



FIVE COMMON QUESTIONS ON PROTECTION ORDERS AND FULL FAITH AND CREDIT - ANSWERED

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Five Common Questions on Protection Orders and Full Faith and Credit- Answered

Protection orders and their enforcement can often be confusing, particularly when different professional disciplines encounter various forms and documents from different jurisdictions. This document addresses the five common questions about protection orders and their enforcement across jurisdictional lines. It serves as a starting point and a guide.

For additional information, please see our discipline specific guides on full faith and credit available at www.fullfaithandcredit.org.

What exactly is a protection order for purposes of full faith and credit?

The Violence Against Women Act (VAWA) defines a protection order as “any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence, or contact or communication with or physical proximity to, another person ... [including] any support, child custody or visitation provisions, orders, remedies or relief issued as part of a protection order... pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, sexual assault, dating violence, or stalking.” 18 U.S.C. § 2266(5).

The VAWA definition of protection order is broad and encompasses numerous types of orders that may be issued pursuant to the criminal, family, child welfare, and state, tribal, or territorial civil statutes. Orders will differ from jurisdiction to jurisdiction in form, content, length, and layout. Further, the name of the order is not important, it could be styled as any type of order (e.g., restraining order, an injunction, stalking order, no contact order, anti-harassment order) as long as it meets the VAWA definition.

What does full faith and credit for protection orders mean?

VAWA requires states, tribes, and territories to give full faith and credit to protection orders issued by other jurisdictions. Full faith and credit means that jurisdictions must honor and enforce civil and criminal protection orders issued by other states, tribes and territories. VAWA's full faith and credit provision mandates court and law enforcement to enforce protection orders throughout the country.

When is a protection order entitled to enforcement under full faith and credit?

VAWA's full faith and credit provision applies to protection orders, restraining orders, or other orders issued by states, tribes, or territories, whether ex parte, after a hearing, default, or agreement. See 18 U.S.C. § 2266(5) For a protection order to be afforded full faith and credit, it must meet the following conditions:

- The court that issued the order had personal and subject matter jurisdiction. 18 U.S.C. § 2265 (b)(1); and
- The respondent had reasonable notice and an opportunity to be heard sufficient to protect the respondent's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by law, in any event, within a reasonable period of time after the order is issued to protect the opposing party's right to due process. 18 U.S.C. § 2265(b)(2).

Which laws apply?

The jurisdiction that issues the order determines:

- Who is eligible for protection;
- What relief the petitioner is awarded; and
- How long the order is in effect.

The jurisdiction that enforces the order determines:

- How violations of the order are handled;
- The arrest authority of the responding law enforcement;
- Detention and notification procedures; and
- Penalties or sanctions for violation of the order.

The enforcing jurisdiction enforces the order as written by the issuing jurisdiction, using its own laws. To promote implementation of the full faith and credit provision for protection orders, all states and some tribes and territories have enacted their own laws (enabling legislation or attorney guidelines) to facilitate enforcement of protection orders issued in other jurisdictions.

How are orders enforced by courts and law enforcement?

The full faith and credit provision of VAWA requires law enforcement and courts to treat protection orders issued in other jurisdictions as though they were issued by their own state, tribe, or territorial courts. Courts must enforce orders from other states, tribes, and territories as issued, by applying the laws of the enforcing jurisdiction. Similarly, a responding officer must enforce the terms and conditions of a valid order as written, including firearm prohibitions. This means that the respondent or defendant who violates a civil or criminal protection order encompassed by 18 U.S.C. § 2265 can be arrested and prosecuted according to the enforcing jurisdiction's laws.

For More Information

Visit www.fullfaithandcredit.org, contact the NCPOFFC at ncffc@bwjp.org or call 1.800.903.0111, prompt 2.



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