

\_\_\_\_\_(Name), : IN THE \_\_\_\_\_ COURT OF  
 Plaintiff : \_\_\_\_\_ (County/Judicial District)  
 : \_\_\_\_\_ (State/Territory)  
 vs. : CIVIL ACTION - LAW  
 : PROTECTION/RESTRAINING  
 \_\_\_\_\_(Name), : ORDER  
 Defendant : Docket No. \_\_\_\_\_, 20\_\_

## Certification of Protection/Restraining Order

It is hereby certified that the attached is a true and correct copy of the order entered in the above-captioned action on \_\_\_\_\_ (date) and that the original of the attached order was duly executed by the judicial authority whose signature appears thereon. The order expires on \_\_\_\_\_ (date).

The order is : [ ] a civil protection/restraining order  
 OR [ ] a criminal protection/restraining order.

It is further certified that:

(a) the issuing court determined that it had jurisdiction over the parties and the subject matter under the laws of \_\_\_\_\_ (state or Indian tribe).

(b) the defendant was given reasonable notice and opportunity to be heard sufficient to protect the defendant's right to due process before this order was issued; or if the order was issued ex-parte, the court ordered that the defendant be given reasonable notice and opportunity to be heard within the time required by the law of this jurisdiction, and in any event within a reasonable time after the order was issued, sufficient to protect the defendant's due process rights.

(c) the order was otherwise issued in accord with the requirements of the Full Faith and Credit Provisions of the Violence Against Women Act; Title IV, Subtitle B, Chapter 2 of the Violent Crime Control and Law Enforcement Act of 1994. 18 U.S.C. 2265.

(d) the order was issued in accordance with the requirements of the Uniform Child Custody Jurisdiction Act or the Uniform Child Custody Jurisdiction and Enforcement Act of this state/territory and consistent with the strictures of the federal Parental Kidnapping Prevention Act. Parental Kidnapping Prevention Act, Pub. L. No. 96-611, 94 Stat. 3566 (1980).\*

The attached order shall be presumed to be valid and enforceable in this and other jurisdictions.

Signature of Clerk of Court or other authorized official: \_\_\_\_\_

Judicial District: \_\_\_\_\_ Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Date: \_\_\_\_\_

Seal:

\* Pursuant to 18 U.S.C. 2266(5), as amended by the Violence Against Women Act of 2000 (Division B, Title I, Section 1107 of the Victims of Trafficking and Violence Protection Act of 2000), child custody and support provisions within protection orders must be accorded full faith and credit regardless of whether such provisions have been issued in accordance with the issuing state's UCCJA or UCCJEA, or with the PKPA.

## Rationale for Certification Form

### Civil Protection/Restraining Orders

A universally recognized and utilized certification form for civil protection/restraining orders will both normalize and expedite full faith and credit of these orders in non-issuing states, pursuant to the provisions of the VAWA, for the following reasons:

- Police will learn to rely on the form and seal when orders are presented by battered women seeking enforcement. Certification in a recognizable/predictable manner will, arguably, enhance reliability or at least the appearance thereof. This *prima facie* reliability will help limit exposure of officers and departments to liability for false arrest or failure to arrest.
- The certification form will lend support to a presumption of the validity of foreign orders. Thus, certified orders would be enforceable by law enforcement without registration in the non-issuing state or without prior review by a court on the issue of validity. The certification form will hopefully prevent the promulgation of state or local court rules that require registration [or otherwise filing/review] of foreign orders before enforcement (as is the practice with money judgments, custody, support, divorce, etc. orders).

This is necessary for at least two reasons; first, the emergency nature of the need for immediate enforcement, and, second, the burden that registration/filing/review places on battered women who may not know of the requirement for same before enforcement, who may not be able to accomplish the registration/filing/review process pro se or without payment of prohibitive fees and who would not, therefore, be able to access the mechanisms of enforcement. The burden of pre-enforcement registration, etc. on the courts would not be insubstantial, and the process might occasion delays that would pose grave risks to battered women.

- Assuming the *prima facie* validity of a order thus certified, it is our position that the non-issuing court need not/should not inquire as to the validity of a certified temporary or final order until such time as the defendant challenges the validity or duration of the foreign order.

However, when validity is challenged, the certification will assist the communication with the issuing court.

- The certification form puts trial court judges on notice that orders should be issued pursuant to the requirements of the FFC provisions of the VAWA

including personal and subject matter jurisdiction, notice to defendant, opportunity to be heard, and no mutual orders absent cross-filings and findings of abuse.

The form offers mini-judicial notice/education that judges and clerks ought to be familiar with the FFC provisions and operate in accord therewith. We hope that far fewer inappropriate 'mutual' orders will be issued; and the limited safeguards against such orders in VAWA may accrue to the benefit of abused women who never require, as well as those who need, enforcement in a non-issuing jurisdiction.

- Where courts extend full faith and credit to orders of issuing states, the burden on the judicial resources of the foreign state may be reduced by eliminating the necessity of battered women filing anew for civil restraining/protection orders when relocating to or working in a second state. Court administrators will soon identify the economies associated with full, faith and credit compliance, as expedited by the certification form.
- With the provision re: UCCJA compliance, temporary custody orders contained in civil protection/restraining orders are more likely to be deemed valid custody orders; both so that maximum enforcement powers can be applied should the abuser abduct the child and so that women may have the limited, but significant, benefit of a valid custody order if they leave the issuing jurisdiction to protect the child or themselves, e.g. courts in a non-issuing state may initially conclude that they have emergency jurisdiction over the child, relying upon the certification form and the custody award in the attached protection/restraining order.