

By: Representative Watson

To: Judiciary A

HOUSE BILL NO. 629

1 AN ACT TO ENACT THE UNIFORM INTERSTATE ENFORCEMENT OF  
 2 DOMESTIC VIOLENCE PROTECTION ORDERS ACT; TO SET FORTH DEFINITIONS;  
 3 TO PROVIDE FOR THE UNIFORM ENFORCEMENT OF JUDICIAL ORDERS; TO  
 4 PROVIDE FOR UNIFORM NONJUDICIAL ENFORCEMENT OF PROTECTION ORDERS;  
 5 TO PROVIDE THAT THE STATE DEPARTMENT OF HUMAN SERVICES REGISTER  
 6 FOREIGN PROTECTION ORDERS IN THIS STATE; TO PROVIDE CIVIL AND  
 7 CRIMINAL IMMUNITY FOR THOSE PERSONS ACTING IN AN OFFICIAL CAPACITY  
 8 REGARDING THE REGISTRATION OR ENFORCEMENT OF A FOREIGN PROTECTION  
 9 ORDER; TO AMEND SECTIONS 93-21-13 AND 93-21-16, MISSISSIPPI CODE  
 10 OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

12 **SECTION 1. Short title.** The provisions of Sections 1  
 13 through 9 of this act may be cited as the Uniform Interstate  
 14 Enforcement of Domestic Violence Protection Orders Act.

15 **SECTION 2. Definitions.** The following words and phrases  
 16 shall have the meanings ascribed in this section unless the  
 17 context clearly indicates otherwise:

18 (1) "Foreign protection order" means a protection order  
 19 issued by a tribunal of another state.

20 (2) "Issuing state" means the state whose tribunal  
 21 issues a protection order.

22 (3) "Mutual foreign protection order" means a foreign  
 23 protection order that includes provisions issued in favor of both  
 24 the protected individual seeking enforcement of the order and the  
 25 respondent.

26 (4) "Protected individual" means an individual  
 27 protected by a protection order.

28 (5) "Protection order" means an injunction or other  
 29 order, issued by a tribunal under the domestic violence or family  
 30 violence laws of the issuing state, to prevent an individual from  
 31 engaging in violent or threatening acts against, harassment of,



32 contact or communication with, or physical proximity to another  
33 individual.

34 (6) "Respondent" means the individual against whom  
35 enforcement of a protection order is sought.

36 (7) "State" means a state of the United States, the  
37 District of Columbia, Puerto Rico, the United States Virgin  
38 Islands, or any territory or insular possession subject to the  
39 jurisdiction of the United States. The term includes an American  
40 Indian tribe or band that has jurisdiction to issue protection  
41 orders.

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

44 **SECTION 3. Judicial enforcement of order.**

45 (a) A tribunal of this state shall enforce the terms of a  
46 valid foreign protection order, including terms that provide  
47 relief that a tribunal of this state would lack power to provide  
48 but for this section. A tribunal of this state shall enforce a  
49 valid foreign protection order issued by a tribunal, whether the  
50 order was obtained by independent action or in another proceeding,  
51 if it is an order issued in response to a complaint, petition, or  
52 motion filed by or on behalf of an individual seeking protection.  
53 A tribunal of this state may not enforce an order issued by a  
54 tribunal that does not recognize the standing of a protected  
55 individual to seek enforcement of the order.

56 (b) A tribunal of this state shall enforce the provisions of  
57 a valid foreign protection order which governs custody and  
58 visitation. The custody and visitation provisions of the order  
59 must have been issued in accordance with the jurisdictional  
60 requirements governing the issuance of custody and visitation  
61 orders in the issuing state.

62 (c) A tribunal of this state may not enforce under this  
63 chapter an order or provision of an order with respect to support.

64 (d) A protection order is valid if it:



65           (1) Identifies the protected individual and the  
66 respondent;  
67           (2) Is in effect at the time enforcement is being  
68 sought;  
69           (3) Was issued by a tribunal that had jurisdiction over  
70 the parties and matter under the law of the issuing state; and  
71           (4) Was issued after the respondent was provided with  
72 reasonable notice and had an opportunity to be heard before the  
73 tribunal issued the order or, in the case of an order ex parte,  
74 the respondent was given notice and afforded an opportunity to be  
75 heard within a reasonable time after the issuing of the order,  
76 consistent with the rights of the respondent to due process.

77           (e) A person authorized under the law of this state to seek  
78 enforcement of a foreign protection order establishes a prima  
79 facie case for its validity by presenting an order valid on its  
80 face.

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

84           (g) A tribunal of this state may enforce the provisions of a  
85 mutual foreign protection order which favor a respondent only if:

86           (1) The respondent filed a written pleading seeking a  
87 protection order from the tribunal of the issuing state; and

88           (2) The tribunal of the issuing state made specific  
89 findings in favor of the respondent.

90           **SECTION 4. Nonjudicial enforcement of order.**

91           (a) A law enforcement officer of this state, upon  
92 determining that there is probable cause to believe that a valid  
93 foreign protection order exists and that the order has been  
94 violated, shall enforce the order as if it were the order of a  
95 tribunal of this state. Presentation of a protection order that  
96 identifies both the protected individual and the respondent, and  
97 on its face is in effect at the time enforcement is being sought,



98 constitutes probable cause to believe that a valid foreign  
99 protection order exists. For the purposes of this section, the  
100 protection order may be inscribed on a tangible medium or may have  
101 been stored in an electronic or other medium if it is retrievable  
102 in perceivable form. Presentation of a certified copy of a  
103 protection order is not required for enforcement.

104 (b) If the protection order is not presented, the officer  
105 may consider other information in determining whether there is  
106 probable cause to believe that a valid foreign protection order  
107 exists.

108 (c) If a law enforcement officer of this state determines  
109 that an otherwise valid foreign protection order cannot be  
110 enforced because the respondent has not been notified or served  
111 with the order, the officer shall inform the respondent of the  
112 order and make a reasonable effort to serve the order upon the  
113 respondent. After informing the respondent and serving the order,  
114 the officer shall allow the respondent a reasonable opportunity to  
115 comply with the order before enforcing the order.

116 (d) Registration or filing of an order in this state is not  
117 required for the enforcement of a valid foreign protection order  
118 under the provisions of this act.

119 **SECTION 5. Registration of order.**

120 (a) Any individual may register a foreign protection order  
121 in this state. To register a foreign protection order, an  
122 individual shall:

123 (1) Present a certified copy of the order to the  
124 chancery clerk's office of any county in this state; or

125 (2) Present a certified copy of the order to the  
126 Department of Human Services and request that the order be  
127 registered.

128 (b) Upon receipt of a protection order, the chancery clerk  
129 shall register the order in accordance with this section. After  
130 the order is registered, the chancery clerk shall furnish to the



131 individual registering the order a certified copy of the  
132 registered order.

133 (c) The Department of Human Services shall be responsible  
134 for the registration of foreign protection orders, and it shall  
135 register an order upon presentation of a copy of a protection  
136 order which has been certified by the issuing state. A registered  
137 foreign protection order which is inaccurate or is not in effect  
138 at the time of registration shall be corrected or removed from the  
139 registry in accordance with the law of this state.

140 (d) An individual registering a foreign protection order  
141 shall file an affidavit by the protected individual that, to the  
142 best of the individual's knowledge, the order is in effect at the  
143 time of the registration.

144 (e) A foreign protection order registered under this act may  
145 be entered in any existing state or federal registries of  
146 protection orders, in accordance with state or federal law.

147 **SECTION 6. Immunity.** This state or a local governmental  
148 agency, or a law enforcement officer, prosecuting attorney, clerk  
149 of court, or any state or local governmental official acting in an  
150 official capacity, is immune from civil and criminal liability for  
151 an act or omission arising out of the registration or enforcement  
152 of a foreign protection order or the detention or arrest of an  
153 alleged violator of a foreign protection order if the act or  
154 omission is done in good faith in an effort to comply with this  
155 act.

156 **SECTION 7. Transitional provision.** This chapter applies to  
157 any protection order issued before the effective date of this act,  
158 including any continuing action for enforcement of a foreign  
159 protection order commenced before the effective date of this act.  
160 A request for enforcement of a foreign protection order brought on  
161 or after the effective date of this act for violations of a  
162 foreign protection order occurring before the effective date of  
163 this act is governed by the provisions of this act.



164           **SECTION 8. Other remedies.** Pursuit of remedies under this  
165 chapter does not preclude a protected individual from pursuing  
166 other legal or equitable remedies against the respondent.

167           **SECTION 9. Severability clause.** If any provision of this  
168 chapter or its application to any person or circumstance is held  
169 invalid, the invalidity does not affect other provisions or  
170 applications of this chapter which can be given effect without the  
171 invalid provision or application, and to this end the provisions  
172 of this chapter are severable.

173           **SECTION 10.** Section 93-21-13, Mississippi Code of 1972, is  
174 amended as follows:

175           93-21-13. (1) A petition may be filed before the justice  
176 court judge, municipal court judge or county court judge, in an ex  
177 parte proceeding upon good cause shown, if the justice court  
178 judge, municipal court judge or county court judge deems it  
179 necessary to protect from abuse the petitioner, any minor  
180 children, or any person alleged to be incompetent. Immediate and  
181 present danger of abuse to the petitioner, any minor children, or  
182 any person alleged to be incompetent, shall constitute good cause  
183 for the purposes of this section.

184           (2) The justice court, municipal court and the county court  
185 shall be empowered to grant any protective order or approve any  
186 consent agreement to bring about a cessation of abuse of the  
187 petitioner, any minor children, or any person alleged to be  
188 incompetent, which relief may include:

189           (a) Directing the defendant to refrain from abusing the  
190 petitioner, any minor children, or any person alleged to be  
191 incompetent;

192           (b) Granting possession to the petitioner of the  
193 residence or household to the exclusion of the defendant by  
194 evicting the defendant and/or restoring possession to the  
195 petitioner;



196 (c) When the defendant has a duty to support the  
197 petitioner, any minor children, or any person alleged to be  
198 incompetent living in the residence or household and the defendant  
199 is the sole owner or lessee, granting possession to the petitioner  
200 of the residence or household to the exclusion of the defendant by  
201 evicting the defendant and/or restoring possession to the  
202 petitioner, or by consent agreement allowing the defendant to  
203 provide suitable, alternate housing; and

204 (d) Prohibiting the transferring, encumbering or  
205 otherwise disposing of property mutually owned or leased by the  
206 parties, except when in the ordinary course of business.

207 (3) Any order issued under subsection (2) of this section is  
208 temporary and shall not exceed ten (10) days and shall expire as  
209 of the date of the hearing in chancery court, at which time, the  
210 petitioner may seek a temporary order from the chancery court.

211 (4) The court may amend its order or agreement at any time  
212 upon subsequent petition by either party.

213 (5) A protection order \* \* \* issued by a tribunal of another  
214 state to protect the applicant from abuse as defined in Section  
215 93-21-3 shall be accorded full faith and credit by the courts of  
216 this state and enforced in this state as provided for in the  
217 Uniform Interstate Enforcement of Domestic Violence Protection  
218 Orders Act.

219 (6) Every order granting a protective order pursuant to this  
220 section shall set forth the reasons for its issuance, shall  
221 contain specific findings of fact regarding the existence of  
222 abuse, shall be specific in its terms and shall describe in  
223 reasonable detail the act or acts to be restrained.

224 **SECTION 11.** Section 93-21-16, Mississippi Code of 1972, is  
225 amended as follows:

226 93-21-16. (1) \* \* \* A protective order from another  
227 jurisdiction issued to protect the applicant from domestic  
228 violence as defined in Section 97-3-7, or a protection order as



229 defined in Section 2 of this act, issued by a tribunal of another  
230 state shall be accorded full faith and credit by the courts of  
231 this state and enforced in this state as provided for in the  
232 Uniform Interstate Enforcement of Domestic Violence Protection  
233 Orders Act.

234 (2) A protective order from another jurisdiction, or a  
235 protection order as defined in Section 2 of this act and issued by  
236 a tribunal of another state, is presumed to be valid if it meets  
237 the requirements of Section 3(d) of this act.

238 (3) It is an affirmative defense in any action seeking  
239 enforcement of a protective order issued in another jurisdiction,  
240 or a protection order as defined in Section 2 of this act and  
241 issued by a tribunal of another state, that any criteria for the  
242 validity of the order is absent.

243 **SECTION 12.** The provisions of Sections 1 through 9 of this  
244 act shall be codified as a separate chapter in Title 93,  
245 Mississippi Code of 1972.

246 **SECTION 13.** The provisions of this act shall take effect and  
247 be in force from and after July 1, 2003.

