

Cornell Law School

U.S. Code › Title 18 › Part I › Chapter 110A › § 2265

## 18 U.S. Code § 2265 - Full faith and credit given to protection orders

Current through Pub. L. 114-38. (See Public Laws for the current Congress.)

### **(a) FULL FAITH AND CREDIT. —**

Any protection order issued that is consistent with subsection (b) of this section by the court of one State, Indian tribe, or territory (the issuing State, Indian tribe, or territory) shall be accorded full faith and credit by the court of another State, Indian tribe, or territory (the enforcing State, Indian tribe, or territory) and enforced by the court and law enforcement personnel of the other State, Indian tribal government or Territory<sup>(1)</sup> as if it were the order of the enforcing State or tribe.

**(b) PROTECTION ORDER. —**A protection order issued by a State, tribal, or territorial court is consistent with this subsection if—

**(1)** such court has jurisdiction over the parties and matter under the law of such State, Indian tribe, or territory; and

**(2)** reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State, tribal, or territorial law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

**(c) CROSS OR COUNTER PETITION. —**A protection order issued by a State, tribal, or territorial court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

**(1)** no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

**(2)** 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.

**(d) NOTIFICATION AND REGISTRATION. —**

#### **(1) NOTIFICATION. —**

A State, Indian tribe, or territory according full faith and credit to an order by a court of another State, Indian tribe, or territory shall not notify or require notification of the party against whom a protection order has been issued that the protection order has been registered or filed in that enforcing State, tribal, or territorial jurisdiction unless requested to do so by the party protected under such order.

#### **(2) NO PRIOR REGISTRATION OR FILING AS PREREQUISITE FOR ENFORCEMENT. —**

Any protection order that is otherwise consistent with this section shall be accorded full faith and

credit, notwithstanding failure to comply with any requirement that the order be registered or filed in the enforcing State, tribal, or territorial jurisdiction.

**(3) LIMITS ON INTERNET PUBLICATION OF REGISTRATION INFORMATION. —**

A State, Indian tribe, or territory shall not make available publicly on the Internet any information regarding the registration, filing of a petition for, or issuance of a protection order, restraining order or injunction, restraining order, or injunction in either the issuing or enforcing State, tribal or territorial jurisdiction, if such publication would be likely to publicly reveal the identity or location of the party protected under such order. A State, Indian tribe, or territory may share court-generated and law enforcement-generated information contained in secure, governmental registries for protection order enforcement purposes.

**(e) TRIBAL COURT JURISDICTION. —**

For purposes of this section, a court of an Indian tribe shall have full civil jurisdiction to issue and enforce protection orders involving any person, including the authority to enforce any orders through civil contempt proceedings, to exclude violators from Indian land, and to use other appropriate mechanisms, in matters arising anywhere in the Indian country of the Indian tribe (as defined in section 1151) or otherwise within the authority of the Indian tribe.

(Added Pub. L. 103-322, title IV, § 40221(a), Sept. 13, 1994, 108 Stat. 1930; amended Pub. L. 106-386, div. B, title I, § 1101(b)(4), Oct. 28, 2000, 114 Stat. 1493; Pub. L. 109-162, title I, § 106(a)-(c), Jan. 5, 2006, 119 Stat. 2981, 2982; Pub. L. 109-271, § 2(n), Aug. 12, 2006, 120 Stat. 754; Pub. L. 113-4, title IX, § 905, Mar. 7, 2013, 127 Stat. 124.)

[1] So in original. Probably should not be capitalized.

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This definition prevents demographic data which could help to identify a client from being released. Rural or nearly homogenous communities could have some residents for whom release of demographic information, such as family size or religion or ethnicity, could be identifying. Even if it is not specifically identifying, it could narrow the pool of people down to a select few, and label all of them suspected victims and abusers.

Grant recipients are required to maintain the confidentiality of personal information. 42 USC § 11383(b)(2). Data may be shared with informed, written, and reasonably time-limited consent of the client. 42 USC § 11383(b)(2)(B)(ii). These requirements mean that simple form contracts and fine print will not be used to release the data. Grantees will have to educate their clients about the requirements of most disclosures. The reasonable time limitation of the releases means that clients are kept aware of the purposes of new disclosures as they come up.

If a court order or other process requests the data, the grantee should make reasonable efforts to alert the client of the release. 42 USC § 11383(b)(2)(C). This way clients are alerted whenever others -- specially an opposing party -- accesses their information.

Limits On Internet Publication of Protection Order Information

VAWA 2005, section 106, amended 18 USC § 2265, governing the Full Faith and Credit given the protection orders issued by other states. The amendment limits internet publication of filing or registration information of protection orders when these are likely to reveal the identity or location of the individual protected by the order. That amendment allows sharing of this information in secure format intergovernmentally for law enforcement purposes. For more information on the privacy of court and public records, see EPIC's [Privacy and Public Records page](#).

*Foreign Judgments*

# NOTICE

## Regarding Fees in Protection from Abuse and Protection from Harassment Cases

The plaintiff has filed a Complaint for Protection from Abuse, or a Complaint for Protection from Harassment in which the court finds that there are allegations of Domestic Violence, Stalking, or Sexual Assault. No fee of any kind can be charged to the plaintiff in connection with this matter.

Pursuant to specific provisions of the Federal Violence Against Women Act of 2000, 42 USC § 3796gg-5(1)(1), no State, County or Local government or entity may charge a victim any fee "in connection with the filing, issuance, registration, or service of a protection order, or a petition for a protection order, to protect a victim of domestic violence, stalking, or sexual assault". (See 42 USC § 3796gg-5(1)(1) below)

If you have questions or concerns regarding this Notice, please contact the Director of the Office of Clerks of Court at 207-213-2855.

42 U.S.C. § 3796gg-5. Costs for criminal charges and protection orders

(a) In general. A State, Indian tribal government, or unit of local government, shall not be entitled to funds under this part [42 USCS §§ 3796gg et seq.] unless the State, Indian tribal government, or unit of local government--

(1) certifies that its laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, or in connection with the filing, issuance, registration, or service of a protection order, or a petition for a protection order, to protect a victim of domestic violence, stalking, or sexual assault, that the victim bear the costs associated with the filing of criminal charges against the offender, or the costs associated with the filing, issuance, registration, or service of a warrant, protection order, petition for a protection order, or witness subpoena, whether issued inside or outside the State, tribal, or local jurisdiction; or

(2) gives the Attorney General assurances that its laws, policies and practices will be in compliance with the requirements of paragraph (1) within the later of--

(A) the period ending on the date on which the next session of the State legislature ends; or

(B) 2 years after the date of the enactment of the Violence Against Women Act of 2000 [enacted Oct. 28, 2000].

(b) Redistribution. Funds withheld from a State, unit of local government, or Indian tribal government under subsection (a) shall be distributed to other States, units of local government, and Indian tribal government, respectively, pro rata.

(c) Definition. In this section, the term "protection order" has the meaning given the term in section 2266 of title 18, United States Code.