protection order and getting it enforced can be complicated. Having an understanding of the laws that apply to these processes and the response you should expect from law enforcement, prosecutors, and courts may help you to make crucial decisions and take the necessary steps that will help to keep you safe. One such law that you should be aware of is the federal full faith and credit law. It was enacted so that your protection order may be enforced anywhere in the United States, even when you cross state, tribal, or territorial lines to shop, work, visit family and friends, or permanently relocate.

This guide was designed to serve as a general guide on how this law works. We encourage you to read it and to contact the resource centers listed in the booklet for more information about the federal full faith and credit law or for other information related to protection orders.

We sincerely hope this guide is helpful to you in your efforts to find safety and justice.

Susan Kelly-Dreiss Executive Director Pennsylvania Coalition Against Domestic Violence

About This Guide

This guide is for you or someone you know who has a protection order and who may travel across state, territorial or tribal lines. It is intended to help you use the full faith and credit provision of the federal Violence Against Women Act (VAWA) of 1994. It also explains the federal law and offers ideas about where to get help if you have problems with enforcement of your protection order.

Do you have a protection order? And?

- Are you moving to a different community?
- Do you work and live in different places?
- Are you going to school out of state or off the reservation?
- Are you planning a vacation?
- Do you shop in another state or off the reservation?
- Are you going to an event outside of your community?

Your Safety Is Most Important

A protection order is only one part of a "safety plan" and one tool you can use to escape violence. No one thing can guarantee your safety at all times. But a safety plan that uses other tools and resources can help increase your safety and protect your children. As a survivor of battering, you can

ask for help and support from an advocate at a local domestic violence program. Most important, you are the expert on your abuser's violence and what you need in order to be safe.

For help in developing a safety plan or for information about protection orders and how to get one, contact your local domestic violence program or the National Domestic Violence Hotline at (800) 799-SAFE (7233) or (512) 453-8117 (multi-lingual advocates are available); TTY: (800) 787-3224.

What Is a "Protection Order?"

Under the Violence Against Women Act, a "protection order?" is "...any injunction or other [court] order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with, or physical proximity to another person."

Some Other Names for Protection Orders Are:

- stay away order,
- order of no contact,
- injunction for protection,
- harassment order,
- restraining order,
- stalking protection order,
- orders not to abuse, harass, contact, etc. that are part of bail, probation, or parole conditions,
- emergency, temporary, or ex parte order.

Orders also vary in length and content.

What Is "Full Faith and Credit?"

The full faith and credit provision of the Violence Against Women Act says that a valid protection order must be enforced everywhere throughout the country. This means that if you get a valid protection order, it is good in the community where you received it as well as in all other jurisdictions or places you go in the United States. This includes protection orders issued in:

- all 50 states,
- Indian tribal lands,
- the District of Columbia,
- the U.S. Virgin Islands, Puerto Rico, American Samoa, the Northern Mariana Islands, and Guam.

Whether your protection order was issued by a tribe, state, the District of Columbia, or a U.S. territory, it is entitled to full faith and credit if it is valid. Under the full faith and credit law, a protection order is valid if:

- the issuing court had authority over the victim and the abuser and had authority to hear and decide the case, and
- the abuser was given notice and an opportunity to be heard.

If you have a temporary, emergency, or ex parte order, it is also entitled to full faith and credit if it meets certain requirements (see Commonly Asked Questions and Answers below for more information).

Important Information: You Need to Know That...

The legal process can be confusing and difficult if you are seeking help in the courts, especially if you are doing this on your own. As a survivor of battering, a domestic violence advocate can assist you with this process.

An advocate can assist you and to help you to be safe. It is highly recommended that you work with a local advocate who works for a domestic violence program.

In addition to the federal full faith and credit law, there are federal domestic violence criminal laws that may apply to your situation. Violation of these laws by an abuser may result in federal criminal prosecution and punishment. In part, these laws make it illegal to travel across state or tribal lands to commit domestic violence or to violate a protection order. These laws also make it illegal to commit interstate stalking or to possess a firearm or ammunition while subject to protection orders that qualify under federal law.

The U.S. Attorney's office prosecutes federal criminal cases. For more information, contact the U.S. Attorney's office in your district and ask for the Violence Against Women Act Point of Contact. You can find the U.S. Attorney by looking under "U.S. Government" listings in a phone book or you can call the National Center on Full Faith and Credit to get further information about whom you should contact.

Practical Tips for You and Your Domestic Violence Advocate

- **Review your protection order** to make sure that it contains the basic elements for effective enforcement (see Enforcement section).
- **Get certified copies of your protection order** and carry at least one copy with you at all times (see Commonly Asked Questions and Answers).
- **Deliver copies of your protection order** to your school, employer, friends or relatives, and any law enforcement agency that may need to enforce your protection order, if appropriate.

- **Get written proof** that the order was served on the abuser from either the law enforcement agency that served the order or the court that issued the order (see Commonly Asked Questions and Answers).
- **Keep track of, and report, all of the abuser's violations**, including phone calls and messages sent through other people (do this even if you are the only one to witness the violation of the order since this will establish a "record" and help law enforcement to take steps to protect you).
- **Find out about procedures** you may have to follow to get your protection order enforced in other communities. This is important because procedures vary.
- **Understand** the pros and cons of filing or registering your order in other jurisdictions (see Practical Tips on Registration).
- **Make safety plans.**
- **Contact the local domestic violence program** in any community you may be going to.
- **Go to a shelter**, if necessary.
- **Go to a legal services** office for help with other legal matters.
- **Contact other resources** you may need (see Resources and Help).

For help finding a domestic violence advocate, call the National Domestic Violence Hotline at (800) 799-SAFE or (512) 453-8117, TTY (800) 787-3224. For help with full and credit, call the National Center on Full Faith and Credit at (800) 256-5883 ext. 2 or (202) 265-0967.

Enforcement

Enforcement of Your Protection Order

Law enforcement officers, the courts and prosecutors are required to enforce your protection order the same way they would enforce orders from their own community. For example, if the police would arrest someone for violation of a local order, they would have to do the same with a non-local order. Also, prosecutors should charge the crime, and judges should hear the case, according to the laws where the violation occurred.

It will be easier for law enforcement, prosecutors, and courts to enforce your protection order if it has the following basic elements:

1. The names of the parties (your name, the name of the abuser, and any children).
2. The date the order was issued.
3. An expiration date-if your order has one.

4. A signature by, or on behalf of, a judicial officer.
5. Terms and conditions against the abuser (such as telling the abuser to "stay away" from you and certain places).
6. The name and phone number of the issuing court, and the name of the judicial officer who issued the order.

This information is not required by the federal law, but it may help you to get your order enforced.

Practical Tips: Law Enforcement

It will help law enforcement if you:

- Keep a copy of your protection order with you at all times to show law enforcement when you report violations.
- Present proof that your order was served or that your abuser had notice of the order (see Practical Tips on Service and Notice).

The police may check to see if your order is in the National Crime Information Center's (NCIC) Protection Order File, a national registry of protection orders. Remember that this "protection order file" is not yet complete-many states and tribes do not participate in it - and even if your jurisdiction participates in the NCIC Protection Order File, it may not be sending all protection orders to the file.

Practical Tips:Courts &Prosecutors

Your state, tribal, local prosecutor, or district/state's attorney should know how to pursue charges for violations of protection orders issued in other jurisdictions. You may, however, see people in the court system who do not know about full faith and credit, so it will help if you:

- Keep a copy of the federal law or this brochure with you when you meet with prosecutors, as well as when you appear before a judge at a hearing.
- Report any problems you have to the National Center on Full Faith and Credit (they may be able to assist you). (800) 256-5883 ext. 2 or (202) 265-0967.

Practical Tips about Tribal Courts and Law Enforcement

Many tribal courts do not have the authority to impose criminal sanctions against non-Indians who commit crimes within the tribe's boundaries. However:

- Tribal police can usually arrest non-Indian perpetrators and transport them to state or federal authorities.

- Tribal courts can use their civil laws to impose fines against non-Indian abusers or exclude them from tribal lands.

Questions & Answers

1. Are child custody and support provisions in protection orders covered by federal law?

The federal full faith and credit law covers custody and support provisions in protection orders. You should also be aware that there are other federal laws addressing full faith and credit for out-of-state child custody and child support orders. Legal issues that involve children can be complex, and you should consult with an attorney who has expertise in custody and support issues. For assistance, see Resource and Help, below..

2. Are emergency or "ex parte" orders valid and enforceable under the federal law?

Ex parte orders are emergency or temporary orders issued at the request of the victim without notice to the abuser. They are valid for the time that they would be good in the issuing jurisdiction. For example, an ex parte order that is issued for 15 days before a hearing must be held would be valid in any other community for 15 days. Whether it is enforceable by arrest, however, will depend on whether the abuser has been served with the order or received notice of the order's existence.

3. What does it mean for the abuser to receive "notice" or be "served" with a protection order?

Personal service or "being personally served" means that the abuser was given a copy of the protection order. Law enforcement usually does this and then gives the court proof that the order was served. "Notice" is a broader concept that essentially means that the abuser knew about the order.

Practical Tips on Service and Notice

- Most police officers will not enforce ex parte orders unless they can verify that the abuser had notice or was served with the order.
- Keep at least one (or two copies if your order has not yet been served) of your protection order with you at all times and show it to the police when you report violations.
- Show the police any proof you have that the order was served or that the abuser had notice of the order.
- If the order has not been served on the abuser before you report a violation, or the officer is unable to verify notice, you should ask the officer to serve the order on the abuser and arrest him for any other crimes the abuser committed in the enforcing jurisdiction. Ask the officer to notify the issuing jurisdiction that the protection order was served.

4. What's a "certified" order and why is it so important?

A "certified" copy of a protection order generally contains a court stamp, seal, or signature of the issuing judge or clerk of court. The federal full faith and credit law does not require that your order be certified to be enforceable, but some states and tribes may require it, especially if you want to register or file your protection order with their court or get it into their protection order registry.

5. What if you have a "mutual" protection order?

A "mutual" protection order (an order that prohibits both parties from doing certain things) is treated differently by the full faith and credit law, and can be harder to enforce.

Practical Tips on Mutual Orders

- Contact an advocate or the National Center on Full Faith and Credit ((800) 256-5883 ext. 2 or (202) 265-0967) for information about the problems associated with enforcement of mutual protection orders.
- If your abuser files for a protection order first, you may want to file a counter-petition against him, and, if the court issues a mutual order at the final hearing, request that the court include specific findings that both you and the abuser are entitled to the protection order.
- Another option is to file a separate petition for a protection order.

6. Do you have to register or file your protection order?

The federal law requires jurisdictions (other than the jurisdiction that issued a protection order) to enforce your protection order even if you have not registered or filed it as may be required by local, state, or tribal law. However, you may want to consider registering or filing your order. There are some risks and benefits to this, and some are listed below. You may want to talk with a domestic violence advocate who can explain the process and help you decide whether filing or registration is safe for you to do.

Practical Tips on Registration

- Registration or filing can help law enforcement and courts to verify your order's existence and may increase the likelihood that it is enforced.
- You or your advocate may want to remind court or law enforcement personnel who handle the filing or registration of your protection order that the federal law prohibits enforcing jurisdictions from sending notice to the abuser.
- Filing or registration can be dangerous in certain situations - for example, where a protection order is a "public" record. An abuser can easily go into these public records-especially court records-to locate you.
- Filing or registration may be impossible or impractical in some circumstances-for example, if your abuser is stalking you across state or tribal lines

- For information on registration and filing requirements, contact the National Center on Full Faith and Credit. (800) 256-5883 ext. 2 or (202) 265-0967.

Resources and Help

Here are some organizations that can help you and your advocate. Some of these numbers are free to call (those that start with 800, 888 or 877), and some are not. Remember that the phone numbers you call may be traced by the abuser. Take care to use a phone that the abuser cannot check. You should also keep this brochure in a place where the abuser cannot find it.

For Immediate Help

- National Domestic Violence Hotline (800) 799-SAFE or (512) 453-8117; TTY (800) 787-3224 (24 hours/day, for referral to state and local programs)

Information on Full Faith Credit or to Report Enforcement Problems

- National Center on Full Faith and Credit-(800) 256-5883 ext. 2 or (202) 265-0967

General Information on Protection Orders

- Battered Women's Justice Project (800) 903-0111 ext. 2 or (717) 671-4767 (Civil) (800) 903-0111 ext. 1 or (612) 824-8768 (Criminal)

Tribal Issues

- Sacred Circle-(877) 733-7623 (877-RED ROAD) or (605) 341-2050
- Mending the Sacred Hoop-(888) 305-1650 or (218) 722-2781 ext. 207

Custody Issues

- Family Violence Department of the National Council of Juvenile and Family Court Judges-(800) 527-5223 or (775) 784-6012
- Domestic Violence Commission of the American Bar Association-(202) 662-1737