

ENROLLED ORIGINAL

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification
District of
Columbia
Official Code*

2001 Edition

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To amend Chapter 10 of Title 16 of the District of Columbia Official Code to enact the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act in the District of Columbia, and to establish the Domestic Violence Fatality Review Board.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Uniform Interstate Enforcement of Domestic Violence Protection Orders Act of 2002".

Sec. 2. Chapter 10 of Title 16 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding the following at the end:

“Subchapter IV. Interstate Enforcement of Domestic Violence Protection Orders; Uniform Law.

“16-1041. Definitions.

“16-1042. Judicial enforcement of order.

“16-1043. Nonjudicial enforcement of order.

“16-1044. Registration of order.

“16-1045. Immunity.

“16-1046. Other remedies.

“16-1047. Uniformity of application and construction.

“16-1048. Transitional provision.

“Subchapter V. Domestic Violence Fatality Review Board.

“16-1051. Definitions.

“16-1052. Establishment and purpose.

“16-1053. Composition of Board.

“16-1054. Access to information.

“16-1055. Subpoena power.

“16-1056. Confidentiality of information and proceedings; penalty for unlawful disclosure of information.

“16-1057. Immunity.

“16-1058. Rules.

“16-1059. Sunset.”.

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(b) Section 16-1005 is amended as follows:

Amend
§ 16-1005

(1) Subsection (f) is amended to read as follows:

“(f) Violation of any temporary or final order issued under this subchapter, or violation in the District of Columbia of any valid foreign protection order, as that term is defined in subchapter IV of this chapter, and respondent’s failure to appear as required by § 16-1004(b), shall be punishable as contempt. Upon conviction, criminal contempt shall be punished by a fine not exceeding \$1,000 or imprisonment for not more than 180 days, or both.”.

(2) Subsection (g) is amended to read as follows:

“(g) Any person who violates any protection order issued under this subchapter, or any person who violates in the District of Columbia any valid foreign protection order, as that term is defined in subchapter IV of this chapter, shall be chargeable with a misdemeanor and upon conviction shall be punished by a fine not exceeding \$1,000 or by imprisonment for not more than 180 days, or both.”.

(3) New subsections (h) and (i) are added to read as follows:

“(h) For purposes of establishing a violation under subsection (g) of this section, an oral or written statement made by a person located outside the District of Columbia to a person located in the District of Columbia by means of telecommunication, mail, or any other method of communication shall be deemed to be made in the District of Columbia.

"(i) Orders entered with the consent of the respondent but without an admission that the conduct occurred shall be punishable under § 16-1005(f) or (g)."

(c) New subchapters IV and V are added to read as follows:

“*Subchapter IV. Interstate Enforcement of Domestic Violence Protection Orders; Uniform Law.*”

New
Subchapter
IV,
Chapter 10,
Title 16

“§ 16-1041. Definitions.

New
§ 16-1041

“For purposes of this subchapter, the term:

“(1) “District” means the District of Columbia.

“(2) "Foreign protection order" means a protection order issued by a tribunal of another State.

“(3) "Issuing State" means the State whose tribunal issues a protection order.

“(4) “Mutual foreign protection order" means a foreign protection order that includes provisions in favor of both the protected individual seeking enforcement of the order and the respondent.

“(5) "Protected individual" means an individual protected by a protection order.

“(6) “Protection order" means an injunction or other order, whether temporary or final, issued by a tribunal for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to, another individual.

“(7) "Respondent" means the individual against whom enforcement of a protection order is sought.

“(8) "State" means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term “State” includes an Indian tribe or band that has

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jurisdiction to issue protection orders.

“(9) "Tribunal" means a court, agency, or other entity authorized by law to issue or modify a protection order.

“§ 16-1042. Judicial enforcement of order.

New
§ 16-1042

“(a) A person authorized by the law of the District to seek enforcement of a protection order may seek enforcement of a valid foreign protection order in a tribunal of the District. The tribunal shall enforce the terms of the order, including terms that provide relief that a tribunal of the District would lack power to provide but for this section. The tribunal shall enforce the order, whether the order was obtained by independent action or in another proceeding, if it is an order issued in response to a complaint, petition, or motion filed by or on behalf of or for the benefit of an individual seeking protection. In a proceeding to enforce a foreign protection order, the tribunal shall follow the procedures of the District for the enforcement of protection orders.

“(b) Except for cases brought under § 16-1005(f) or (g), a tribunal of the District may not enforce a foreign protection order issued by a tribunal of a State that does not recognize the standing of a protected individual to seek enforcement of the order.

“(c) A tribunal of the District shall enforce the provisions of a valid foreign protection order that governs custody and visitation, if the order was issued in accordance with the jurisdictional requirements governing the issuance of custody and visitation orders in the issuing State.

“(d) A foreign protection order is valid if it:

“(1) Identifies the protected individual and the respondent;

“(2) Is currently in effect or was in effect at the time of the violation;

“(3) Was issued by a tribunal that had jurisdiction over the parties and subject matter under the law of the issuing State; and

“(4) Was issued after the respondent was given reasonable notice and had an opportunity to be heard before the tribunal issued the order or, in the case of an ex parte order, the respondent was given notice and has had or will have an opportunity to be heard within a reasonable time after the order was issued, in a manner consistent with the rights of the respondent to due process.

“(e) A foreign protection order valid on its face is prima facie evidence of its validity.

“(f) Absence of any of the criteria for validity of a foreign protection order is an affirmative defense in an action seeking enforcement of the order.

“(g) A tribunal of the District may enforce provisions of a mutual foreign protection order which favor a respondent only if:

“(1) The respondent filed a written pleading seeking a protection order from the tribunal of the issuing State; and

“(2) The tribunal of the issuing State made specific findings in favor of the respondent.

“§ 16-1043. Nonjudicial enforcement of order.

“(a) A law enforcement officer, upon determining that there is probable cause to believe

New
§ 16-1043

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that a valid foreign protection order exists and that the order has been violated, shall enforce the order as if it were the order of a tribunal of the District. Presentation of a protection order that identifies both the protected individual and the respondent and, on its face, is currently in effect constitutes probable cause to believe that a valid foreign protection order exists. For the purposes of this section, the protection order may be inscribed on a tangible medium or may have been stored in an electronic or other medium if it is retrievable in perceivable form. Presentation of a certified copy of a protection order is not required for enforcement.

“(b) If a foreign protection order is not presented, a law enforcement officer may consider other information in determining whether there is probable cause to believe that a valid foreign protection order exists.

“(c) Registration or filing of an order in the District is not required for the enforcement of a valid foreign protection order pursuant to this subchapter.

“§ 16-1044. Registration of order.

New
§ 16-1044

“(a) The Superior Court of the District of Columbia is authorized, subject to appropriations, to create a registry in the District of Columbia for foreign protection orders and protection orders issued in the District of Columbia.

“(b) Any individual may register a foreign protection order in the District. To register a foreign protection order, an individual shall:

“(1) Present a certified copy of the order to the Superior Court; and

“(2) File an affidavit by the protected individual stating that, to the best of the protected individual’s knowledge, the order is currently in effect.

“(c) When a registry is created pursuant to subsection (a) of this section, upon receipt of a foreign protection order, the Superior Court shall register the order in accordance with this section. After the order is registered, the Superior Court shall furnish to the individual registering the order a certified copy of the registered order. The Superior Court shall not notify or require notification of the respondent that the protection order has been registered in the District unless requested to do so by the party protected by the order.

“(d) The Superior Court shall register an order upon presentation of a copy of a protection order that has been certified by the issuing State. A registered foreign protection order that is inaccurate or is not currently in effect shall be corrected or removed from the registry in accordance with the law of the District.

“(e) A foreign protection order registered under this subchapter may be entered in any existing state or federal registry of protection orders, in accordance with applicable law.

“(f) A fee may not be charged for the registration of a foreign protection order, nor may a fee be charged for service of a foreign order in the District of Columbia.

“§ 16-1045. Immunity.

New
§ 16-1045

“The District and its officers and employees, a law enforcement officer, prosecuting attorney, clerk of court, or any state or local governmental official acting in an official capacity, is immune from civil and criminal liability for conduct arising out of the registration or enforcement of a foreign protection order or the detention or arrest of an alleged violator of a foreign protection order if the conduct was done in good faith in an effort to comply with this subchapter.

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“§ 16-1046. Other remedies.

New
§ 16-1046

“A protected individual who pursues remedies under this subchapter is not precluded from pursuing other legal or equitable remedies against the respondent.

“§ 16-1047. Uniformity of application and construction.

New
§ 16-1047

“In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among States that enact it.

“§ 16-1048. Transitional provision.

New
§ 16-1048

“This subchapter applies to protection orders issued before the effective date of this subchapter and to continuing actions for enforcement of foreign protection orders commenced before the effective date of this subchapter. A request for enforcement of a foreign protection order made on or after the effective date of this subchapter for violations of a foreign protection order occurring before the effective date of this subchapter is governed by this subchapter.

New
Subchapter
V,
Chapter 10,
Title 16

“*Subchapter V. Domestic Violence Fatality Review Board.*

“§ 16-1051. Definitions.

New
§ 16-1051

“For purposes of this subchapter, the term:

“(1) “Board” means the Domestic Violence Fatality Review Board.

“(2) “District” means the District of Columbia.

“(3) “Domestic violence fatality” means:

“(A) A homicide under any of the following circumstances:

- “(i) The alleged perpetrator and victim resided together at any time;
- “(ii) The alleged perpetrator and victim have a child in common;
- “(iii) The alleged perpetrator and victim were married, divorced, separated, or had a romantic relationship, not necessarily including a sexual relationship;
- “(iv) The alleged perpetrator is or was married to, divorced, or separated from, or in a romantic relationship, not necessarily including a sexual relationship, with a person who is or was married to, divorced, or separated from, or in a romantic relationship, not necessarily including a sexual relationship, with the victim;
- “(v) The alleged perpetrator had been stalking the victim;
- “(vi) The victim filed a petition for a protective order against the alleged perpetrator at any time;
- “(vii) The victim resided in the same household, was present at the workplace of, was in proximity of, or was related by blood or affinity to a person who experienced or was threatened with domestic violence by the alleged perpetrator; or
- “(viii) The victim or the perpetrator was or is a child, parent, sibling, grandparent, aunt, uncle, or cousin of a person in a relationship that is described within this subsection.

“(B) A suicide of an individual where there were implications that the individual was the victim of domestic violence prior to his or her suicide, including the following circumstances:

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“(i) The victim had applied for or received a protection order within the 2-year period preceding the suicide;

“(ii) The victim had undergone counseling or treatment as a result of being the victim of domestic violence within the 2-year period preceding the suicide; or

“(iii) The victim had reported to the police that he or she had been the victim of domestic violence within the 2-year period preceding the suicide.

“(4) “Protection order” means an injunction or other order, whether temporary or final, issued by a tribunal for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to, another individual.

“§ 16-1052. Establishment and purpose.

New
§ 16-1052

“(a) There is established, as part of the District of Columbia government, a Domestic Violence Fatality Review Board. Facilities and other administrative support may be provided in a specific department or through the Board, as determined by the Mayor.

“(b) The purpose of the Board is to prevent domestic violence fatalities by improving the response of individuals, the community, and government agencies to domestic violence.

“(c) The Board shall:

“(1) Identify and characterize the scope and nature of domestic violence fatalities in the District of Columbia;

“(2) Describe and record any trends, data, or patterns that are observed surrounding domestic violence fatalities;

“(3) Examine past events and circumstances surrounding domestic violence fatalities by reviewing records and other pertinent documents of public and private agencies responsible for investigating deaths or treating victims;

“(4) Develop and revise, as necessary, operating rules and procedures for review of domestic violence fatalities, including identification of cases to be reviewed, coordination among the agencies and professionals involved, and improvement of the identification, data collection, and record keeping of the causes of domestic violence fatalities;

“(5) Recommend systemic improvements to promote improved and integrated public and private systems serving victims of domestic violence;

“(6) Recommend components for prevention and education programs; and

“(7) Recommend training to improve the identification and investigation of domestic violence fatalities.

“(d) The Board shall prepare an annual report of findings, recommendations, and steps taken to implement recommendations. The report shall not contain information identifying any victim of domestic violence, or the victim’s family members, or an alleged or suspected perpetrator of abuse upon a victim. The annual report shall be submitted to the public, the Mayor, and the Council on July 1 of each year, and shall be presented to the Council at a public hearing.

“§ 16-1053. Composition of the Board; procedural requirements.

“(a) The Mayor shall appoint one representative from each of the following District agencies:

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- “(1) Metropolitan Police Department;
- “(2) Office of the Chief Medical Examiner;
- “(3) Office of the Corporation Counsel;
- “(4) Department of Corrections;
- “(5) Fire and Emergency Medical Services Department;
- “(6) Addiction Prevention and Recovery Administration;
- “(7) Department of Health;
- “(8) Child and Family Services Agency; and
- “(9) Mayor’s Commission on Violence Against Women.

“(b) The Mayor shall appoint, or request the designation of, members from federal, judicial, and private agencies or entities with expertise in domestic violence, to include one representative from each of the following:

- “(1) Superior Court of the District of Columbia;
- “(2) Office of the Unites States Attorney for the District of Columbia;
- “(3) District of Columbia hospitals;
- “(4) University legal clinics;
- “(5) Domestic violence shelters; and
- “(6) Domestic violence advocacy organizations.

“(c) The Mayor, with the advice and consent of the Council, shall appoint 8 community representatives, none of whom shall be employees of the District of Columbia.

“(d) Governmental appointees shall serve at the will of the Mayor, or of the federal or judicial body designating their availability for appointment. Community representatives shall serve for 3-year terms.

“(e) Vacancies in membership shall be filled in the same manner in which the original appointment was made.

“(f) The Board shall select a Chairman according to rules set forth by the Board.

“(g) The Board shall establish quorum and other procedural requirements as it considers necessary.

“§ 16-1054. Access to information.

New
§ 16-1054

“(a) Notwithstanding any other provision of law, immediately upon the request of the Board and as necessary to carry out the Board’s purpose and duties, the Board shall be provided, without cost and without authorization of the persons to whom the information or records relate, access to:

“(1) All information and records of any District of Columbia agency, or their contractors, including, but not limited to, birth and death certificates, law enforcement investigation data, unexpurgated juvenile and adult criminal records, mental retardation and developmental disabilities records, autopsy reports, parole and probation information and records, school records, and information records of social services, housing, and health agencies that provided services to the victim, the victim’s family, or an alleged perpetrator of domestic violence which led to the death of the victim;

“(2) All information and records of any private health-care providers located in the District of Columbia, including providers of mental health services who provided services

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to the deceased victim, the deceased victim's family, or the alleged perpetrator of domestic violence which led to the death of the victim;

“(3) All information and records of any private child welfare agency, educational facility or institution, or child care provider doing business in the District of Columbia who provided services to the victim, the victim's immediate family, or the alleged perpetrator of domestic violence which led to the death of the victim; and

“(4) Information made confidential by §§ 4-1302.03, 4-1303.06, 7-219.7-1203.02, 7-1305.12, 16-2331, 16-2332, 16-2333, 16-2335, and 31-3426.

“(b) The Board shall have the authority to seek information from entities and agencies outside the District of Columbia by any legal means.

“(c) Notwithstanding subsection (a)(1) of this section, information and records concerning a current law enforcement investigation may be withheld, at the discretion of the investigating authority, if disclosure of the information would compromise a criminal investigation or prosecution.

“(d) If information or records are withheld under subsection (c) of this section, a report on the status of the investigation shall be submitted to the Board by the investigating authority every 3 months until the earliest of the following events occurs:

“(1) The investigation is concluded;

“(2) The investigating authority determines that providing the information will no longer compromise the investigation; or

“(3) The information or records are provided to the Board.

“(e) All records and information obtained by the Board pursuant to subsections (a) and (b) of this section pertaining to the deceased victim or any other individual shall be destroyed immediately following the preparation of the Board's annual report. All additional information concerning a review, except statistical data, shall be destroyed by the Board one year after publication of the Board's annual report.

“§ 16-1055. Subpoena power.

“(a) When necessary for the discharge of its duties, the Board shall have the authority to issue subpoenas to compel witnesses to appear and testify and to produce books, papers, correspondence, memoranda, documents, or other relevant records.

“(b) Except as provided in subsection (c) of this section, subpoenas shall be served personally upon the witness or his or her designated agent, not less than 5 business days before the date the witness must appear or the documents must be produced, by one of the following methods, which may be attempted concurrently or successively:

“(1) By a special process server, at least 18 years of age, designated by the Board from among the staff of the Board or any of the offices or organizations represented on the Board; provided, that the special process server is not directly involved in the investigation; or

“(2) By a special process server, at least 18 years of age, engaged by the Board.

“(c) If, after a reasonable attempt, personal service on a witness or witness' agent cannot be obtained, a special process server identified in subsection (b) of this section may serve a subpoena by registered or certified mail not less than 8 business days before the date the witness must appear or the documents must be produced.

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“(d) If a witness who has been personally summoned neglects or refuses to obey the subpoena issued pursuant to subsection (a) of this section, the Board may report that fact to the Superior Court of the District of Columbia and the court may compel obedience to the subpoena to the same extent as witnesses may be compelled to obey the subpoenas of the court.
“§ 16-1056. Confidentiality of information and proceedings; penalty for unlawful disclosure of information.

New
§ 16-1056

“(a) Except as provided in this section, information and records obtained or created by the Board are confidential and not subject to civil discovery or to disclosure pursuant to subchapter II of Chapter 5 of Title 2.

“(b) Information and records presented to the Board for review shall not be immune from subpoena, discovery, or prohibited from being introduced into evidence solely because they were presented to or reviewed by the Board if the information and records have been obtained through other sources.

“(c) Information required to be reported under §§ 4-1321.02 and 4-1321.03 shall be disclosed by the Board to the Child and Family Services Agency.

“(d) An individual who appears before or participates in the Board’s review of domestic violence cases shall sign a confidentiality agreement acknowledging that any information provided to the Board is confidential.

“(e) Board meetings are closed to the public and are not subject to § 1-207.42.

“(f) Information identifying a victim of domestic violence or that person’s family members, or an alleged perpetrator of abuse upon the victim, shall not be disclosed in any report that is available to the public.

“(g)(1) Whoever discloses, receives, makes use of, or knowingly permits the use of information concerning a victim or other person in violation of this section shall be subject to a fine of not more than \$1,000.

“(2) Violations of this section shall be prosecuted by the Office of the Corporation Counsel in the name of the District of Columbia.

“(3) Subject to appropriation for this purpose, any fines collected pursuant to this section shall be used by the Board to fund its activities.

“§ 16-1057. Immunity.

New
§ 16-1057

“(a) Any health-care provider or any other person or institution providing information to the Board pursuant to this subchapter shall have immunity from liability, administrative, civil, or criminal, that might otherwise be incurred or imposed with respect to the disclosure of information.

“(b) If acting in good faith, without malice, and within the parameters of the protocols established by this subchapter, representatives of the Board are immune from civil liability for an activity related to reviews of domestic violence fatalities.

“§ 16-1058. Rules.

“The Mayor shall issue rules implementing the provisions of this subchapter. The rules shall require that a subordinate agency director to whom a recommendation is directed by the Board shall respond in writing within 30 days of the issuance of the report containing the recommendations.

New
§ 16-1058

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“§ 16-1059. Sunset.

New
§ 16-1059

“This subchapter shall expire 7 years after its effective date.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia