



INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE
RESOLUTION

Adopted at the 119th Annual Conference
San Diego, CA
October 3, 2012

Opposing the Arrest of Petitioners for Violations of Their Own Protection Orders

Submitted by: Victim Services Committee
VIC.020.a12

WHEREAS, a bill was introduced in the Georgia House of Representatives that would allow criminal penalties for petitioners of protection orders who violate their own orders, and similar court rulings currently exist in Iowa; and

WHEREAS, a protective order is a legal injunction that requires a party to do, or to refrain from doing, certain acts with the purpose of empowering victims of interpersonal violence and giving a means of safety, and each state in the United States has some form of domestic violence restraining order law, and many states also have specific restraining order laws for stalking, harassment, and sexual assault; and

WHEREAS, protective orders can help victims regain control by establishing boundaries, restrictions, and sanctions with the support and enforcement of the criminal justice system and in some jurisdictions may be one of the few safety options for victim, they may be the tool that a victim needs in order to begin separation from an abusive party; and

WHEREAS, victims suffer emotional, psychological, and/or physical abuse, endure threats, coercion, and/or manipulation by perpetrators of interpersonal violence, and may have conflicting emotions and established dependency (economic, psychological); and

WHEREAS, perpetrators are coercive and skilled at manipulating victims and the criminal justice system in order to gain power and control; and

WHEREAS, perpetrators will use the possibility of arrest against victims and/or as leverage and as another means of power and control; and

WHEREAS, a victim may feel pressured, or be manipulated by the perpetrator into letting him/her into the house, workplace, or meeting with him/her with the sole purpose of setting a victim up for arrest, and oftentimes it is safer for a victim to comply with the demands of a perpetrator rather than suffer the consequences if they do not comply; and

WHEREAS, policies that support the arrest of victims for violations of their own protection orders, a tool that was established to keep an abusive party away from a victim, serve to embolden the perpetrator and give him/her more power, this time with police action and the criminal justice system to support their words and threats; and

WHEREAS, policies that support the arrest of victims for violations of their own protection orders take a procedure that is meant to protect victims and uses it to punish them damaging victim trust in the criminal justice system and create hesitation on the part of the victim to seek law enforcement protection because of the possibility of being arrested; and

WHEREAS, if the perpetrator refuses to comply with the terms of an order they shall face criminal or civil penalties and may have to pay damages or accept sanctions; now, therefore be it

RESOLVED, that because of the complicated nature of the crime of domestic violence and the complex situations responding officers are left to sort out, education and awareness regarding the harmful effects and ramifications of arresting victims for violations of protections orders is needed; and, be it

FURTHER RESOLVED, that the International Association of Chiefs of Police assembled at its 119th Annual Conference in San Diego, California strongly believes that policies that support the arrest of and criminal consequences for victims for violations of their own protection orders are harmful and counterintuitive and should be avoided as they undermine the purpose of the system that was created to protect victims and hold perpetrators of crime accountable.



**National Center on Protection Orders
and Full Faith & Credit**

State Statutory Provisions Addressing Mutual Protection Orders

Revised 2014

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State statutes are constantly changing. Please independently verify the information found in this document.

If you have a correction or update, please contact us at (800) 903-0111, prompt 2 or via email at nctfc@bwjp.org.

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Compiled by the National Center on Protection Orders and Full Faith & Credit

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STATE		MUTUAL ORDER ENFORCEMENT PROVISIONS
ALABAMA	Ala. Code §30-5-5(c) (2014)	The court shall not enter mutual orders. The court shall issue separate orders that specifically and independently state the prohibited behavior and relief granted in order to clearly provide law enforcement with sufficient direction when determining if a violation of the order has occurred. For the purpose of judicial economy, a court may consolidate two separately filed petitions into a single case.
ALASKA	Alaska Stat. §18.66.130(b) (2014)	A court may not grant protective orders against the petitioner and the respondent in the same action under this chapter.
ARIZONA	Ariz. Rev. Stat. Ann. §13-3602(H) (2014)	The court shall not grant a mutual order of protection. If opposing parties separately file verified petitions for an order of protection, the courts after consultation between the judges involved may consolidate the petitions of the opposing parties for hearing. This does not prohibit a court from issuing cross orders of protection.
ARKANSAS	Ark. Code Ann. §9-15-216 (2014)	(a) Except as provided in subsection (b) of this section, a circuit court shall not grant a mutual order of protection to opposing parties. (b) Separate orders of protection restraining each opposing party may only be granted in cases in which each party: <ul style="list-style-type: none"> (1) Has properly filed and served a petition for an order of protection; (2) Has committed domestic abuse as defined in § 9-15-103; (3) Poses a risk of violence to the other; and (4) Has otherwise satisfied all prerequisites for the type of order and remedies sought.
CALIFORNIA	Cal. Fam. Code §6305 (2014)	The court may not issue a mutual order enjoining the parties from specific acts of abuse described in Section 6320 (a) unless both parties personally appear and each party presents written evidence of abuse or domestic violence and (b) the court makes detailed findings of fact indicating that both parties acted primarily as aggressors and that neither party acted primarily in self-defense.
COLORADO	Colo. Rev. Stat. §13-14-106 (2013)	A court shall not grant a mutual protection order to prevent domestic abuse for the protection of opposing parties unless each party has met his or her burden of proof as described in section 13-14-104.5 (7) and the court makes separate and sufficient findings of fact to support the issuance of the mutual protection order to prevent domestic abuse for the protection of opposing parties. A party may not waive the requirements set forth in this subsection (3).
CONNECTICUT	Statute is silent	

STATE

MUTUAL ORDER ENFORCEMENT PROVISIONS

DELAWARE	10 Del. C. § 1049B (2014)
	(g) The Court may enforce provisions of a mutual foreign protection order which favor a respondent only if: (1) The respondent filed a written pleading seeking a protection order from the tribunal of the issuing state; and (2) The tribunal of the issuing state made specific findings in favor of the respondent.
DISTRICT OF COLUMBIA	D.C. Code § 16-10A2 (2014)
	(g) A tribunal of the District may enforce provisions of a mutual foreign protection order which favor a respondent only if: (1) The respondent filed a written pleading seeking a protection order from the tribunal of the issuing State; and (2) The tribunal of the issuing State made specific findings in favor of the respondent.
FLORIDA	Fla. Stat. Ann. §741-30(i) (2013)
	The court is prohibited from issuing mutual orders of protection. This does not preclude the court from issuing separate injunctions for protection against domestic violence where each party has complied with the provisions of this section. Compliance with the provisions of this section cannot be waived.
GEORGIA	Ga. Code Ann. §19-13-4(a) (2014)
	The court may, upon the filing of a verified petition, grant any protective order or approve any consent agreement to bring about a cessation of acts of family violence. The court shall not have the authority to issue or approve mutual protective orders concerning paragraph (1), (2), (5), (9), or (11) of this subsection, or any combination thereof, unless the respondent has filed a verified petition as a counter petition pursuant to Code Section 19-13-3 no later than three days, not including Saturdays, Sundays, and legal holidays, prior to the hearing and the provisions of Code Section 19-13-3 have been satisfied.
HAWAII	No Statute
IDAHO	Idaho Code § 39-6306A (2014)
	(g) A tribunal of this state may enforce provisions of a mutual foreign protection order which favor a respondent only if: (i) The respondent filed a written pleading seeking a protection order from the tribunal of the issuing state; and (ii) The tribunal of the issuing state made specific findings in favor of the respondent.
ILLINOIS	750 Ill. Comp. Stat. 60/215 (2014)
	Mutual orders of protection; correlative separate orders. Mutual orders of protection are prohibited. Correlative separate orders of protection undermine the purposes of this Act and are prohibited unless both parties have properly filed written pleadings, proved past abuse by the other party, given prior written notice to the other party unless excused under Section 217 [750 ILCS 60/217], satisfied all prerequisites for the type of order and each remedy granted, and otherwise complied with this Act. In these cases, the court shall hear relevant evidence, make findings, and issue separate orders in accordance with Sections 214 and 221 [750 ILCS 60/214 and 750 ILCS 60/221]. The fact that correlative separate orders are issued shall not be a sufficient basis to deny any remedy to petitioner or to prove that the parties are equally at fault or equally endangered.
INDIANA	Ind. Code Ann. § 34-26-5-14 (2013)
	(a) A court may not grant a mutual order for protection to opposing parties.

STATE	MUTUAL ORDER ENFORCEMENT PROVISIONS
	(b) If both parties allege injury, the parties shall do so by separate petitions. The trial court shall review each petition separately in an individual or a consolidated hearing and grant or deny each petition on the petition's individual merits. If the trial court finds cause to grant both petitions, the court shall do so by separate orders with specific findings justifying the issuance of each order.
IOWA	Iowa Code §236.20 (2012) A court in an action under this chapter shall not issue mutual protective orders against the victim and the abuser unless both file a petition requesting a protective order.
KANSAS	Kan. Stat. Ann. §60-3107(b) (2013) (b) No protection from abuse order shall be entered against the plaintiff unless: <ol style="list-style-type: none"> (1) The defendant properly files a written cross or counter petition seeking such a protection order; (2) The plaintiff had reasonable notice of the written cross or counter petition by personal service as provided in subsection (d) of K.S.A. 60-3104, and amendments thereto; and (3) The issuing court made specific findings of abuse against both the plaintiff and the defendant and determined that both parties acted primarily as aggressors and neither party acted primarily in self-defense.
KENTUCKY	Ky. Rev. Stat. Ann. §403.735(2) (LexisNexis 2014) A court may issue mutual protective orders only if a separate petition is filed by the respondent. Pursuant to KRS 403.740 and 403.750, the court shall then provide orders, sufficiently specific to apprise any peace officer as to which party has violated the order if there is probable cause to believe a violation of the order has occurred.
LOUISIANA	La. Ch. Code Ann. art. 1570(i) (2013) A court shall not grant a mutual order for protection to opposing parties. However, nothing contained in this Paragraph shall be construed to prohibit the court from granting a protective order to a party in a subsequently filed Petition for Domestic Abuse Assistance provided that the provisions contained in R.S. 46:2136(B) have been met.
MAINE	Me. Rev. Stat. Ann. tit. 19-A, §4007(7) (2014) The court may not issue a mutual order of protection or restraint.
MARYLAND	Md. Code Ann., Fam. Law §4-506(3)(ii) (2014) (ii) The judge may issue mutual final protective orders only if the judge makes a detailed finding of fact that: <ol style="list-style-type: none"> 1. both parties acted primarily as aggressors; and 2. neither party acted primarily in self-defense.
MASSACHUSETTS	Mass. Ann. Laws ch. 209A §3 (2014) A court may issue a mutual restraining order or mutual no-contact order pursuant to any abuse prevention action only if the court has made specific written findings of fact. The court shall then provide a detailed order, sufficiently specific to apprise any law officer as to which party has violated the order, if the parties are in or appear to be in violation of the order.

STATE

MUTUAL ORDER ENFORCEMENT PROVISIONS

MICHIGAN	Mich. Comp. Laws Serv. §600.2950a(8) (2014)
	A personal protection order shall not be made mutual. Correlative separate personal protection orders are prohibited unless both parties have properly petitioned the court under subsection (1) or (2).
MINNESOTA	No Statute
MISSISSIPPI	Miss. Code Ann. §93-21-15(3) (2013)
	Every domestic abuse protection order issued pursuant to this section shall set forth the reasons for its issuance, shall contain specific findings of fact regarding the existence of abuse, shall be specific in its terms and shall describe in reasonable detail the act or acts to be prohibited. No mutual protection order shall be issued unless that order is supported by an independent petition by each party requesting relief pursuant to this chapter, and the order contains specific findings of fact regarding the existence of abuse by each party as principal aggressor, and a finding that neither party acted in self-defense.
MISSOURI	Mo. Rev. Stat. §455.050(2) (2014)
	Mutual orders of protection are prohibited unless both parties have properly filed written petitions and proper service has been made in accordance with sections 455.010 to 455.085.
MONTANA	Mont. Code Ann. §45-15-202(3) (2013)
	The order of protection may not be made mutually effective by the court. The respondent may obtain an order of protection from the petitioner only by filing an application for an order of protection and following the procedure described in this chapter.
NEBRASKA	Neb. Rev. Stat. Ann. §42-924.03 (2013)
	A court shall only grant a respondent a protection order if (1) the respondent files a cross or counter petition seeking a protection order and (2) the issuing court makes specific findings of domestic or family abuse against the respondent and determines that the respondent is entitled to a protection order.
NEVADA	Nev. Rev. Stat. Ann. §33.085(2) (2013)
	If the order for protection against domestic violence issued by the court of another state, territory or Indian tribe is a mutual order for protection against domestic violence and: (a) No counter or cross-petition or other pleading was filed by the adverse party; or (b) A counter or cross-petition or other pleading was filed and the court did not make a specific finding of domestic violence by both parties, the court shall refuse to enforce the order against the applicant and may determine whether to issue its own temporary or extended order.
NEW HAMPSHIRE	N.H. Rev. Stat. Ann. §173-B:5(V) (2013)
	(a) Mutual orders for relief shall not be granted. A foreign mutual order for relief shall only be granted full faith and credit in New Hampshire if it meets the requirements set out in RSA 173-B:13, VII. (b) Cross orders for relief may be granted only if: (1) The court has made specific findings that each party has committed abuse against the other; and (2) The court cannot determine who is the primary physical aggressor.

STATE		MUTUAL ORDER ENFORCEMENT PROVISIONS
NEW JERSEY	Stature is silent	
NEW MEXICO	N.M. Stat. Ann. §40-13-5(D) (2013)	
NEW YORK	A mutual order of protection shall be issued only in cases where both parties have petitioned the court and the court makes detailed findings of fact indicating that both parties acted primarily as aggressors and that neither party acted primarily in self-defense. N. Y. Fam. Ct. Act §154-b(1) (2014)	
NORTH CAROLINA	In every proceeding under articles four, five, six and eight of this act in which an order of protection is requested, the respondent may file with the court an answer to the petition and a counter-claim. A counter-claim shall be heard in the same manner as a petition and may be heard on the return date of the petition, provided that the counter-claim is served on the petitioner no later than five days prior to the return date and said counter-claim and proof of service is filed with the court. The petitioner may file and serve a reply to the counter-claim. A denial of the allegations of the counter-claim shall be presumed if the petitioner does not file and serve a reply. N. C. Gen. Stat. §50B-3(b) (2014)	
NORTH DAKOTA	...Protective orders entered, including consent orders, shall not be mutual in nature except where both parties file a claim and the court makes detailed findings of fact indicating that both parties acted as aggressors, that neither party acted primarily in self-defense, and that the right of each party to due process is preserved. N.D. Cent. Code §14-07.1-02(5) (2014)	
OHIO	A court of competent jurisdiction may issue a dual protection order restricting both parties involved in a domestic violence dispute if each party has commenced an action pursuant to subsection 1 and the court, after a hearing, has made specific written findings of fact that both parties committed acts of domestic violence and that neither party acted in self-defense. The order must clearly define the responsibilities and restrictions placed upon each party so that a law enforcement officer may readily determine which party has violated the order if a violation is alleged to have occurred. Ohio Rev. Code Ann. §3113.31(E)(h)(4) (2014)	<p>A court may not issue a protection order that requires a petitioner to do or to refrain from doing an act that the court may require a respondent to do or to refrain from doing under division (E)(1)(a), (b), (c), (d), (e), (g), or (h) of this section unless all of the following apply:</p> <p>(a) The respondent files a separate petition for a protection order in accordance with this section.</p> <p>(b) The petitioner is served notice of the respondent's petition at least forty-eight hours before the court holds a hearing with respect to the respondent's petition, or the petitioner waives the right to receive this notice.</p> <p>(c) If the petitioner has requested an ex parte order pursuant to division (D) of this section, the court does not delay any hearing required by that division beyond the time specified in that division in order to consolidate the hearing with a hearing on the petition filed by the respondent.</p>

STATE	MUTUAL ORDER ENFORCEMENT PROVISIONS
OKLAHOMA	<p>(d) After a full hearing at which the respondent presents evidence in support of the request for a protection order and the petitioner is afforded an opportunity to defend against that evidence, the court determines that the petitioner has committed an act of domestic violence or has violated a temporary protection order issued pursuant to section 2919.26 of the Revised Code, that both the petitioner and the respondent acted primarily as aggressors, and that neither the petitioner nor the respondent acted primarily in self-defense.</p> <p>Okla. Stat. tit. 22 §60.4(j) (2013)</p> <p>A court shall not issue any mutual protective orders.</p> <p>If both parties allege domestic abuse by the other party, the parties shall do so by separate petitions. The court shall review each petition separately in an individual or a consolidated hearing and grant or deny each petition on its individual merits. If the court finds cause to grant both motions, the court shall do so by separate orders and with specific findings justifying the issuance of each order.</p> <p>The court may only consolidate a hearing if:</p> <p>(1) sufficient evidence exists of domestic abuse, stalking, harassment or rape against each party, and</p> <p>(2) each party acted primarily as aggressors, and the defendant filed a petition with the court for a protective order no less than three (3) days, not including weekends or holidays, prior to the first scheduled full hearing on the petition filed by the plaintiff, and</p> <p>(3) the defendant had no less than forty-eight (48) hours of notice prior to the full hearing on the petition filed by the plaintiff.</p>
OREGON	<p>No Statute</p>
PUERTO RICO	<p>Section 2.1A. — Prohibition Against the Issue Mutual Restraining Orders</p> <p>The Court shall not issue mutual restraining orders to the parties, unless each of the parties:</p> <p>(a) has filed an independent petition requesting a protection order against the other party;</p> <p>(b) has been notified of the petition filed by the other party;</p> <p>(c) proves in an evidentiary hearing that the other party incurred conduct which constitutes domestic violence; and</p> <p>(d) proves that the domestic violence did not occur within a self-defense context.</p>
PENNSYLVANIA	<p>23 Pa. Cons. Stat. §6108(c) (2014)</p> <p>Mutual orders of protection. -- Mutual orders of protection shall not be awarded unless both parties have filed timely written petitions, complied with service requirements under section 6106 (relating to commencement of proceedings) and are eligible for protection under this chapter. The court shall make separate findings and, where issuing orders on behalf of both petitioners, enter separate orders.</p>
RHODE ISLAND	<p>R.I. Gen. Laws § 15-15.1-3 (2014)</p> <p>(g) The court may enforce provisions of a mutual foreign protection order which favor a respondent only if:</p> <p>(1) The respondent filed a written pleading seeking a protection order from the tribunal of the issuing state; and</p> <p>(2) The tribunal of the issuing state made specific findings in favor of the respondent.</p>
SOUTH CAROLINA	<p>S.C. Code Ann. §20-4-60(E) (2013)</p>

STATE		MUTUAL ORDER ENFORCEMENT PROVISIONS
		No mutual order of protection may be granted unless the court sets forth findings of fact necessitating the mutual order or unless both parties consent to a mutual order.
SOUTH DAKOTA	S.D. Codified Laws §25-10-5.2 (2014)	No court may, pursuant to the provisions of § 25-10-5, issue a mutual order enjoining both petitioner and respondent from committing acts of domestic abuse unless: <ul style="list-style-type: none"> (1) Both the petitioner and the respondent personally appear; (2) The respondent alleges, under oath, the existence of domestic abuse by stating the specific facts and circumstances of the domestic abuse; (3) The court finds, by a preponderance of the evidence, that domestic abuse has taken place.
TENNESSEE	Tenn. Code Ann. § 36-3-622 (2014)	(d) A protection order entered against both the petitioner and respondent shall not be enforceable against the petitioner in a foreign jurisdiction unless: <ul style="list-style-type: none"> (1) The respondent filed a cross- or counter-petition, or a complaint or other written pleading was filed seeking such a protection order; and (2) The issuing court made specific findings of domestic or family violence against the petitioner.
TEXAS	Tex. Fam. Code Ann. §85.003 (2014)	(a) A court that renders separate protective orders that apply to both parties and require both parties to do or refrain from doing acts under Section 85.022 shall render two distinct and separate protective orders in two separate documents that reflect the appropriate conditions for each party. <ul style="list-style-type: none"> (b) A court that renders protective orders that apply to both parties and require both parties to do or refrain from doing acts under Section 85.022 shall render the protective orders in two separate documents. The court shall provide one of the documents to the applicant and the other document to the respondent. (c) A court may not render one protective order under Section 85.022 that applies to both parties.
UTAH	Utah Code Ann. §78B-7-108 (2013)	(1) A court may not grant a mutual order or mutual orders for protection to opposing parties, unless each party: <ul style="list-style-type: none"> (a) has filed an independent petition against the other for a protective order, and both petitions have been served; (b) makes a showing at a due process protective order hearing of abuse or domestic violence committed by the other party; and (c) demonstrates the abuse or domestic violence did not occur in self-defense. (2) If the court issues mutual protective orders, the circumstances justifying those orders shall be documented in the case file.
VERMONT	Statute is silent	

MUTUAL ORDER ENFORCEMENT PROVISIONS

STATE	
VIRGINIA	Statute is silent
WASHINGTON	<p>Rev. Code Wash. (ARCW) § 26.50.060 (2014)</p> <p>(4) In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds that the original petitioner is the abuser and the original respondent is the victim of domestic violence and may issue an ex parte temporary order for protection in accordance with RCW 26.50.070 on behalf of the victim until the victim is able to prepare a petition for an order for protection in accordance with RCW 26.50.030.</p>
WEST VIRGINIA	<p>W. Va. Code Ann. §48-27-507 (2014)</p> <p>Mutual protective orders are prohibited unless both parties have filed a petition under part 3 [§§ 48-27-301 et seq.] of this article and have proven the allegations of domestic violence by a preponderance of the evidence. This shall not prevent other persons, including the respondent, from filing a separate petition. The court may consolidate two or more petitions if he or she determines that consolidation will further the interest of justice and judicial economy. The court shall enter a separate order for each petition filed.</p>
WISCONSIN	<p>Wis. Stat. §813.12(4)(b) (2014)</p> <p>The judge or circuit court commissioner may enter an injunction only against the respondent named in the petition. No injunction may be issued under this subsection under the same case number against the person petitioning for the injunction. The judge or circuit court commissioner may not modify an order restraining the respondent based solely on the request of the respondent.</p>
WYOMING	<p>Wyo. Stat. Ann. §35-21-105(h) (2014)</p> <p>The court shall not make any provisions of a single order of protection mutually effective. The court may issue a separate order of protection to each party, provided:</p> <ul style="list-style-type: none"> (i) Each party has filed a separate written petition for an order of protection; and (ii) The court makes specific findings on the record that both parties have committed acts of domestic abuse and that each party is entitled to a separate order of protection.