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STATE REPRESENTATIVE • 3rd ASSEMBLY DISTRICT

**Testimony Before the
Assembly Committee on Family Law
on
Assembly Bill 451
October 31, 2017**

Madam Chairman and members of the committee, thank you for the opportunity to testify on Assembly Bill 451. The genesis of this bill is the Uniform Law Commission—of which Sen. Risser and I are commissioners. Adoption of this bill will take the necessary steps to protect victims of domestic violence who have restraining orders issued by Canadian courts. As of yesterday, four states (California, Delaware, Nevada, & North Dakota) have adopted the Act and one other state (Rhode Island) has introduced the Act this year.

Currently Wisconsin courts do not have any stated procedures or statutes that govern the application or enforcement of foreign law, judgements, or orders when these issues arise. It is unclear whether a Wisconsin court can enforce a foreign order. It is possible a Wisconsin court, under the common law principal of comity, might enforce the order so long as the order is not contract to the law, morals, or policy of Wisconsin.¹

Adoption of this Act will provide law enforcement officers and courts with certainty. The Act allows law enforcement officers to enforce a Canadian order without hesitation as if it were issued by a Wisconsin court. Similarly, courts will enforce these orders using existing Wisconsin procedures.² If any order is disputed or the due process notice rights of the respondent are otherwise in question, procedures are available for a court to order enforcement, refuse enforcement and for a respondent to receive due notice of the order against them.

Finally, we give law enforcement officers and other criminal justice system personnel immunity if they act in good faith while enforcing a Canadian order.

A violation of a Canadian order carries the same penalty of a violation of a Wisconsin domestic abuse restraining order or injunction: \$10,000 or imprisonment for not more than 9 months or both.³

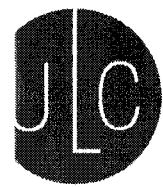
¹ See *In re Estate of Steffke*, 65 Wis.2d 199 (1974).

² See Wis. Stat. 813.12 (Domestic abuse restraining orders and injunctions), 813.122 (Child abuse restraining orders and injunctions), 813.123 (Restraining orders and injunctions for individuals at risk), 813.125 (Harassment restraining orders and injunctions).

³ See Wis. Stat. 813.12(8)(a).

While Canadian domestic violence protection order enforcement in Wisconsin may be an infrequent occurrence, adopting this Act may save a victim's life at a critical moment.

Finally, Canada currently recognizes protection orders issued by Wisconsin and American courts as a part of the Uniform Enforcement of Canadian Judgments and Decrees Act; let us, as a growing number of our sister states have done, reciprocate in the spirit of comity, protect all victims of domestic violence and support adoption of this Act. Thank you for your time and attention.



Uniform Law Commission

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Statement of Lindsay Beaver, Legislative Counsel, Uniform Law Commission to the Assembly Committee on Family Law in SUPPORT of Assembly Bill 451

Chair Rodriguez and members of the Committee on Family Law:

Thank you for the opportunity to express support of A.B. 451, which would enact the Uniform Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act (URECDVPOA) in Wisconsin.

The Uniform Law Commission (ULC), now 126 years old, provides states with well-drafted legislation that brings clarity and stability to critical areas of statutory law. Approved by the ULC in 2015, four states already enacted the URECDVPOA, including California, Delaware, North Dakota, and Nevada.

Reflecting the friendship between the United States and Canada, citizens move freely between the two countries, freedom that in certain limited circumstances can work against victims of domestic violence. Canada had granted recognition to protection orders of the United States in the Uniform Enforcement of Canadian Judgments and Decrees Act. By this act, enacting states accord similar recognition to protection orders from Canada.

In February 2016, the American Bar Association's Board of Governors approved this uniform act for consideration by the 50 states. In December 2016, the Council of State Governments included the URECDVPOA among its Shared State Legislation. The act benefited from numerous contributors to the drafting process including judges, practicing lawyers (from the U.S. and Canada), and law professors. Attorneys appointed by the American Bar Association (and its appropriate sections) actively participated in all drafting meetings.

I respectfully urge adoption of A.B. 451 for the following reasons:

- Adoption of this act will **encourage enforcement** of Canadian domestic violence protection orders in Wisconsin. If enacted, a law enforcement officer, upon finding probable cause that a valid order has been violated, must enforce the terms of a Canadian order that directly or indirectly deal with no-contact as if they were an order of Wisconsin.
- This act **protects law-enforcement officers and other officials**, including governmental agencies, prosecuting attorneys, and clerks of the court, from criminal or civil liability for enforcement of a Canadian protection order in good faith.
- The act also **provides clear rules for judicial enforcement** of Canadian orders dealing directly or indirectly with no-contact.
- **Protects the constitutional right to due process.** A court in Wisconsin would not enforce a Canadian domestic violence protection order if due process has been violated. For example, consider an individual against whom a Canadian domestic violence protection order has been issued. Under this act, a court in Wisconsin will not enforce the order if that individual did not receive notice and opportunity to be heard by the issuing Canadian court.
- An individual may, but is not required to, register a Canadian order in this state. Registration helps **prevent possible challenges** to an order, as well as facilitates effective enforcement.

The ULC is grateful to Representatives Tusler, Stuck, Anderson, Ballweg, Brandtjen, Berceau, Brostoff, Considine, Fields, Henrich, Jacque, Kulp, Milroy, Mursau, Spiros, Spreitzer, Subeck, and Zepnick for their leadership on this important issue. By adopting the provisions of this act, Wisconsin will ensure that domestic violence victims are protected, even if the order was issued in Canada. Thank you for allowing me to express support of A.B. 451. I am happy to address questions or provide additional information.

The ULC is a nonprofit formed in 1892 to create nonpartisan state legislation. Over 350 volunteer commissioners—lawyers, judges, law professors, legislative staff, and others—work together to draft laws ranging from the Uniform Commercial Code to acts on property, trusts and estates, family law, criminal law and other areas where uniformity of state law is desirable.