



PROTECTION ORDERS AND OLDER VICTIMS: A SURVIVOR CENTERED APPROACH

National Center on Protection Orders and Full Faith & Credit and National Clearinghouse on Abuse in Later Life

Presenters

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Full Faith and Credit for Protection Orders

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A valid protection order issued in one state, tribe or territory must be enforced in:

- All 50 states;
- Indian tribal lands;
- the District of Columbia; AND
- In the U.S. Virgin Islands, Puerto Rico, American Samoa, the Northern Mariana Islands, and Guam.

Full Faith and Credit Provision

18 U.S.C. §2265(a)

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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 as if it were the order of the enforcing State or tribe.**

What is the Federal Definition of a Protection Order?

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Federal Definition of Protection Order – 18 U.S.C §2266(5)(a)

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A protection is defined as any **injunction, restraining order, or any other order** issued by a **civil or criminal** court for the purpose of preventing:

- Violent or Threatening Acts,
- Harassment Against,
- Sexual violence, or
- Contact or Communication, or
- Physical proximity to another person

Federal Definition of Protection Order – 18 U.S.C §2266(5)(a) (cont.)

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including any **temporary or final order** issued by a **civil or criminal court** whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil or criminal order was issued in response to a **complaint, petition, or motion filed by or on behalf** of a person seeking protection;

Federal Definition of Protection Order Includes: 18 U.S.C. § 2266(5)(B) (cont.)

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(B) Any support, child custody or visitation provisions, orders, remedies or relief issued as part of a protection order, restraining order, or injunction

- pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions
- for the protection of victims of domestic violence, sexual assault, dating violence, or stalking.

Jurisdiction

18 U.S.C. §2265(b)(1)

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(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

Due Process

18 U.S.C. §2265(b)(2)

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(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect the 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.

Registration

18 U.S.C. § 2265(d)(2)

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No prior registration or filing as pre-requisite 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.

Notification

18 U.S.C. § 2265(d)(1)

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VAWA prohibits notice or requiring 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.

FFC Enabling Legislation

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To provide clarification to the Federal law, 49 state legislatures have passed their own full faith and credit laws. One state has attorney general guidelines.

- Enabling legislation varies by state to state
- Some states have enacted the “Uniform Interstate Enforcement of Domestic Violence Protection Orders Act”
- Some tribal codes include provisions on full faith and credit or recognition of protection orders issued in other jurisdictions.
- Some track the Federal statute very closely.
- Others diverge from the language of the statute.

Which Laws Apply?

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ISSUING JURISDICTION

- whom the order protects (e.g. same sex couples or roommates)
- the terms and conditions of the order (including all relief issued)
- how long the order remains in effect (e.g. pendency of a criminal case, lifetime, 18 months)

ENFORCING JURISDICTION

- how the order is enforced (e.g. contempt of court or a separate crime)
- the arrest authority of responding law enforcement
- detention & notification procedures
- penalties & sanctions for violations

National Center on Protection Orders and Full Faith & Credit

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- For assistance, please call: (800) 903-0111, prompt 2.
- Email: ncffc@bwjp.org
- Web: www.FullFaithandCredit.org
- Informational Materials & Brochures
- Technical Assistance & Problem-Solving
- (On-Site) Individualized Training
Education/Teleconferences/Webinars

Working with Older Survivors

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- Older survivors of abuse may require additional supports or accommodations through the process of seeking a protection order.
- While abuse dynamics of power and control are present in all violent relationships, abuse in later life is often complicated by additional factors.

What is Abuse in Later Life?

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- Physical, sexual or psychological abuse, neglect, financial exploitation or stalking of an adult age 50 years or older
- In most cases, victim is in an ongoing relationship with the abuser (spouse, child, caregiver, etc.) where society expects there to be a trusting, caring connection

Forms of Abuse Often Co-Occur

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- Physical abuse
- Sexual assault
- Neglect
- Financial exploitation

Who Commits Abuse in Later Life?

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- Intimate partners
- Adult children and other family members
- Caregivers
- Fiduciaries
- Others who are or put themselves in positions of trust or authority
- Strangers

Common Motives for ALL

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- Often
 - Greed
 - Benefits of predatory behavior
 - Power and control dynamics
- And sometimes
 - Good intentions
 - Physical and/or mental health conditions experienced by the abuser

Barriers to Reporting Abuse

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- Limited access to traditional DV/SA resources
- Physical limitations
- Cognitive limitations
- Financial limitations
- Health concerns

Barriers to Reporting Abuse

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- Ageism
- Fear
- Pressure from family, friends, clergy and other

Older Survivors and Protection Orders

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- Facilitating the discussion
- Preparation before filing
- Going to court
- After an order is granted
- If an order is denied

Facilitating the Discussion

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- Victim-centered advocacy
- Consider the relationship to the abuser
- Identify supportive family or friends
- Discuss what happens if the order is granted
- Take steps to protect petitioner and assets
- Prepare the survivor for court

Preparing to File

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- Determine what types of protections are available in your jurisdiction
- Understand the process
- Is representation needed/available?
- Gather necessary evidence

Going to Court

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- Identify accessibility needs and ensure that appropriate arrangements are made
- Familiarize yourself with the courthouse
- Is there a private space where the petitioner can wait prior to the hearing?
- Scheduling considerations
- Transportation

After an Order is Granted

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- Review the order with petitioner
- Distribute copies of the order
- Connect with supportive services
- Create a plan of action in case the order is violated

If the Order is Denied

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- Engage in ongoing safety planning
- Discuss other legal options, including re-filing

Conclusion

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- Provide victim-centered advocacy
- Preparation is crucial
- Seek flexible and creative solutions
- Be familiar with local resources

National Clearinghouse on Abuse in Later Life

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How NCALL Can Support You

- Technical Assistance and Consultation
- Training/Teleconferences/Webinars
- Resources: Information sheets, curricula, toolkits, videos, webinars, web graphics, and posters

National Clearinghouse on Abuse in Later Life,
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Thank You

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The opinions, findings, conclusions, and recommendations expressed in this presentation are those of the authors and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.