

HOUSE BILL NO. 496

INTRODUCED BY BECKER, HARRIS, NEWMAN

A BILL FOR AN ACT ENTITLED: "AN ACT INCLUDING INJUNCTIONS OR OTHER COURT ORDERS UNDER SEXUAL ASSAULT OR STALKING LAWS IN THE DEFINITION OF "PROTECTION ORDER" FOR PURPOSES OF THE UNIFORM INTERSTATE ENFORCEMENT OF DOMESTIC VIOLENCE PROTECTION ORDERS ACT; AMENDING ~~SECTION~~ SECTIONS 40-15-402 AND 40-15-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-15-402, MCA, is amended to read:

"40-15-402. Definitions. As used in this part, the following definitions apply:

- (1) "Foreign protection order" means a protection order issued by a court of another state.
- (2) "Issuing state" means the state whose court issues a protection order.
- (3) "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.
- (4) "Protected individual" means an individual protected by a protection order.
- (5) "Protection order" means an injunction or other order issued by a court under the domestic violence, ~~or~~ family violence, sexual assault, or stalking laws of the issuing state to prevent an individual from engaging in violent or threatening acts against, harassment of, contact or communication with, or physical proximity to another individual.
- (6) "Respondent" means the individual against whom enforcement of a protection order is sought.
- (7) "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 includes an Indian tribe or band that has jurisdiction to issue protection orders."

SECTION 2. SECTION 40-15-403, MCA, IS AMENDED TO READ:

"40-15-403. Judicial enforcement of order. (1) A person authorized by the law of this state to seek enforcement of a protection order may seek enforcement of a valid foreign protection order in a court of this state. The court shall enforce the terms of the order, including terms that provide relief that a court of this state would

lack power to provide but for this section. The court 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 an individual seeking protection. In a proceeding to enforce a foreign protection order, the court shall follow the procedures of this state for the enforcement of protection orders.

(2) A court of this state may not enforce a foreign protection order issued by a court of a state that does not recognize the standing of a protected individual to seek enforcement of the order.

(3) A court of this state shall enforce the provisions of a valid foreign protection order that govern 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.

(4) A court of this state may not enforce under this part a provision of a foreign protection order with respect to support.

(5) A foreign protection order is valid if it:

(a) identifies the protected individual and the respondent;

(b) is currently in effect;

(c) was issued by a court that had jurisdiction over the parties and subject matter under the law of the issuing state; and

(d) was issued after the respondent was given reasonable notice and had an opportunity to be heard before the court issued the order or, in the case of an order ex parte, the respondent was given notice and had an opportunity to be heard before the order was issued or had an opportunity to be heard within a reasonable time after the order was issued, consistent with the rights of the respondent to due process.

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

(7) 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.

(8) A court of this state may enforce provisions of a mutual foreign protection order that favor a respondent only if:

(a) the respondent filed a written pleading seeking a protection order from the court of the issuing state;

and

(b) the court of the issuing state made specific findings in favor of the respondent."

NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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