

# ENFORCING COURT Full Faith & Credit

**What is the source of my authority?**

## Full Faith and Credit

Since 1994, the Violence Against Women Act's full faith and credit provision (18 U.S.C. § 2265) has required every jurisdiction in the United States to recognize and enforce valid protection orders.

### These jurisdictions include:

- A state and its political subdivisions;
- A tribal government;
- The District of Columbia; and
- A commonwealth, territory, or possession of the United States (American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and U.S. Virgin Islands).

**Is the order enforceable?**

## Elements of an Enforceable Order

- The respondent is given notice and an opportunity to be heard, or, in the case of an *ex parte* order, the respondent will be given notice and an opportunity to be heard within a reasonable time, consistent with the requirements of due process.
- The issuing court had personal and subject matter jurisdiction to issue the order.
- The order has not expired.
- **A protection order from another jurisdiction that has these elements must be afforded a presumption of enforceability.**

**What about orders against both parties?**

## Mutual Orders

Mutual orders are fully enforceable against the respondent. Provisions against the petitioner are not entitled to interstate/tribal enforcement if:

- No cross or counter petition, complaint, or other written pleading was filed by the respondent seeking such a protection order; or
- A cross or counter petition has been filed and the court did not make specific findings that each party was entitled to such an order.

**What else should I do to facilitate protection?**

## Facilitating Protection

- Communicate with the issuing court to clear up ambiguities, verify validity, establish the status of service, etc.
- Ensure that court clerks and staff are familiar with and comply with the provisions of VAWA/full faith and credit.
- Notify protected parties of the National Domestic Violence Hotline number (800-799-SAFE, TTY 800-787-3224).
- Inform Issuing Court of disposition of any enforcement proceeding by filing a copy of order with Issuing Court.
- State courts are encouraged to initiate discussion with contiguous Indian nations about procedures for cross enforcement of protection orders.

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**What terms must I enforce?**

**What enforcement procedures should I apply?**

**Are there firearms considerations?**

## Enforcing Protection Orders of Other Jurisdictions

**A. Enforce the terms of the order as written, even if the enforcing jurisdiction lacks authority to enter such terms, e.g.:**

- Category of protected persons would not be eligible for relief in enforcing jurisdiction;
- Order contains relief unavailable in enforcing jurisdiction;
- Order has longer duration than provided for in enforcing jurisdiction; or
- Order calls for surrender of weapons and enforcing jurisdiction has no such provision. (See also Firearms below.)

**B. Use the enforcement procedures of the enforcing jurisdiction.**

- Treat the violation as a criminal offense if it is criminalized in the enforcing jurisdiction.
- Award attorney's fees if sought and if provided for in the enforcing jurisdiction.

**C. Do not notify the respondent that a protection order has been registered or filed in your jurisdiction unless the petitioner so requests, and does so in writing. 18 U.S.C. § 2265 (d) (1).**

**D. Neither registration/filing nor notice is a prerequisite for enforcement of valid protection orders from other jurisdictions. 18 U.S.C. § 2265 (d) (1).**

## Firearms

In addition to any state, tribal, or territorial laws on firearms, certain federal firearms restrictions apply in protection order cases.

- A respondent may not obtain, possess, or transport a firearm or ammunition for the duration of the qualifying protection order.
- A respondent who has been convicted of a qualifying misdemeanor crime of domestic violence may never possess a firearm or ammunition.
- It may be a crime to sell or otherwise transfer a firearm or ammunition to any person known to be prohibited from obtaining or possessing a firearm.
- Judges should take steps to ensure that when a respondent requests return of firearms at the expiration of a qualifying protection order, the court does not authorize return of firearms to a person who is otherwise disqualified under either state or federal law from possessing firearms.



For more copies, please contact the National Council of Juvenile and Family Court Judges at 1-800-527-3223. Resolved: That the Conference of Chief Justices and the Conference of State Court Administrators express their commitment to taking the necessary steps to support implementation of the Full Faith and Credit Provisions of the Violence Against Women Act (18 U.S.C. § 2265). This project was supported by grant no. 1999-WE-VX-K004 awarded by the Office on Violence Against Women, Office of Justice Programs, U.S. Department of Justice.